

Europe's democracy trilemma

KALYPSO NICOLAÏDIS AND RICHARD YOUNGS*

Since the European Parliament (EP) elections of May 2014 and the naming of a new team of European Commissioners and a new European Council president, debate has intensified over how the European Union should be reformed. The rise of Eurosceptic representation in the EP, in particular, has nudged conversations about the EU's future into a different phase, crystallizing themes that had been slowly gathering during five years of economic crisis. There is now an apparent consensus that the model of integration must be more flexible, better rooted in local legitimacy, and more responsive to social concerns. The worst tremors of the eurozone crisis may have subsided for now, but the tensions of recent years suggest that interdependence between EU member states needs in the future to be managed in a more democratic fashion. Such observations are, of course, not new. The question is how to give these long-ruminated principles more tangible life. Our aim in this article is not to add our own list of 'solutions' or democratic add-ons to the many suggested since the crisis began. Rather, we hope to contribute a simple framework for thinking about the issues at stake. In doing this we caution against the tendency to advocate easy, short-term fixes to the EU's travails; such measures have too often prevailed in the past. There is no big bang theory of European democratization.

In this spirit, we argue that the EU faces a *democracy trilemma*, as reform options need to combine three features: *transnational* democratic interdependence; *national* democratic legitimacy; and *local* democratic vibrancy. We use the concept of trilemma to convey the challenge of strengthening democratic principles on all three fronts and the tensions that may arise in doing so. Indeed, measured against this trilemma, we point out that several aspects of current reform proposals are misconceived or at least insufficient. We then suggest how democratic legitimacy can be reinvigorated through the empowerment of citizens in democratic processes, combining national representation with local participation while recognizing that democratic interdependence sometimes needs to be managed at the supranational level. Many familiar options for EU reform are now high on the policy agenda; but if the tide of frustration with the EU is to be turned back, the means of implementing these must be rethought and widened.

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Legitimacy's discontents

The EU's dearth of democratic legitimacy is an oft-bemoaned malaise. It is the result of decades of European functionalism in which progressive centralization at the European level was paired with insufficient democratic anchoring. The story has often been told of how, from birth, the design of the European Communities was apolitical, resting on functional delegation and technical expertise without sufficient national democratic checks. The political checks that did exist were exercised by national politicians *in camera*, far from public scrutiny, thus disconnecting domestic from European politics. The judicial and political realms balanced each other's powers while colluding in side-lining the kind of messy democratic politics characteristic of the national social sphere. 'Indirect accountability' became a euphemism for protecting European law-making from democratic challenge. In Weiler's words, 'democracy was simply not part of the original DNA of European integration. It still reads like a foreign implant.'¹ Indeed, the EU is still fuelled by the messianism of at least part of its elite and the idea that the ends of integration *per se* justify the means—even if such means involve overlooking European publics.

In the aftershocks of the euro crisis, the dearth of democratic legitimacy has become yet greater. The problem today is no longer 'only' one of anaemic democratic contestability (what happens to democracy when you cannot 'throw the rascals out') and fuzzy lines of accountability linking European publics and European decisions. The crisis has revealed an even more profound political economy of the democratic deficit and the way in which liberal economics have come to impoverish liberal politics. Tremendous power resides in the unholy alliance between 'market pressures' and messianic zeal—as Habermas puts it, 'when economic constraints imposed by markets happily meet the flexibility of a free-floating European technocracy'.² Most conspicuously in the case of bailouts, EU rule-making no longer amounts to collective commitments to shared disciplines but instead has highly asymmetric impacts on member states and can dramatically narrow the scope of domestic democratic choices. Elites seek to borrow from the fragile legitimacy of the Union in order to effect change within member states. However, in doing so, they have tainted the EU with conditionality practices that threaten to undermine the 'us' of a common polity—a polity that had supposedly moved beyond such reciprocal tit-for-tat logic in favour of collectively owned commitments not targeted on specific states.³

The progressive shaping of a response to the euro crisis was meant to remove such targeted and discriminatory rule-making in favour of new common rules.

¹ Joseph Weiler, 'Deciphering the political and legal DNA of European integration: an exploratory essay', in Julie Dickson and Pavlos Eleftheriadis, eds, *Philosophical foundations of European Union law* (Oxford: Oxford University Press, 2012).

² Jürgen Habermas, 'Democracy, solidarity and the European crisis', *Social Europe Journal*, 7 May 2013, <http://www.social-europe.eu/2013/05/democracy-solidarity-and-the-european-crisis-2/>, accessed 17 Oct. 2014.

³ See Kalypso Nicolaidis and Max Watson, 'A demoi-cratic approach to EMU governance in the post-crisis era', WP1, Working Paper series (Oxford: Oxford Programme on the Political Economy of Financial Markets, Nov. 2014).

But increased supranational powers of oversight and intervention have transferred more powers to the EU centre without a treaty change that would have at least involved the consent of all member states, including those on the receiving end of conditionality. Indeed, other forms of citizen endorsement for new national constitutional arrangements are also noticeable by their absence. Originally a matter of policy-making modelled on the open method of coordination, fiscal disciplines have been re-embedded in the 'community method' and hard law-making, without countervailing democratic endorsement.⁴

In essence, through such measures many politicians and policy-makers have approached the crisis as a Weberian moment, insisting that a larger-scale quasi-polity requires tighter, more bureaucratized rules. They seem to forget Weber's insight that technical expertise above the state is dangerous if not anchored in genuine democratic processes. The EU is repeating the mistake of the likes of the IMF and World Bank, in equating technical concepts of better economic governance with legitimacy, but without the mitigating factors they have of being external to the polities in question and acting on a temporary basis. The EU technocracy, however competent and well intentioned, needs to realize that more effective decision-making is not necessarily either the antechamber or the midwife to democratic legitimation.

One manifestation of political dissatisfaction in Europe has recently been expressed in pressures within many regions for greater autonomy. While the independence referendum in Scotland returned a negative vote, it has deepened debates over the changing relationship between the EU and its different constituencies, including at regional level. Recalling the previously unequivocally pro-EU stance of regional entities, it is noteworthy that these movements have not spelled out how they would combine local-level sovereignty with any deepening of European integration. This adds a further complicating aspect to questions of future democratic improvement.

The May 2014 EP elections were widely seen as a turning point in the trajectory of increasing democratic disenchantment. The elections and their aftermath have unleashed lively debate over how to reform the EU. However, current discussions on the subject address the problem of democratic legitimacy inadequately. We see five problems in the direction these debates have taken.

First, an overly institutional focus has become even more apparent. Perhaps unavoidably, in the aftermath of the elections attention was drawn to the familiar horse-trading over who was to get various top posts. The saga of whether Jean-Claude Juncker ought to be nominated as Commission president did matter—the conventional wisdom was that his nomination constituted a power grab by the EP, although it could be argued that, conversely, the EP may lose power in a Europe-wide parliamentary system where it becomes subservient to a 'European government' emanating from it. However, this saga did not speak to the underlying causes of the EU's democracy problem. Resolving the EU's credibility shortfall is

⁴ See Kenneth Armstrong, 'The new governance of EU fiscal discipline', *European Law Review* 38: 5, 2013, pp. 601–617.

not just about slightly reshuffling formal competences between different institutions. While a stronger consensus is taking shape that the EP is far from the sole repository of democratic legitimacy within the Union, and that it will be essential for national parliaments to exercise enhanced power of scrutiny over EU legislation, little is being said on how to increase their capacity to deliver in this respect.

In general, reform proposals often assume that there can be some sort of institutional magic bullet to address the current political malaise in the EU, that somehow we can still enhance legitimacy through a *panem et circenses* strategy—through top-down institutional tinkering along with the exhibition of ‘fights and faces’.⁵ This response to the EU legitimacy challenge may help to some extent some of the time, but fails to address the need for a bottom-up process of legitimation from the domestic level. If, as Rosanvallon persuasively argues, the old Rousseauian expression of collective will has given way to a more disaggregated form of civic politics, simply moving representative politics up a notch to the European level will not do the trick; nor, indeed, will any other top-down institutional solution.⁶ Similarly, the cult of providential leadership will lead to short-term hype at best; it is hard to see how it could anchor a sense of deep accountability for European peoples.

Second, while the growing agreement on the role national parliaments have to play is welcome—legitimate integration does indeed spring from the well of national community—another danger now is that restoring legitimacy through greater respect for national democracy is increasingly equated with the Eurosceptic agenda. The Eurosceptic camp has played the democracy card to greater effect. It has succeeded in convincing many citizens that the ‘democracy imperative’ vindicates its ideas. However, while Eurosceptics may have appropriated the democracy discourse, their view that national isolation is the way to recover accountability is deeply flawed. It would leave nation-states vulnerable to the influence of deepening interdependence with even less say over the external constraints to which national economies are subject. It is a perspective on democratic legitimation that contradicts its own terms. To advocate simply abolishing the euro and undoing other areas of cooperation wrongly assumes we can wish away 20 years of integrative fits and starts. Interdependence cannot be wished away; the challenge is to ensure that the management of interdependence becomes, at root, a democratic project.

Third, in the opposing camp, simplistic dichotomous thinking is alive and well, claiming that the EU has only two options: either more political union or less economic union. There is, some insist, simply no other, halfway option; either the EU must opt for full federation or else its national economies must unhook themselves from each other, a prospect too daunting to contemplate.⁷ This line of thought often tends to fall prey to exclusionary temptations. A rash of recent

⁵ Kalypso Nicolaidis, ‘Of bread, games and gladiators: why magic bullets will not placate EU citizens and why we should nurture a European democracy instead’, in Richard Bellamy and Uta Staiger, eds, *The eurozone crisis and the democratic deficit* (London: UCL Publications, Dec. 2013).

⁶ Pierre Rosanvallon, *Democracy, past and future* (New York: Colombia University Press, 2006), pp. 199, 203.

⁷ Dani Rodrik, *Rethinking democracy*, Project Syndicate, 12 June 2014. For a critical discussion see Ben Crum, ‘Saving the euro at the cost of democracy?’, *JCMS: Journal of Common Market Studies* 51: 4, 2013, pp. 614–630.

groups and projects home in on the post-crisis viability of a core federal Europe among a happy few member states with yet new competences for the EP.⁸ On these grounds, so-called pro-Europeans are increasingly tempted to band together to combat newly empowered Euroscepticism, and tend to see this aim in itself as more important than efforts to deepen democratic legitimacy. Debate is increasingly couched in terms of a split between pro- and anti-European rather than a range of ideological options to be offered to citizens.⁹ Since the elections, the three main blocks in the EP have bent the rules to exclude the newer Eurosceptic parties from key seats and committee positions. Contrary to much commentary, it is not the rise of these parties that in itself represents the main failing of EU democracy. The focus should instead be directed at the democratic potential that might be associated with the questions raised, at least by those Eurosceptics who are not simply elected on xenophobic platforms.

Fourth, there is a risk that the search for certain policy outcomes overshadows concerns for democratic process. European leaders have reacted to the EP elections by suggesting that more focus is needed on growth and social Europe. Sure, this would be a good thing. But the risk is that the EU shifts back to an over-reliance on outputs as a source of legitimacy, as if the latter did not depend in part on empowering a great variety of European actors. If only the EU could deliver better growth and be seen to be protecting social rights, the argument runs, the crisis of legitimacy would abate. A reform menu is becoming standard fare in EU debate, advocated from many diverse quarters, including the new head of the Commission Jean-Claude Juncker: greater Euro-wide infrastructure spending combined with EU job creation initiatives. The EU has convinced itself that it is caught in a vicious circle: politicians say we need more democracy to have a more legitimate EU, but we cannot transfer more (democratically legitimated) powers to the EU until the Union becomes more legitimate, and that will not happen until there is a major improvement in economic conditions.

Some are encouraged in this familiar recourse to 'output legitimacy' by a perception that the nature of the economic model is beginning to change. The kind of shift in economic policy that many have advocated during the crisis is now reflected—optimists feel—in the notion of a competitiveness and convergence index and in calls for targeted social and vocational expenditure. Herman van Rompuy's 'Strategic Agenda', a set of guidelines for the next five years agreed at the June 2014 European Council, focused on growth and investment. The French and Italian prime ministers, Manuel Valls and Matteo Renzi, have teamed up to push for a relaxation of deficit reduction targets to allow for more long-term strategies. While they are playing above all to their national audiences, some feel that talk of EU-level social initiatives will boost the legitimacy of the Union relative

⁸ For an excellent overview of these debates, see Nathalie Tocci, 'Imagining post-crisis Europe', *Imagining Europe*, no. 10 (Rome: Istituto Affari Internazionali, 2014). See also G. Harding, 'How to close the EU's democratic deficit', *Foreign Affairs*, 9 June 2014, <http://www.foreignaffairs.com/articles/141529/gareth-harding/mind-the-gap>, accessed 17 Oct. 2014.

⁹ Mark Leonard and José Ignacio Torreblanca, *The Eurosceptic surge and how to respond to it* (London: European Council on Foreign Relations, April 2014).

to national governments. Renzi sought a deal to relax budget controls in return for agreeing on Juncker as Commission president—an opaque, behind-the-scenes means of getting to the goal of more flexible debt reduction. To be sure, healthy growth figures, however they are achieved, will change EU atmospheric—*but is it wise to predicate the legitimacy of the EU on the vagaries of economic cycles? Legitimacy, surely, is about resilience.*

Fifth, the principles of flexibility and subsidiarity are now deployed freely as solutions to the legitimacy crisis, without much acknowledgement that these too must be designed anew. Today's standard discourse, even among pro-Europeans, is that the future model of integration must be based on these principles, according to the much-repeated mantra that 'the EU must be big on the big things, small on the small things' (a favourite of Barroso, among others), and that we need 'not more but better Europe' (Renzi, also among others). How can one disagree? But these well-worn maxims simply beg another set of questions: what is 'better' Europe? What are the 'big' and 'small' things? And who decides? The Commission has been reducing its new legislative output for several years now, and several initiatives exist for cutting bureaucratic rules including under the new dynamic Dutch Commissioner, Frans Timmermans. The nub lies in the question of what flexibility means in practice. The principle of subsidiarity—taking decisions at the level closest to citizens as is appropriate—has been present in EU politics for 30 years and has not worked in practice. Indeed, it has patently not prevented a worsening of the democratic shortfall grounded in perceptions of unrelenting centralization.

These features of the current debate share an underestimation of how deeply the principle of democratic legitimacy requires the political foundations of EU integration to change. In this underestimation, pro-Europeans and Eurosceptics are united. But in practice the two camps are drifting further apart, because their equally one-dimensional responses to the dearth of democratic legitimacy stand in opposition to each other. Eurosceptics are rightly concerned with national legitimation, but they are focused so exclusively on national democratic procedure that they disregard the necessity for legitimizing the irreversible interdependence among European member states. In contrast, pro-Europeans are rightly concerned with transnational interdependence, but their call for further outcome-oriented European centralization comes at the expense of national and local forms of democratic legitimation. As always, the debate continues to gravitate towards a false choice between 'less' and 'more' Europe—between 'intergovernmentalism' and 'federalization'. Both extremes fail to address the need for democratic legitimation in its multiple dimensions.

Europe's democratic trilemma

We argue that European legitimacy requires multiple responses simultaneously: first, an acknowledgement of Europe's 'transnational democratic interdependence'; second, an undergirding of the functionalist European superstructure

with 'national democratic legitimacy'; and third, a grounding of both European and national power in 'local democratic legitimacy'. In this triad, 'transnational democratic interdependence' refers to the democratically managed interconnectiveness both of European member states and of individual European citizens across national borders and the fact that democracies themselves and not only economies are interdependent and need to be managed as such; 'national democratic legitimacy' refers to the rooting of supranational decision-making in national democratic processes of accountability; and 'local democratic legitimacy' refers to the national and European political engagement of individual citizens—especially of those who are disfranchised and will seldom find representation in national or European majorities. The three legitimacy requirements together—*transnational* democratic interdependence, *national* democratic legitimacy and *local* democratic legitimacy—constitute a democratic trilemma.

The concept of trilemma conveys the tensions between those three democratic elements. As pro-Europeans demonstrate, overly centralized ways of addressing transnational democratic interdependence risks undermining domestic democratic legitimation, both national and local (say by focusing on EU intervention to force member states to act responsibly *vis-à-vis* one another); and, as Eurosceptics show, the opposite is true as well: a concern with domestic legitimation risks undermining transnational democratic interdependence (say by letting individual national parliaments veto EU legislation after bargains have been struck in Brussels). Moreover, a concern for national democratic legitimation can stand in tension with local democratic legitimation. This is especially true because many member states suffer not only from a European democratic deficit, but also from an internal national democratic deficit. Where local citizens are disconnected from the national democratic process, the fact that the EU overly empowers national executives or national agencies for instance may enhance national democratic legitimacy—but only at the expense of local democratic legitimacy, as individuals from certain regions or sections of society will not feel represented in Brussels. After all, legitimacy shortfalls have deepened at the national level too as many economic decisions have been given over either to technical bodies or to markets outside the sphere of political debate—a trend that is itself one of the largely unacknowledged roots of the eurozone crisis.

These tensions cannot be evaded by disregarding the trilemma and focusing on one aspect of democratic legitimation exclusively. The recent EP elections are a case in point: while they enhanced the perceived legitimacy of the management of transnational democratic interdependence, the gains won by Eurosceptic parties indicated that these very advances spawned their own nemesis. European elites' desire to marginalize Eurosceptic parties or 'to re-elect their peoples', in Brechtian terms, mistakes a symptom for the malaise itself. True, the heightened degree of popular dissatisfaction as expressed in these parties threatens to complicate transnational EU decision-making. But this difficulty is indicative of deeper failings in navigating Europe's democratic trilemma. Rather than Eurosceptic parties being regarded as an external threat to the European integration project, they should be

seen as constructive internal opposition. The opposition serves as a twofold lesson: first, it reminds us of the normative requirement that European democratic legitimacy be based on national and local as well as transnational democratic processes; second, it reminds us that transnational democracy is unsustainable without strong grounding in national and local democratic processes. No one element of the democratic trilemma can do without the other two.

In fact, the democratic trilemma may follow not only from these normative and empirical requirements, but also from the EU's self-understanding. There is an unavoidable reality: not only do member states have different views on the EU, they also see the issue of legitimacy in different ways. For many Germans, legitimacy is about rules being better respected and a more clearly stipulated division of competences between national and European levels. For many in France, it is about the mobilization of a certain state identity. For many Britons, it is about parliamentary sovereignty. For many Nordics, it is about more civil society influence. For many southern Europeans, it is about stronger solidarity between member states.¹⁰ All member states exhibit contradictions: some complain that executive-heavy supranationalism is illegitimate when it is a matter of controlling budgets but healthy when it comes to more spending; others hold the inverse.

Some writers argue that, given such diversity, future disciplines must be market-based: within the framework of robust integrative commitments, governments should be freer to choose their own policy mix, but must also pay the consequences.¹¹ David Marsh argues that the divergence is now too great to bridge simply through the traditional recipe of 'more Europe' or through economic improvements; while others fret about Germany overriding their national political autonomy, in Germany itself age-old debates have reappeared over fears of the country being encircled.¹²

Majone argues that to address these divergent preferences, the EU needs a more functional than territorial logic; that it should become a club of clubs, with a looser form of multilevel citizenship.¹³ To be sure, the idea that the forms and extent of cooperation should differ according to varying functional needs of different parts of the Union should be part of the EU's future equation. But how far can we take this logic before the EU as a whole loses its substance? Isn't it lacking in ambition to fall back on a merely functional logic to address the problem of political legitimacy? In our view, the territorial scale of European member states must continue to be privileged over alternatives—not to dilute but better to underpin cross-border solidarity.

¹⁰ Almut Möller and Tim Oliver, 'London and Berlin are not speaking the same language when it comes to EU reform', LSE EUROPP blog, 14 Nov. 2013, <http://blogs.lse.ac.uk/europpblog/2013/11/14/london-and-berlin-are-not-speaking-the-same-language-when-it-comes-to-eu-reform/>, accessed 17 Oct. 2014. See also Justine Lacroix and Kalypso Nicolaidis, eds, *European stories: intellectual debates on Europe in national contexts* (Oxford: Oxford University Press, 2010).

¹¹ John Peet and Anton La Guardia, *Unhappy Union: how the euro crisis—and Europe—can be fixed* (London: Profile, 2014), p. 165.

¹² David Marsh, *Europe's deadlock* (New Haven, CT, and London: Yale University Press, 2013), p. 11.

¹³ Giandomenico Majone, *Rethinking the union of Europe post-crisis: has hntegration gone too far?* (Cambridge: Cambridge University Press, 2014).

For this to happen, all three components of the democratic trilemma—the transnational, the national and the local—need to find correspondents in Europeans' differing conceptions of democratic legitimacy and the kinds of practice that go along with them. A successful model of European integration would not suppress such reasonable pluralism by pursuing one of these conceptions at the expense of the others; instead, it should seek to give voice to all three of them at once. We are not utopian in thinking this can be achieved easily. But we believe that analytically framing the challenge as one of a democratic trilemma helps to clarify precisely why this combination must lie at the core of any sustainable EU reform agenda.

Managing democratic interdependence

We return, then—with the democratic trilemma in mind—to our initial problem: what ought to be done about Europe's dearth of legitimacy? Given the tensions between the trilemma's three components, how could European reform possibly seek to strengthen them all? How, in other words, could Europeans better manage their transnational democratic interdependence at the same time as pursuing greater national and local democratic legitimation underpinning the European project? The tensions between the three components are real; we do not succumb to the illusion that our suggestions will be able to dissolve them into thin air. But although no simple solution seems available, we nonetheless believe that steps can and ought to be taken that will allow the EU to face its democratic trilemma, to lessen its tensions, and in this way to move closer towards democratic legitimacy.

Many current reform proposals, indeed, aim at such strengthening. Calls for more open participation in EU rule-making seek to strengthen the transnational component. Proposals for increased reporting requirements to national parliaments or for national design of bailout conditions seek to strengthen the national component. And suggestions for a common European broadcasting agency in order to foster a European public sphere seek to strengthen the local or individual component.¹⁴

Current proposals' transnational, national and local focus may at first sound promising in the light of the democratic trilemma. But, in truth, these proposals miss its very core—namely, democracy itself or the fact that peoples and citizens must become actors in the legitimation process.

The pre-crisis diagnosis of an incipient turn to 'new forms of governance' in the EU was meant to embed the norm of democracy in a novel fashion by emphasizing flexibility and accountability—which could be read as a tentative response to the trilemma. Indeed, democratic experimentation can take on new forms, beyond the technocratic realm of traditional experimental governance which matters but remains restricted to experts whether in administrative structures or in the non-governmental world associated with these structures.¹⁵ And

¹⁴ Ingolf Pernice, Mattias Wendel, Lars S. Otto, Kristin Bettge, Martin Mlynarski and Michael Schwarz, *A democratic solution to the crisis: reform steps towards a democratically based economic and financial constitution for Europe* (Baden-Baden: Nomos, 2012), pp. 115–37.

¹⁵ Joshua Cohen and Charles Sabel, *Directly-deliberative polyarchy* (New York: Columbia University Press, 1997).

the juridical principle of the European ‘citizen’ was supposed to be the foundation of a new transnational and distinctive form of democracy.¹⁶ But the crisis militates against any complacency in this respect. For civic engagement to have genuinely representational legitimacy, it needs to be extended well beyond the circle of ‘insider’ professional NGOs that tend to share the official ‘Brussels’ outlook on many policy challenges and are often co-opted into consultative forums by the various European institutions.¹⁷

To reiterate: transnational, national and local democratic processes need to be reinvigorated without allowing these processes to undermine each other. The challenge of Europe’s democratic legitimacy lies in finding ways fully to engage the national and local levels in transnational legitimation without unleashing the anti-European tendency of nationalism and localism—and without delegating powers to national bodies that themselves simply perpetuate the problem of local democratic deficit.

The democratic trilemma thus requires a European subsidiary structure that actively engages local citizens and national governments through a combination of local participation and national representation in matters of transnational interdependence. Combining representative and participatory democracy requires reinforcement because democracy’s current malaise does not stem solely from the ‘democratic deficit’ as normally defined; rather, it is the result of a profound disjuncture between the promise of new social mobilization and the peril of disengagement from representative channels. Without a balanced reconciliation of participative and representative dynamics, piecemeal moves towards deeper union risk being another step in a long drift back to the unloved elective elitism that has gradually sapped democracy’s emancipatory spirit in the member states themselves. Thus, a re-imagining of forms of representation is not only a matter of legitimizing transnational interdependence; it is a matter of regenerating democracy *per se* and on all three levels.

Such a subsidiarity structure needs to be especially attentive to the accountability constraints of delegated power.¹⁸ A re-imagined European ‘culture of democratic consent’ ought to underpin the governance deals needed to sustain monetary union and other areas of integration. In practice, increased democratic accountability would, for instance, affect the process of European law-making by imposing much stronger obligations of disclosure of the likely democratic implications of alternative EU strategies. It would also require ongoing auditing of their effectiveness as well as explicit reversibility and strict sunset clauses. In this regard, national referendums or preferendums—consultations, for example, on specific areas upstream of the law-making process—should no longer be shunned, as they have been since the ‘No’ vote traumas of 2005–2007.¹⁹ Instead, we should start by crediting at least

¹⁶ Jacob Hoeksma, ‘A story for Europe: the European Union as an emerging democracy’, *Europe’s World*, 16 Dec. 2010.

¹⁷ Lora Cram, ‘The importance of the temporal dimension: new modes of governance as a tool of government’, *Journal of European Public Policy* 18: 5, 2011, pp. 636–53.

¹⁸ See among others Peter Lindseth, *Power and legitimacy* (Oxford: Oxford University Press, 2010).

¹⁹ Scientific Council for Government Policy, *Rediscovering Europe in the Netherlands* (The Hague, 2007).

in part 'the wisdom of the crowds' for keeping the show on the narrow path of equilibrium in the last decade; publics often display a concern with local control or 'localism' that cannot be equated with sovereigntism but is much closer to the kind of political subsidiarity we advocate.²⁰ The EU must respect and harness this.

The rise in regionalism and even separatist movements betrays a broader democratic malaise in Europe, a revolt against the elites on the part of those who feel that they have been left behind—including by their own co-'nationals' who have moved to the capital, or indeed by remote supranational processes. EU officialdom wrongly reinforced this sense of alienation by blatantly backing the 'No' to independence camp in the Scottish referendum campaign and downplaying prospects for Scotland's renegotiation of its EU membership in spite of relatively clear arguments to the contrary from EU law.²¹ This is not consistent with the spirit of freedom of choice, inclusivity and loyal cooperation that is supposed to characterize the EU, and it makes the enterprise even more opaque to its citizens.

Any 'delegation break', however, must go hand in hand with a grounding of EU democracy on the health of domestic democracies and democratically sustainable reforms.²² Surveys repeatedly show that citizens' trust in the EU tends to counter-balance their trust in national governments; citizens trust the EU more, the less they trust their national governments. EU-level legitimacy cannot be achieved by leapfrogging national and local democracy, but must be built on bettering it. Where the EU retains legitimacy, it should even more than elsewhere abide by a do-no-harm obligation when it comes to national democracies. Richard Bellamy worries that the EU's 'republican intergovernmentalism'—its identity as an 'international association of democratic states'—is being undermined, most clearly by creditor domination over debtors, but also by other developments such as cases in the European Court of Justice that begin to confer rights of a European citizenship, and the instrumental engineering of pan-European political networks.²³ If we believe that the EU is a democracy in trouble, we need to ensure that solutions are first sought in the spirit of mutual recognition of laws and regulations rather than in centralization and harmonization.

But if this is the case, it requires a radical opening between national systems of the kind that may not come easily to many European citizens. 'Democratizing' the EU must take the form of developing effective cooperation in a context of citizens recognizing each other's democratic preferences. This is where democratic recognition is relevant in helping to engineer serious democratic debates about spillovers and tradeoffs in realms such as risk pooling in monetary union. A logic of 'a small cost for us today against a bigger benefit for you tomorrow' might be supported

²⁰ Anthony Browne and Mats Persson, *The case for European localism* (London: Open Europe, Sept. 2011); Sarah Hobolt, *Europe in question: referendums on European integration* (New York: Oxford University Press, 2009).

²¹ See e.g. Sionaidh Douglas-Scott, 'Why the EU should welcome an independent Scotland', *Verfassungsblog*, 8 Sept. 2014, <http://www.verfassungsblog.de/en/eu-welcome-independent-scotland-2/#.VETa2yJ4oWw>, accessed 17 Oct. 2014.

²² Othon Anastasakis and Dorian Singh, eds, *Reforming Greece: Sisyphean task or Herculean challenge?* (Oxford: South East European Studies at Oxford, 2012).

²³ Richard Bellamy and Dario Castiglione, 'Three models of democracy, political community and representation in the EU', *Journal of European Public Policy* 20:2, 2013, pp. 206–223.

under conditions of diffuse reciprocity. Transparency and the democratic use of ‘distributed intelligence’ and ‘crowd-sourcing’ through the internet can go a long way in shaping such developments. And enhanced cooperation between national parliaments also needs to take on these information society technologies if it is to occur effectively.

One important task in pursuit of European integration is to help improve democratic governance in all member states, including by giving parliaments greater powers when it comes to interpreting shared EU responsibilities. National parliaments may have recently gained power under the Lisbon Treaty but their changing role in the crisis context has varied widely; in Germany the constitutional court has used its checking powers to bolster the Bundestag’s role in authorizing partial bailouts; meanwhile, in Greece or Spain, parliaments have in many cases been asked to rubber-stamp rescue deals concocted elsewhere. Can parliaments better cooperate? The so-called COSAC (Conference of Parliamentary Committees for Union Affairs) has also gained some prominence with analysts, but when it comes to the broader public, the very opaqueness of the acronym speaks for itself. Thinking up ways for all national parliaments, separately and together, to be better plugged in to European decisions that affect their country directly or indirectly will be critical in the next decade. Intensified consultations between and within national parliaments on EU issues may be part of the solution, but will not suffice to bring about the Union’s democratic regeneration, given how disconnected citizens are from mainstream political parties not only on the European level, but also on the national level. A simple reallocation of European powers down to the national level alone cannot represent an effective mechanism of democratic accountability.

Moreover, if governments in Europe concentrate power in the European Council, they must also concentrate responsibility. The empowerment of national parliaments and other national-level democratic bodies must not be focused only on the national sphere but also on collectively holding accountable EU Council processes. What if the European Council was to engage in a genuine exchange with the assembled European committees of national parliaments? Or what if each head of state or government was held personally to account—symbolically at least—by his or her parliament for a single point in the Council’s ‘to do’ list, thus guarding against the tendency of each to hide behind the collective?

To say that more power needs to be shifted to citizens to address the problem of both transnational and national democratic deficits does not mean abandoning the idea of member states’ national *demoi* in favour of one European *demos*. Those calling for a ‘federal Europe’ are right in advocating the empowerment of citizens, but fail to specify how a ‘single people’ is to come into being. The long attempt by the European Commission to fashion a European identity akin to a national one has borne little fruit;²⁴ and it is difficult to see why after decades of trying we should expect this to materialize now, after such a divisive period of crisis. Rather,

²⁴ The European Citizens’ Initiative, the Civil Society Observatory (CSO), the New Narrative for Europe and the 2013 ‘European Year of the Citizen’ are all echoes of this attempt.

the empowerment of citizens must be derived from flexible mutual engagement between different national representatives and different local participants, recognizing that as a *demosi*-cracy the EU needs to reconcile the functional needs of integration with the persistence of its national *demosi* as the core unit of legitimacy.²⁵ Specifically, the reform of economic and monetary union cannot overlook the fact that the EU remains 'a union of peoples who govern together but not as one'. And if this is the case, it calls for new institutional configurations that boost mutual solidarity *by choice* and enshrine a more flexible social contract among Europeans.²⁶

A more flexible EU is a goal championed by many advocates of deeper democratic legitimacy. But flexibility must be understood in more political and democratic terms than is often the case, if it is to be a core component of a more democratically transformed integration model. It should not simply be a device for ad hoc opt-outs from selected policies for particular member states. Rather, we advocate a form of subsidiarity that is carried out through particularly strong democratic input and weighs carefully which issues are amenable to a functional or practical logic of centralization and which are not. As Jean Pisani-Ferry and many others have argued, we must take seriously the task of giving less power to the EU where it has no added value, but more power to it in crucial areas where the EU would be best situated to fulfil a task but cannot currently achieve its mandate owing to a lack in authorized policy competence.²⁷ Simply noting that EU intervention would make sense is not enough: it needs to be weighted against the *independent value* of local political autonomy in making decisions.²⁸ If this edict is not to be simply understood as a perfunctory technocratic term, it should not rest on the assumption that there is an objectively correct division of competences between national and EU levels.

In other words, we need to keep what was good about ordoliberal thinking which drove the creation of the postwar German market economy, grounded in the belief that the state ought to be responsible for ensuring that the free market produces results close to its theoretical potential rather than its distorted variant as the plaything of powerful actors; but we need to resist the ordoliberal assumption that has inspired the German response to the crisis, that single best responses exist about what policy areas should be insulated from politics or what structural reform be designed by the Commission. Such technocratic subsidiarity will not

²⁵ Samantha Besson, 'Deliberative *demosi*-cracy in the European Union: towards the deterritorialization of democracy', in Samantha Besson and José Luis Martí, eds, *Deliberative democracy and its discontents* (Farnham: Ashgate, 2006); Francis Cheneval and Frank Schimmelfennig, 'The case for *demosi*cracy in the European Union', *Journal of Common Market Studies* 51: 2, 2013, pp. 334–50; Kalypso Nicolaïdis, 'We, the peoples of Europe', *Foreign Affairs* 83: 6, Nov.–Dec. 2004, pp. 97–110; Kalypso Nicolaïdis, 'European democracy and its crisis', *Journal of Common Market Studies* 51: 2, 2013, pp. 351–69; Peter Lindseth, 'Equilibrium, *demosi*-cracy, and delegation in the crisis of European integration', *German Law Journal* 15: 4, pp. 529–67. See also *Journal of European Public Policy*, special issue on democratization, March 2014.

²⁶ For a discussion, see Juri Viehoff and Kalypso Nicolaïdis, 'Social justice in the European Union: the puzzles of solidarity, reciprocity and choice', in Dimitry Kochenov, Gráinne De Búrca and Andrew Williams, eds, *Europe's justice deficit?* (Oxford: Hart, 2014).

²⁷ Jean Pisani-Ferry, *Strengthening Europe's limited power* (Prague and New York: Project Syndicate, 30 May 2014).

²⁸ For a forceful advocacy of subsidiarity control by individual national parliaments, see Damian Chalmers, 'Democratic self-government in Europe', *Policy Network*, May 2013, <http://www.policy-network.net/publications/4399/democratic-self-government-in-europe>, accessed 17 Oct. 2014.

assuage growing popular scepticism towards the Union. Instead, a more political, deliberative and democratic version of subsidiarity is needed to guide the future of European integration.

Flexibility should be understood as democratic subsidiarity in this sense. Instead of being a concept enabling technocratic elites to divide competences between European, national and local levels, flexibility must be a device for fostering democratic debate in issue areas where citizens wish to share responsibilities across borders—for example, modifying the current subsidiarity assessment exercises conducted by the Commission and which are completely invisible, by increasing their public character and introducing periodic reviews of these assessments by the EP.

To be consistent, forms of civic engagement must themselves flow from stronger channels for local civic input. But for this to work, this input in turn needs to be informed by the externalities created by decisions in other countries. In so doing, flexibility should improve the transparency of linkages between national and European management of shared problems. To facilitate this process, the transparency of EU institutions is critical and Juncker has announced his commitment to bolstering it. We have just seen a very small start with new rules on MEPs' disclosure obligations.

But while flexibility is rightly concerned with resisting heavy institutional centralization, enhancing the EU's democratic legitimacy ought to be less about controlling or limiting what comes out of Brussels, and more positively about empowering citizens. The insufficient empowerment of citizens is the crux of Europe's current legitimacy malaise. It is a universal malaise situated in Europe's democratic core rather than a particular malady located in some specific configuration of EU institutional procedures. To address it, any future integration effort will need to be centrally predicated on citizen empowerment.

A concrete way forward could be to convene a two-year round of 'citizen summits', aimed not just at criticizing EU outputs but at generating more positive ideas of what kinds of cooperation would win solidarity from citizens. Some argue that the Commission has begun to support civil society organizations beyond insiders to include more balanced interest representation and formerly excluded groups—a tentative and so far still relatively ineffective trend towards a more genuinely associative democracy that needs to be extended much further.²⁹ It is widely realized that political debate in Europe struggles to build bridges and strike compromises because opinion is 'pulled outwards' by a lack of common EU public space and the rise of social media, which pushes positions to extremes. This reinforces the need for local deliberative spaces to build up slowly from this basis.

However, as the democratic trilemma reminds us, pro-EU sentiments will not follow automatically from increased civic empowerment. Engaging citizens through local participation and national representation carries the risk of fostering new patterns of closure hostile to transnational interdependence. To counter this,

²⁹ Rosa Sanchez Salgado, 'Rebalancing EU interest representation? Associative democracy and EU funding of civil society organizations', *Journal of Common Market Studies* 52: 2, pp. 337–53.

we can only hope that transnational recognition by those same national and local actors will come to balance national autonomy. Democratic subsidiarity must involve ways to encourage more systematic other-regarding behaviour, especially when national actors take decisions with strong externalities. True, the EU's democratic legitimacy must be rooted in national and local political processes; but in processes that encourage transnationalism and horizontal connections across a diverse European space. If we believe in the multiplication of fields of accountability in national spaces, from the media to social networks or representative bodies, we need to ask where and by whom the impact of our political actions on others is taken seriously.

To be sure, more open-ended democratic regeneration would have to allow for the fact that deeper citizen engagement might not always bolster the elites' pro-integration preferences. This is liberalism's standard test: to restore credibility to the EU it will be necessary to offer more space to its critics. As illiberal trends in Hungary, Romania and Bulgaria attest, there is a deeper pathology related to the lack of popular ownership of integration decisions that will not be remedied through EU-level sanctions. Instead and here again, EU member states must find ways of horizontally empowering the domestic advocates of accountability and transparency without passing judgement in their stead.³⁰

Thus our call for decentralization, re-imagined forms of representation and civic empowerment should most categorically not be seen as an anti-European agenda. Quite the opposite: it searches for a more oblique way of saving the integration project from itself—by ensuring that different populations still all buy into a form of 'risk-sharing' and solidarity, even after a crisis that has revealed a new multiplicity of varied perspectives. Citizens feel a loss of voice in how deep interdependence is managed, without necessarily resorting to traditional nationalist identities. The ideal of Europe has been sustained in many 'peripheral' countries even as opposition to the actual economic decisions coming out of Brussels has sharpened. But the EU must show itself capable of re-energizing its understanding of integration: the way to defeat chauvinistic populism is neither to undo the gains of integration nor to plough on regardless with a pre-cooked template of idealized political union.

This is also, ultimately, a generational issue: the EU cannot simply operate in a sphere unconnected to the radical democratic ethos of transnational movements and subterranean politics which today links *indignados* and *preocupados*, Occupy and Avaaz, the sitting and blogging, from Cairo to Madrid or Athens, all exploring contemporary versions of leaderless contestatory politics grounded in the ancient *ethos* of the city.³¹ Here political engagement is often determined by some kind of resistance to a new politics of survival endorsed by the EU, which seems to justify all manner of profoundly unequal distribution of costs in the name of existential

³⁰ For a discussion, see Jan-Werner Müller, 'Eastern Europe goes south', *Foreign Affairs* 93: 2, March–April 2014.

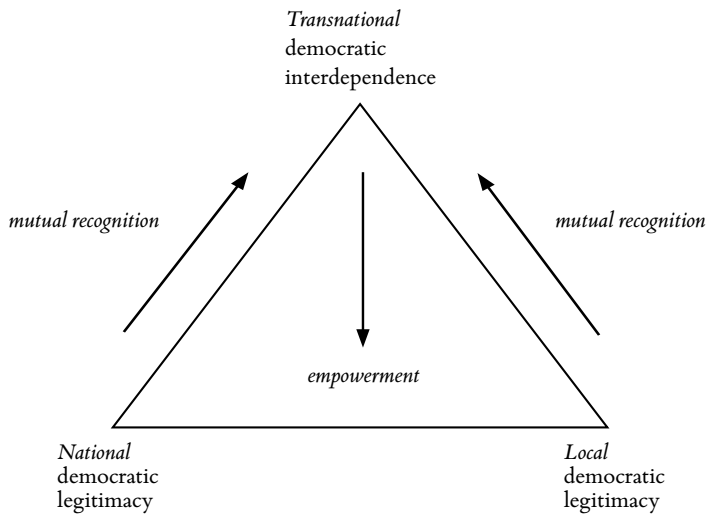
³¹ See *inter alia* Sophie Wahnich, 'Demandes d'*ethos* démocratique radicales, racines historiques et résistances à la globalisation' (Paris: Raison-publique, April 2014); Mary Kaldor, Sabine Selchow, Sean Deel and Tamsin Murray-Leach, *The 'bubbling up' of subterranean politics in Europe* (London: London School of Economics, Civil Society and Human Security Research Unit, July 2012).

threats. In endorsing this route, European leaders are ignoring the huge capacity of the young to generate wealth *and* democratic engagement through connectedness of a kind that their elders struggle to understand. EU schemes such as the youth guarantee are laudable but should be given over to the young to manage. If we believe in agonistic politics, the point is not to co-opt but to converse, and in the process to leverage the intuitions and skills of the new generations when it comes to exploring the multifaceted sustainability agenda which ought to be at the heart of European integration.³² This may be the best antidote to the catastrophic brain drain of young talents threatening our continent today.

Conclusion

In late 2014, nearly six years after the first tremors of imminent financial collapse, the eurozone crisis at last stands partially calmed. Many think centrifugal tensions will return and that the euro's survival is still far from guaranteed. Regardless of whether the future economic ride is rough or smooth, some fundamental political questions remain unresolved. The eurozone crisis has spread its tentacles outwards into broader challenges to the European Union. It has sapped the sentiment of solidarity, at least a patina of which has been integration's oxygen-nourishing lifeblood. It has unleashed worries about the hollowed, disfranchising banality of European democracy. That Europe's economic turmoil has now abated should not lead politicians once again to ignore the need for a re-imagined political model of integration.

Figure: Europe's democratic trilemma



³² Chantal Mouffe, *Agonistics: thinking the world politically* (London and New York: Verso, 2013); Kalypso Nicolaidis, 'Sustainable integration: towards EU 2.0?', The JCMS Annual Review Lecture, *Journal of Common Market Studies*, vol. 48, 2010, *Annual Review*, pp. 21–54.

We do not suggest yet another blueprint for such re-imagining. Indeed, the spirit of open-ended transformation is to recover the contingent and unpredictable nature of genuine politics.³³ Instead, we reiterate an idealistic credo shared by many, that the EU's model of future political integration should be centred on the empowerment of citizens in democratic processes. European institutions as they exist today are not in themselves the problem—but they are simply a scaffolding or the infrastructure that will help make this possible. We summarize the way in which we envisage this in the figure (see previous page). Such empowerment should combine national representation and local participation within a more flexible transnational structure of democratic subsidiarity. This structure should entail constellations of functional cooperation, varied in their institutional forms but held together by a core political ethos of mutual recognition between peoples, an informed transnational curiosity and care among European citizens. Together, we believe, these steps forward are the right way to tackle the EU's democracy trilemma, enhancing transnational democratic interdependence, national democratic legitimacy and local democratic vitality, while lessening the tensions between them. Moves in this direction may help nudge British publics, as well as moderate Eurosceptics on the continent, towards a more benign view of the European project. But if governments fail to tackle this trilemma in the moment of relative calm that now prevails, when the next crisis erupts the EU's reserves of legitimacy will be even poorer.

³³ Luuk Van Middelaar, *Le Passage à l'Europe: histoire d'un commencement* (Paris, Gallimard, 2012).

