CEU Political Science Journal

CONTENTS

ARTICLES

BOOK REVIEWS

DEMOCRATIZING JUSTICE IN THE POST-CONFLICT BALKANS: THE DILEMMA OF DOMESTIC HUMAN RIGHTS ACTIVISTS

Arnaud Kurze
George Mason University

Abstract

Years of international and national accountability efforts in the former Yugoslavia have only partially helped post-conflict societies to transition. To complement retributive justice efforts more recently, human rights activists have launched a campaign to establish a regional truth commission. This article explores the intricate efforts among nongovernmental organizations (NGOs) in several states across the region – particularly Bosnia and Herzegovina, Croatia and Serbia – to coordinate this movement. Drawing on participant observation and in-depth interviews, this study illustrates the movement's struggle from within – caused by the conflicting interests of its members – and from outside, as it seeks support from international and region-specific organizations as well as national governments. While activists have remained unsuccessful in institutionalizing new truth spaces, this article argues that the state-centric strategy of human rights advocates during the campaign widened the gap between the activist leaders and victims' groups, their principal supporters.

1. Introduction

Throughout the 1990s the breakup of the former Yugoslavia led to horrendous conflict among the newly proclaimed independent states. Since, dealing with past war crimes and accounting for mass atrocities has constituted a very intricate and contentious process, mainly led by state-centric international retributive justice initiatives. In this context, the 1993 creation of the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague constituted a watershed moment in international humanitarian law that lead to a global spillover effect.[1] Within the last few years, an increasing number of national war crimes prosecution mechanisms have also been established, taking on transfer cases while The Hague Tribunal is winding down its activities. In fact, transitional justice processes in the Balkans relied primarily on international retributive justice mechanisms even while the conflict was still ongoing. This is quite different from other transitional countries that sought to address the issue of grave human rights violations in Latin America and Africa in the 1990s: in most cases, trials were deemed too risky to the newly

---

1   See for instance Ruti G. Teitel, "Global Transitional Justice," *Center for Global Studies Working Paper Series on Human Rights, Global Justice & Democracy*, no. 8 (Spring 2010).

established democracy or were simply off the table as a policy option due to negotiated pacts. Truth commissions, and sometimes amnesties, thus loomed large in the 1990s transitional justice lexicon. The ICTY put the issue of accountability after atrocity at the center of transitional justice debates.[2] While the ICTY has made many important contributions to international law and without a doubt has reshaped transitional justice debates and practice, the Tribunal was only partly successful in its mission to help society in the post-conflict Balkans cope with past mass atrocity. In many ways, the justice processes that took place faraway from the site of the conflict in The Hague did not fulfill the needs of victims of the Balkan wars.[3] As a result, almost two decades after the establishment of the ICTY, a series of truth-seeking initiatives have emerged across the former Yugoslavia to establish facts about the conflict that ravaged the Balkans and left 140,000 victims in its wake.

These attempts, however, have been very elusive and problematic.[4] I will draw on the most recent example, the Regional Commission for Establishing the Facts about War Crimes and other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia (RECOM), in order to illustrate the dilemma human rights activists were confronted with while launching their advocacy campaign for a truth commission. RECOM began as a grass-roots project in 2008 and sought to provide more victim-oriented transitional justice projects and focused on the local needs of victims and their families to cope with past mass atrocities committed during 1991 and 2001. In other words, this regional fact-finding movement was an attempt to democratize international humanitarian law—and globalized human rights concepts more generally—in local post-conflict settings. Yet, since the beginning its founders have struggled to gain the official endorsement of international organizations and governments (in form of domestic laws that provide the legal foundation for the commission and financial resources, among others) to institutionalize their regional fact-seeking body.

---

2   See for instance Mark Drumbl, *Atrocity, Punishment, and International Law* (Cambridge University Press, 2007); John Hagan, *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal* (University of Chicago Press, 2003).

3   Eric Stover, *The Witnesses: War Crimes and the Promise of Justice in The Hague* (University of Pennsylvania Press, 2007).

4   See for instance Cécile Jouhanneau, "Les Mésaventures Des Projets De Commission Vérité Et Réconciliation Pour La Bosnie-Herzégovine (1997-2006): Une Étude De La Circulation Des Modèles Internationaux De Résolution Des Conflits Mémoriels," in *Le Passé Au Présent: Gisements Mémoriels Et Politiques Publiques En Europe Centrale Et Orientale*, ed. George Mink and Pascal Bonnard (Paris: Michel Houdiard Editeur, 2010); Brian Grodsky, "International Prosecutions and Domestic Politics: The Use of Truth Commissions as Compromise Justice in Serbia and Croatia," *International Studies Review* 11, no. 4 (2009): 687–706.

This article explores the elusive efforts among NGOs in several states across the region – notably Bosnia and Herzegovina (BiH), Croatia and Serbia – to organize a transnational campaign to cope with past mass atrocities. Through participant observation and in-depth interviews, I examine how these NGOs discuss, interpret, and identify meanings of human rights and democracy within and across state-boundaries of countries in the former Yugoslavia. My study reveals the movement's struggle from within—caused by differing interests of its members—and from outside, as it seeks support from international and region-specific organizations as well as national governments. I explain why the NGO campaign for political-legal institutional change within the region of the former Yugoslavia has been unsuccessful thus far.

Accordingly, I focus on the challenges of the legal influence on fact-finding processes. I analyze the ongoing political – and also legal-oriented – battle to institutionalize alternative transitional justice mechanisms. In fact, during the consultation phase to create a draft statute of the RECOM fact-finding body, the driving NGO forces of the campaign, particularly the Humanitarian Law Center, adopted a strategy that followed a state-centric logic, in order to gain support from governments and political leaders. As a result, the RECOM initiative employed lawyers to promote a legal-oriented and technical discourse at the expense of its primary target group of victims. I call this phenomenon the legalization of truth spaces. Against the backdrop of internal disputes and disagreements of its members, and the pressure from other sociopolitical actors in the region, I examine and discuss the problematic impact of this trend.

The first section includes a review of theoretical issues in post-conflict justice scholarship on the Balkans, outlining the importance of strengthening research that focuses on state-society relations. It is followed by a description of the research design, qualitative research methods, and data selection procedures that this study is based on. Next, after briefly introducing the RECOM Initiative and its difficulties, I describe the early grass-roots discussions of RECOM's mandate drawing on two local consultations in Knin, Croatia and Kruševac, Serbia. Then, in the subsequent section of this article, I rely on data collection of my participant observation of RECOM's last regional forum on transitional justice in October 2010 before the RECOM campaign members finalized the draft statute in March 2011. This forum highlights the dilemma of NGO activists' struggle to legitimize the commission at the state-level. I illustrate how, paradoxically, activists—in their effort to institutionalize the RECOM campaign—distanced themselves from their main support group, victims and victims' families. Finally, I discuss some of the broader conceptual implications of this phenomenon and outline ideas for future research.

2. From State-Centric to State-Society Analysis: A Critical Review of the Literature

Different forms of transitional justice mechanisms have been applied for millennia, especially in times of regime change, including Antiquity, the French Revolution, and after World War II.[5] The scholarly debate around these issues and the term itself was in particular shaped by Ruti Teitel's early work published in Neil Kritz's edited volume *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*.[6] Only a few years later, in 2000, Teitel published her groundbreaking book, *Transitional Justice,* in which she argues that the role of justice in political transitions is not a universal norm, but instead has a unique and constructivist character. Grounding her research in legal analysis, she posits that "[l]aw is caught between the past and the future, between backward-looking and forward-looking, between retrospective and prospective, between the individual and the collective."[7] In her subsequent work she explores this concept further, providing a broad timeline of transition cases since 1945 in order to conceptualize political shifts and the role justice plays during these processes.[8]

Teitel's post-World-War-II genealogical work on transitional justice demonstrates how law and politics closely relate to each other. With her historical analysis she provides a synthetic and aggregative view, disclosing the changes of political institutionalization from the early trials after World War II, to the recent developments that have solidified the transnational justice phenomenon in a globalized world. As she precisely states: "The genealogical perspective situates transitional justice in a political context, moving away from essentializing approaches and thereby illuminating the dynamic relationship between transitional justice and politics over time."[9] Her article thus frames the changes in post-conflict societies from a legal perspective—discussing the effects of alternative models on international law and analyzing the impact of the rule of law in different contexts.

Other authors have followed suit, studying transitional justice from a historical and institutional perspective.[10] Jon Elster's work *Closing the Books: Transitional Justice*

---

5   For a historical account on different forms of justice applied after regime changes see for instance Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge University Press, 2004).

6   Ruti G. Teitel, "How Are the New Democracies of the Southern Cone Dealing with the Legacy of Past Human Rights Abuses?," in *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, ed. Neil J. Kritz (United States Institute of Peace Press, 1995), 146–154.

7   Ruti G. Teitel, *Transitional Justice* (Oxford University Press, USA, 2000), 6.

8   Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 69.

9   Ibid., 94.

10   For literature on institutional change during democratic transitions that has also influenced transitional justice scholarship see for instance Guillermo O'Donnell and Paul

in Historical Perspective, for instance, constitutes an account of different cases in history—ranging from Ancient Greece to the East German transition in the 1990s—and provides a good example of expanding the institutional debate by scholarship on democratic transition in post-authoritarian and post-conflict justice contexts.[11] Both analyses are very valuable from a historical and comparative point of view. They help us understand institutional processes within political structures during regime change. Yet, neither one of them includes political processes between state and society actors, but its analytical lens remains focused on a state-centric view.

While more recent transitional justice scholarship on the former Yugoslavia has provided excellent insights on the politics of justice, it still says very little about state society relations. As a case in point, Jelena Subotić's *Hijacked Justice: Dealing with the Past in the Balkans* discusses the politicization of the ICTY's compliance requirements of prospective European Union (EU) member states from the Western Balkans.[12] Another scholar, Victor Peskin reasons along similar lines. In fact, Peskin compares state cooperation with the International Criminal Tribunal for Rwanda (ICTR) and the ICTY.[13] He argues that:

> [t]hese ad hoc tribunals can effectively become victor's courts insofar as the winners of a conflict may be able to control a tribunal's prosecutorial agenda. By the same token, the losers of a conflict may be able to control the courts by blocking investigations and prosecutions of their nationals. [... His] book focuses on two levels of such political activity beyond the courtroom: first, the political struggles and negotiations *between* tribunal, state, and powerful international community actors

---

Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions About Uncertain Democracies* (Johns Hopkins University Press, 1986). Their edited volume provides different case studies on several political shifts and regime changes in the 1980s, focusing on Latin America. They explore different democracy models and political efforts to build democratic foundations in times of uncertainty. While Laurence Whitehead describes international factors in chapter one of the volume – discussing for instance foreign policy tools – other contributors, such as Adam Przeworksi, raise methodological questions, examining ways in which different data sets could be analyzed to help researchers better understand these processes. This type of literature concentrates especially on the sociopolitical factors of democratic transitions, including political institutions and in some cases the role of civil society during these processes. See also Juan Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Johns Hopkins University Press, 1996); Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (University of Oklahoma Press, 1993).

11   Elster, *Closing the Books: Transitional Justice in Historical Perspective*. Both words are Latin and stand for comparisons and explanations.

12   Jelena Subotic, *Hijacked Justice: Dealing with the Past in the Balkans* (Ithaca, London: Cornell University Press, 2009).

13   Viktor Peskin, *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation* (Cambridge, NY: Cambridge University Press, 2008).

that occur prior to as well as during the courtroom trials; second, the political struggles and negotiations *within* states.[14]

More precisely, Peskin examines why state cooperation with the ICTR has decreased compared to a state cooperation increase with the ICTY over the years. For this, he analyzes various relationships between powerful actors, including judges, politicians, government representatives and diplomats, among others. His study, much as Subotic's work focuses nonetheless on a state-centric perspective – mentioning civil society efforts only fleetingly[15] – and therefore leaving the story of state-society relations in the dark. Both authors are part of a group of international relations scholars who have engaged in transitional justice research that emphasizes agency centered around states and international organizations as primary actors to implement international humanitarian law on the international and domestic level. Interactive processes and the sociopolitical dynamics between states and society are therefore of less interest to them. As Leslie Vinjamuri and Jack Snyder put it, "international relations scholars have a wealth of knowledge about the factors that shape the successes or failures of postwar reconstruction efforts and nation building. Strategies of justice are one component of these frameworks."[16] Dominant trends in the study of these phenomena remain visible, such as the heavy influence of legalism – which sets apart legal analysis from social or political sciences research[17] – and an inclination to employ large data aggregation and quantitative studies in the literature.[18]

On the contrary, this article aims at strengthening the sociopolitical research agenda of post-conflict justice. To this end, I analyze the importance of political objectives of different actors in transition contexts. In particular, I look at the relationship between the state (or its representatives) and society, characterized by

---

14   Ibid., 6.

15   Ibid., 24.

16   Leslie Vinjamuri and Jack Snyder, "Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice," *Annual Review of Political Science* 7, no. 1 (2004): 359.

17   Shklar in Kieran McEvoy, "Beyond Legalism: Towards a Thicker Understanding of Transitional Justice," *Journal of Law and Society* 34, no. 4 (2007): 414.

18   Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace, 2010); David Backer, "Understanding Victim's Justice: Evidence from Five Countries in African Countries," in *Conference "Accountability After Mass Atrocity: Latin American And African Examples In Comparative Perspective" May 6* (Washington, DC, 2009); Kathryn Sikkink and Carrie B. Walling, "Errors About Trials: The Emergence and Impact of the Justice Cascade" (Paper presented at the Princeton International Relations Faculty Colloquium, March 27, 2006).

civil society organizations.[19] Several important political scientists have paved the way studying state-society relations in different contexts and eras, including Charles Tilly, Theda Skocpol, Barrington Moore, James Scott and Joel Migdal among others. A growing community of scholars are aware of the lack of research between politics, law and society, and decided to emphasize the process character of transitional justice phenomena in society using sociological and ethnographic tools to do so.[20] Moreover, several authors have explored the sociopolitical role of NGOs in society using a sociology-of-space perspective in order to illustrate their active involvement in shaping policy processes.[21]

Drawing on Miraftab and Wills' notion of invited spaces—more precisely, spaces in which state institutions provide opportunities for civil society to participate actively in certain problem areas—Alex Jeffrey recently analyzed the creation of space (invented space) by human rights organizations in Bosnia and Herzegovina to allow for deliberate conceptions of justice that go beyond legal institutions and processes.[22] His study defies a legalist approach, illustrating how activists who initially cooperated with the judiciaries have established alternative ways to implement transitional justice in post-conflict settings. While I employ these concepts to investigate regional transitional justice activities of a number of NGOs across the former Yugoslavia in this article, I concentrate on the difficulties human rights activists are confronted with during the creation of these regional restorative justice efforts or truth spaces.

---

19   I focus on human rights organizations, excluding other advocacy groups, such as veterans' organizations. For a discussion on the latter cf. Kurze, Arnaud and Iva Vukusic, "Afraid to Cry Wolf: Human Rights Activists' Conundrum to Define Narratives of Justice and Truth in the Former Yugoslavia," (forthcoming) in Olivera Simic and Zala Volcic, *Transitional Justice and Civil Society in the Balkans* (New York: Springer, forthcoming).
20   Leigh Payne, *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence* (Duke University Press, 2008); Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice In The Age Of Human Rights* (University of Pennsylvania Press, 2005); Jo-Marie Burt, "Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations," *International Journal of Transitional Justice* 3, no. 3 (2009): 384; Cath Collins, "Grounding Global Justice: International Networks and Domestic Human Rights Accountability in Chile and El Salvador," *Journal of Latin American Studies* 38 (2006): 711–38.
21   Faranak Miraftab and Shana Wills, "Insurgency and Spaces of Active Citizenship," *Journal of Planning Education and Research* 25, no. 2 (2005): 200. For an extensive discussion on time and space, see John Urry, "Sociology of Time and Space," in *The Blackwell Companion to Social Theory* (Oxford, United Kingdom: Blackwell Publishers, 2000), 416–444.
22   Alex Jeffrey, "The Political Geographies of Transitional Justice," *Transactions of The Institute of British Geographers* (2011).

3. Research Design

Building on qualitative research methods, I portray a thick and in-depth picture of transitional justice processes, while also sketching and interpreting the politics that are at stake. Although I analyze the politics of justice from a political science perspective, I employ two qualitative analytical tools, one based on anthropological research and the other one relying on sociological analysis: participant observation and narrative interviews. I draw from over three-dozen interviews and two-dozen participant observations.[23] The data was collected systematically, using snowball sampling, in which existing study subjects recruited future subjects from their acquaintances and professional networks. As for the observation of meetings, events and other activities, I selected a proportionate number of different settings, including local, national and transnational conferences. While most of them were public, some of them were also closed off to the public. These design choices were made according to Chaim Noy's findings, who has illustrated that snowball sampling helps investigate social knowledge from particular sociopolitical groups' organic social networks and social dynamics.[24] The strength of a mixed method qualitative approach is that scholars can use their "theoretical resources" to: i) analyze a small set of data in which context and change are crucial; ii) underline that coding plays a less important role, as data is dynamic and subject to change; and iii) "show how the (theoretically defined) elements we have identified are assembled or mutually laminated."[25]

Empirical evidence from my field experience during data collection procedures further corroborates the advantages of such a combined approach for my research question, including in particular feasibility, externality, and confidentiality. In fact, my research project was limited to a specific time period and the studied community was not isolated from outside effects, but rather part of a larger social system. I followed and 'lived' with leaders and activists of human rights organizations during their daily activities across the region, reminiscent of the work of ethnographers who explore remote and indigenous tribes. However, it was not feasible to apply these participant observation techniques to all of the involved

---

23   The data was collected from September 2009 to October 2011. Interview participants include activists from principal human rights organizations involved in the RECOM Initiative in the selected country, such Documenta Center for Dealing with the Past (Croatia), Humanitarian Law Center (Serbia), Research and Documentation Center (Bosnia), among others. I observed staff meetings, consultations, forums and conferences associated with the fact-seeking efforts, among others. For a list of interviewees see Appendix.
24   Chaim Noy, "Sampling Knowledge: The Hermeneutics of Snowball Sampling in Qualitative Research," *International Journal of Social Research Methodology* 11, no. 4 (2008): 327–344.
25   David Silverman, "Analyzing Talk and Text," in *Handbook of Qualitative Research*, ed. Norman K. Denzim and Yvonna S. Lincoln (Thousand Oaks, CA: Sage, 2000), 828.

actors in transitional justice processes in the region. In order to reconcile the paradox of collecting sufficient information of different actors crucial to understand the dynamics I relied on additional open-ended informal and formal interviews with other key transitional actors to complement the constantly collected data through participant observation.

Moreover, supplementing participant observation with interviews helped me overcome confidentiality issues. Indeed, while I became part of the community it occurred that information sharing through informal conversations revealed findings that were not meant for public use.[26] Sometimes, the subjects specifically mentioned not to use certain types of information for research purposes, whereas other times, the right to use this information was stated more implicitly. To ensure that I could use all the gathered information during participant observation for my research purposes, I relied on periodical semi-structured interviews with the community members. The more formal character—as compared to the informal conversations and daily interactions with the members—allowed me to double-check which information was available with the community's consent. Any concerns that this self-censorship came at the expense of crucial research information that was not used anymore were ungrounded, as certain specific details did not always play an important role to understand the conceptual underpinnings of the social phenomenon under scrutiny.

4. The Origins and Initial Challenges of the RECOM Process

As mentioned above, recent attempts to institutionalize an interstate fact-finding body to account for past human rights violations and war crimes in the former Yugoslavia emerged as a response to the rising critique of international and domestic war crimes prosecutions in the region. Retributive justice mechanisms to cope with the past, such as the ICTY, have only partially fulfilled the goal of helping war-torn and post-conflict societies in the region transition. Some of the issues include: the geographical distance of the court between the Netherlands and the crime scene sites—which has often been condemned by victims and witnesses; the trying of selective cases only (both at the international as well as domestic level); and the politicization of cooperation processes between countries of the former Yugoslavia and the United Nations (UN) tribunal in The Hague.[27] Increasing criticism from victim associations and human rights organizations were therefore crucial in helping launch an alternative process to deal with the past. The idea was that progress does not lie in more personnel, better strategies, and on-site presence

---

26   Here I refer to facts and information that cannot be found in public records or documents in hindsight.
27   Ruti G. Teitel, "The Law and Politics of Contemporary Transitional Justice," *Cornell International Law Journal* 38 (2005): 837–862.

of the judiciary system, but in the way that those who suffered most during the conflicts are integrated into projects to cope with the past.

The activities of several non-profit organizations—many of which often started working at the outbreak of violence in the early 1990s[28] or shortly after— demonstrate the increasing efforts to raise victims' voices in transitional justice processes in the former Yugoslavia. In fall 2005, three established non-profit organizations in the region—the Humanitarian Law Center in Serbia, Documenta Center for Dealing with the Past in Croatia, and the Research and Documentation Center in Bosnia and Herzegovina[29]—discussed the prospects of an independent regional commission that would investigate and disclose the facts about war crimes and other serious human rights violations in the territory of the former Yugoslavia.[30] By May 2008, these organizations had gained enough momentum and launched the Coalition for RECOM Initiative in Priština, Kosovo, with over 100 NGOs from the region.[31]

Since the official constitutional meeting of the RECOM coalition in Priština in 2008 the initiative has faced internal politicking and difficulties. The driving coalition partners of RECOM, such as Documenta and the Humanitarian Law Center, in particular, have grappled with mobilizing coalition partners from Bosnia and Herzegovina, after the head of the Bosnian Research and Documentation Center, for different reasons, refused to give his official support to the coalition at one of

---

28   The activities of the Humanitarian Law Center in Belgrade, Serbia, are a good example of documenting war crimes in the former Yugoslavia. The center also promotes victims rights, based on various initiatives, at http://www.hlc-rdc.org/stranice/Linkovi-modula/About-us.en.html , accessed December 5, 2009.

29   These various organizations have as their core mission to document and disclose facts about the human rights violations and war crimes committed during the 1990s to educate society and create a voice for victims. Various forms of implementing this mission exist. Documents, for instance, among other things, engages in commemorative culture, history teaching, and dealing with the past initiatives, thus emphasizing the interactive dialogue with society. The Research and Documentation Center, concentrates its work on documenting missing persons, and has published a comprehensive account of all the war victims in Bosnia and Herzegovina, *The Bosnian book of the dead* (2009), as well as an interactive Google map that shows location, nature of the crime and number of victims. The Humanitarian Law Center, despite its involvement in commemorative culture, is known for its strong legal activities, providing support for victims in court and vis-à-vis state institutions.

30   The International Center for Transnational Justice (ICTJ) and other prominent NGOs in the region also participated in this discussion.

31   Coalition for RECOM, *Report About the Consultative Process on Instruments of Truth- Seeking About War Crimes and Other Serious Violations of Human Rights in Post-Yugoslav Countries*, 2009, http://www.korekom.org/, accessed June 6, 2010.

the meetings in winter 2008.[32] Void of an essential Bosnian member—BiH constitutes a symbolic member country due to its weighty history during the 1992-1995 conflict—Humanitarian Law Center director, Nataša Kandic, managed to fill the gap created by the loss of the influential Research and Documentation Center by partnering with the Association of BiH Journalists.[33] Yet, the fact that this organization did not essentially concentrate on war crimes reporting affected its legitimacy within the coalition, according to a prominent member of the initiative.[34] Critique has also come from participating organizations that deplored the lack of transparency in RECOM's decision-making process.[35] Moreover, the uncertain outcome of the commission and the long process in rallying financial and political support—both of which were fluctuating and vague—also led to a RECOM fatigue with each of the main partner organizations focusing their energy and resources on domestic and local programs in their respective home countries.[36] In addition to internal obstacles, the initiative's institutionalization process faced difficulties fueled by other political and international actors in the region.

Although the political and institutional structures in the former Yugoslavia have become more favorable for the Coalition for RECOM Initiative in recent years, numerous obstacles still impede the creation of a fact-finding body.[37] In the following I describe the fragile political progress across the region and outline some of the inherent problems. The first important political wave of change in the former Yugoslavia occurred in the early 2000s. Tudjman's death in 1999 allowed the conservative nationalist era to end in which the narrative of the glorious homeland war to defend the young nation didn't leave any room for discussion of war crimes and human rights violations. Serbia's notorious leader Milošević was booted out of power after his 2000 electoral defeat amid rising protests from the streets after he attempted to unilaterally remain in power.[38] This reckoning with the past, however, was only the tip of the iceberg of a long process that is still ongoing.

---

32   See interview with Mirsad Tokaca, director of the Research and Documentation Center in June 2011.
33   See interview with Nataša Kandic, director of the Humanitarian Law Center, in May 2011.
34   See interview with official member of Coalition for RECOM in Zagreb in February 2011.
35   B92, "NGOs Fall Out over Donations," *Život*, June 30, 2011.
36   See supra note 34. See also programs by Documenta, http://www.documenta.hr or the Humanitarian Law Center http://www.hlc-rdc.org, accessed November 23, 2010.
37   Particularly during electoral campaigns, history is manipulated and old nationalist sentiments exploited by certain political parties or social groups.
38   Sabrina Ramet, "Politics in Croatia Since 1990," in *Central and Southeast European Politics Since 1989*, 2010, chap. 12 and 13.

Indeed, political leaders in both countries, Ivo Josipovic the president of the Republic of Croatia (who began his first term in February 2010), and Boris Tadic the president of the Republic of Serbia from July 2004 to April 2012, have both made important strides to foster a climate of rapprochement in the region. They represent a new political generation that has not been personally involved (be it directly or indirectly) in war crimes or the human rights violations of the 1990s conflicts.[39] More recently incumbent President of Serbia, Tomislav Nikolic, founder of the right-wing Serbian Progressive Party, might delay this process.[40]

Interestingly, support from international organizations to create RECOM's institutional framework also remains limited and further complicates human rights activists' efforts to account for war crimes. While the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe (CoE) released a report expressing its support for regional reconciliatory justice mechanisms among states of the former Yugoslavia, such as the regional fact-finding initiative RECOM[41], other organizations, including the UNDP and the EU, among others, avoid public statements that engage in direct political or financial support of RECOM.[42]

5. Early Grass-Roots Efforts: Local Consultations in Croatia and Serbia

The process of gaining grassroots support for the campaign was the result of numerous consultations with local communities. Below, I draw on comments by participants of two of these consultation processes in order to sketch the evolution of the initial ideas and issues raised during the early stages of the campaign. After discussing these two cases, I illustrate the increasing local-regional gap during the later phases of the campaign between the movement organizers and local

---

39   In the 1980s, Josipovic was a member of the League of Communists of Croatia, playing a key role in the democratic transformation of this party as the author of the first statute of the Social Democratic Party of Croatia (SDP) after Croatia's independence. He left politics in the mid-1990s, pursuing his academic career as a law professor at the University of Zagreb and only reentered the political realm in 2003, when Ivica Racan, then acting Prime Minister, invited him to join the government. Serbia's president, Boris Tadic, a trained psychologist, was part of the Democratic Opposition of Serbia, which was key in overthrowing Milosevic in 2000. Politically part of the Democratic Party, he made multiple symbolic reconciliatory public statements that are a sign of collaboration and understanding of both countries.

40   Dan Bilefsky, "Nationalist Wins Serbian Presidency," *New York Times* (New York, May 20, 2012), sec. Europe.

41   Pietro Marcenaro, *Reconciliation and Political Dialogue Between the Countries of the Former Yugoslavia*, Parliamentary Assembly Rapporteur Report (Council of Europe, 2011).

42   See interview with United Nations Development Program and European Union officials in Sarajevo in May 2011.

communities. During one of the early consultations, organized on August 4, 2009[43] in Knin, Croatia—a city situated in a region that many Croatian Serbs had to escape during the Croatian 1995-military intervention, Operation Storm—one of the pressing issues raised by participants was the ability of the RECOM Initiative to help establish a different version of the past. Revealing the 'truth,' as some of the victims participating at the roundtable phrased it, was one of the most important achievements they expected from the commission in order to counter the prevailing discourse of the Homeland war—patriotic nation-building war in which Croatian soldiers did not commit any war crimes but only helped defeat terrorists who threatened the young state's territorial integrity, according to the official discourse of the Croatian government.

Jovan Beric, a Serbian victim from Zadar, Croatia, believes in the RECOM movement as it can help to uncover perpetrators of different crimes. His comments underline his urge to reveal facts of past war crimes and atrocities:

> What do you have to talk to them about, they killed your parents, and you are sitting with them. [...] That's not how I think [...] because I do not believe that every Croat is responsible for the crimes committed, but individuals, whose names are unfortunately not yet known. That is why I am looking forward to seeing this initiative up and running because I truly hope this can help name all war crime perpetrators, which will help us go in a better direction.[44]

Participants at the consultation several weeks later in Kruševac, Serbia, on September 7, 2009, expressed similar opinions regarding the need to establish facts about the past. Miško Radonjic, a representative of a local NGO called Euro Contact underlined that:

> I personally believe that RECOM should only deal with the facts, that it should not even [...] tackle the issue of causes, because that leads straight into politics, which will definitely create additional problems.[45]

In fact, political groups, governments and other actors have continuously politicized many war-related issues across the region in the post-conflict Balkans.[46] The

---

43   The organizers chose to hold the consultation meeting one day before the Croatian national holiday, Victory and Homeland Thanksgiving Day and the Day of Croatian defenders, which honors Croatia's veterans and is celebrated in Knin by the political establishment, the military, veterans and the public. The event is a very nationalist and conservative celebration of Croatia's young nationhood.
44   See RECOM consultation with the local community, Knin, Croatia, August 4, 2009.
45   See RECOM consultation with the local community, Kruševac, Serbia, September 7, 2009.

RECOM Initiative's intention was to overcome this politicking. To this end, campaign members also wanted to reach out to a larger public.

While many of the consultations with local communities centered on victims, the organizers of the RECOM campaign carefully drafted a strategy that would reach beyond this target group. Youths constituted a group on which members of the RECOM Initiative focused in particular. During the earlier consultation in Knin Emina Bužinkіϲ a member of the Young People of Croatia Network thus emphasized the significance of engaging younger generations in a dialogue about past mass atrocities. According to her,

> It is very important to me to stress that young people want to know the facts. We want to know the truth; we want to be a part of the dealing with the past process. That is very important for us because it influences the way we are going to build our future. For us, this commission is important at the level of dealing with the past and learning about the events of the past. For us it is important at the level of transferring something to new generations.[47]

These earlier consultations with local communities focused on fundamental principles of the commission's mandate; yet, in some of the later consultations especially during 2010—such as the ones held by Documenta in Croatia's rural and urban areas—the draft statute had grown into a relatively complex legal document, hampering the dialogue between the local community and the NGO activists promoting the RECOM Initiative.

The case of a consultation meeting with civil society organizations in Osijek, Croatia's third largest city that was heavily destroyed during the 1992-1995 war is a good case in point to emphasize the problem of RECOM Initiative members to cope with the regional-local divide. Put differently, while the organizers made an effort to be connected to their community at the base and to integrate local concerns into the regional project, these attempts were very difficult and did not always lead to the expected results.

During the Osijek meeting on July 14, 2010, an elderly woman who was part of a one-person association in her village interrupted the formal discussion on provisions in the statute, in order to tell her story and experience of the war. After she explained to the participants that she had lost a family member and the missing person's remains had still not been found yet, she pulled out a handmade photo album sharing pictures and memories of her loved one. Her question to

---

46   Issues range from the manipulated and distorted accounts of the number of dead in the Srebrenica massacre in BiH to the involvement of politicians in war-related bribery scandals and arms deals.

47   Ibid. supra note 44.

Documenta's team evolved particularly around one issue: what would RECOM do for her and her personal situation? Could they initiate a process that would allow her to exhibit her photos and voice her cause across the nation? And would they be able to help her find the remains of her family member? While the official response of RECOM members supported her request, the conversation quickly turned back to more technical and abstract questions of the statute, leaving the woman's concerns to the side. Yet, she was not the only one, questioning RECOM's objectives.

Other members also had troubles following the big-picture objectives of the campaign put forward by Documenta's staff. Branislav Vorkapic, a representative of the Organization for Civil Initiatives in Osijek, raised his concern vis-à-vis the discussed goals:

> The longer I analyze this statute, the more confused I feel. I keep wondering if it is possible to create a diagram to reflect the stipulations of the statute to help us see the organization more clearly. For example, it says here that members will be professionally engaged individuals. [...] What exactly is, then, the management mechanism? Who makes strategic decisions? Then, as I see further down in the text, there are these members and it is not clear where they belong according to this scheme. Then, there are investigation teams, and then there is this executive secretariat, which is further divided. Each of those segments has its leader, so to speak, and that segment is supposed to conduct a certain type of work. So, when I try to picture all of this, trying to understand the whole mechanism, I get confused.[48]

Vorkapic's concerns illustrate the growing disconnect between the movement's early motivations of creating a victim-oriented institution and a non-judicial space for victims and those who suffered in order to complement existing retributive mechanisms. In fact, the complex structure of the organization—illustrated by the different organizational components of the Coalition for RECOM participants with its different working groups and the Council—is a consequence of the various contexts and interests the movement tried to integrate within its mandate. As a result, both examples above, the early 2009 consultations in Knin and Kruševac and the later ones in 2010, such as in Osijek, have revealed the troubles the main NGOs of the RECOM movement faced during the campaign to present the concept of a regional truth commission to local populations and incorporate the ideas at the grassroots level into the draft statute. As I will show below, this disconnect exacerbated over time.

---

48   See Local Consultation with Civil Society Organizations on the Draft RECOM Statute, July 13, 2010, Osijek, Croatia.

6. Finalizing the Statute: Swerving from a Bottom-Up to a State-Centric Approach

In the final stages of drafting the RECOM statute, consultations intensified again on the national and regional level, and the discussed issues centered on state-related questions, including the commission's interaction with the judiciary, the election of its members and its broader goals and assignments, among others.[49] In the following, I draw on my participant observation of the 7th Regional Forum on Transitional Justice held in Zagreb, Croatia, from October 15-17, 2010 in order to highlight how the focus of the principal RECOM campaign members, notably the Humanitarian Law Center, have shifted from local, victim-oriented issues, to larger legal and state-centered questions.[50]

Due to the limited time, several workshops about different sections and topics of the statute were organized simultaneously. Nataša Kandić, the director of the Humanitarian Law Center, headed the group discussing legal issues, especially the relations of the commission with the judiciaries across the Balkans, with the title "The Mandate of RECOM and its Authority with Respect to the Authority of National Judiciaries." The organizers had set up the roundtable discussion for this group in one of the hotel's upstairs meeting rooms, with barely enough space for a few extra seats around the roughly 20 chairs placed along the oval-shaped conference table and a half-open translation booth with two interpreters sharing the tiny available space in one of the corners of the room.

This sloppily organized workshop setting clashed with the lavishly catered and designed inaugural cocktail party the night before. Many participants and conference guests arrived at the workshop with some delay and the discussants had already started debating several issues in regards to different articles and paragraphs of the current draft statute. While some participants were crouching on top heaters in front of a large window with panoramic view of the city, a growing horde of interested individuals continued to pile into the room. Overwhelmed by the never-ending flow of people Ms. Kandić grew impatient with the crowd and advised the latecomers that it would be better to participate in one of the other workshop. She explained that this meeting would be less interesting for the press and the general public because the issues concerned many legal and technical details of the commission's statute.

---

49   See for instance different working groups during the 7th regional form on transitional justice held in Zagreb, October 15-17, 2010.
50   The overall data for these findings are based on participant observation and interviews of consultations held by the Coalition for RECOM Initiative from spring 2008 to summer 2011. Over 100 consultations were held during this period at the local, national, and regional level.

Despite a handful of baffled expressions by some individuals in the crowd about her boldness to send interested listeners out of the room, many of these seatless guests—who were either standing or leaning against the wall—remained in the room and followed the discussion. The participants sitting around the table mainly included lawyers, legal experts and practitioners, such as Nikola Bešenski, a judge at the County Court of Vukovar, Croatia (County Courts in Croatia have jurisdiction over war crimes), Velija Murić from the Montenegro Lawyers' Committee for Human Rights, and Ibro Bulić from the Office of the War Crimes Prosecutor of Bosnia and Herzegovina, among others. They addressed several legal concerns with the current statute.

One of the issues raised during the workshop were perpetrator statements during hearings of the commission. The RECOM statute article on "Public Hearings of Victims and Other Persons" envisages public hearings to provide a space for victims to speak about their sufferings and their families' sufferings. In addition, the article contains also a paragraph on the possibility of perpetrators who committed war crimes or serious human rights violations to testify on a voluntary basis. Such a clause, however, opens up a deluge of issues with regards to accountability and dealing with the past. The issues range from amnesty or immunity for the testifying perpetrator to judicial questions, such as whether the tasks of a commission would impede on the work of the judiciary in the region and/or to what extent the involvement of a commission could be complementary to the already existing retributive justice mechanisms. Ibro Bulić, Prosecutor at the Office of War Crimes Prosecutor of Bosnia and Herzegovina, raised his concerns with regard to the scope and tasks of the national judiciaries in this context, insisting that "we cannot invite perpetrators for questioning, or for deposition taking without the presence of their defenders."[51] His argument clearly reflected his consternation with possible violations of judicial procedures. As long as there was a guarantee to abide by the existing legal framework, testimonies of perpetrators could be integrated into the public hearings.

The mandate and power of the commission vis-à-vis perpetrators was further discussed in the statute's article on "Findings on Perpetrators," which will be published after RECOM's mandate ends, when it will provide a final report to governments and the public across the region. An early version of the draft that was circulated during the forum stated that:

---

51   See the 7th Regional Forum on Transitional Justice, Working Group: "The Mandate of RECOM and its Authority with Respect to the Authority of National Judiciaries, Zagreb, Croatia, October 16, 2010.

> The Commission is mandated to indicate in its Final Report based on established facts whether an individual committed a criminal act of war crime or serious human rights violation. Such finding will have no impact on court decisions.[52]

The wording this particular paragraph in the statute was subject to a very lively debate during the workshop. Participant Jasminka Biloš, a Croatian lawyer, for instance rightly wondered:

> Who will act on behalf of the Commission, who will be the competent individual to decide if the facts we have collected point to the criminal responsibility of an individual?[53]

Representatives from international organizations, such as Ivan Jovanović from the OSCE Mission to Serbia, however, did not question the RECOM's authority in this regard. On the contrary, he underlined the great importance of the commission's ability to point to alleged perpetrators in its final report:

> I think that RECOM must absolutely have it in its mandate to be able to indicate in the Final Report that an individual may have committed a war crime. Because if RECOM is only allowed to make a compilation of victims' testimonies, the results of its work will be insignificant.[54]

In the final draft statute that was eventually adopted by its members several months after the forum, the drafters slightly modified the initial text and harnessed the commission with a less powerful mandate with regards to what statements it could publish on alleged perpetrators. Its current version was printed as follows:

> The Commission may conclude in the Final Report that the established facts lead to a serious suspicion that an individual committed a war crime or other gross violation of human rights. Such findings shall not have the effect of a court decision and shall not prejudice the outcome of criminal proceedings, if any.[55]

Ironically, during the debate Ms. Kandić underlined the importance of the Coalition for RECOM Initiative, notably because the retributive justice mechanisms in the former Yugoslavia and The Hague led to accountability efforts that ignored victims' needs. Yet, the abstract and technical comments and discussion on legal questions of the commission during the workshop underlined the new direction the RECOM campaign had taken: less victim-centered and eager to find support from governments in the region. Regardless, the goal here was not to assess the normative value of NGO activists to build a momentum of states in the region

---

52   Ibid.
53   Ibid.
54   Ibid.
55   Ibid.

endorsing the commission. Instead the collected data from my observations and interviews on this strategy highlights the dilemma activists were facing in order to establish alternative transitional justice mechanisms in the Balkans.

7. Beyond Legalizing Truth Spaces and Future Research

This article explored the struggle of domestic human rights activists to define the local meaning of international humanitarian law and transitional justice practices across the former Yugoslavia. I analyzed the development of NGO activists to increase their 'invented' space to foster deliberative spaces of justice for civil society. For this, I concentrated on the challenges of the legalistic influence on truth seeking and I investigated the ongoing political barriers to institutionalize alternative transitional justice instruments. Drawing on diverse consultation processes that I observed during my fieldwork in the region, I examined the current legalization of truth spaces to demonstrate how human rights activists attempted to embed their newly created space in the space originally provided by state institutions to depoliticize transitional justice efforts in the region. While the process of institutionalizing new truth spaces has remained unsuccessful, I showed that the state-centric strategy of human rights advocates also widened the gap between the activist leaders and the needs of their principal supporters, the victims.

The legalization of truth spaces describes the process through which activists, practitioners, and experts employ tangible and practicable legal instruments during the consultation meetings in order to establish the mandate for the regional commission. There are a few broader conceptual implications of this process. Indeed, the institutionalization of truth-seeking bodies raises questions about the influence of hard justice, such as retributive mechanisms, on soft justice, such as restorative tools, including truth commissions, as mentioned earlier. The former is based on measurable results, notably the number of processed cases and rendered verdicts, whereas the latter, at least initially, have relied on outcomes which seem, at first, less quantifiable. Yet, sociologist and director of the Truth-Seeking Program at the International Center for Transitional Justice (ICTJ), Eduardo Gonzalez – who has consulted and participated in many different local, national and regional initiatives around the world to set up commissions and bodies that deal with the past[56] – has stressed the need to think differently when it comes to implementing successful strategies for truth commissions.[57] The reason why judicial mechanisms are able to produce a quicker, and often – in terms of output such as the number of verdicts – more successful track record, is because law has turned the notion of

---

56   He also consulted the RECOM members during meetings in Serbia and Kosovo in spring and summer 2010.
57   See interview with Eduardo Gonzalez on 10 September 2010 in Belgrade, Serbia.

justice into something tangible and applicable despite its disputable value and impact on a subject, in time and in space.

As mentioned earlier, this research is original and important for the study of accountability after mass atrocity because it looks beyond the state-centric driven analyses of retributive justice, focusing on state-society relations in a post-conflict justice context instead. The combination of participant observation and narrative interviews, two qualitative research methods, provide suitable tools to tackle potential analytical and methodological challenges. As a case in point, thanks to participant observation I was able to trace and monitor human rights and judicial actors in different environments, such as conferences, meetings, trials and hearings, while they perform or discuss retributive and restorative justice practices or a combination of both. The other tool, formal and informal in-depth conversations with key individuals from human rights organizations, judicial institutions and governments, among others, complemented my observations. As a consequence, this design allowed capturing and analyzing different, intersecting spaces and the role of key actors within these spaces to help understand current practices of truth and justice in post-conflict settings. This methodology also lends itself to other regional cases such as Africa, Asia, or Latin America.

The notion of truth, however, cannot easily be quantifiable or be constrained in a body of legal texts.[58] To this end, RECOM coalition members intend to create a large database, tracking cases and human losses across the region.[59] Such a project is in line with policy strategies implemented by the UN ad hoc court—which has a large electronic database of its cases—and local institutions, such as the Bosnian state court, which has one of the most state of the art databases to document its cases and help the coordination between different judiciaries on the entity level in BiH.[60] These observations are merely the beginning of a trend that transforms restorative practices into more concrete and result-driven projects. Projects, such as the work of Centro de Estudios Legales y Sociales (CELS) in Argentina, Latin America, confirm this trend. Funded by the Ford Foundation, CELS uses and populates large databases with trial information and analyses in order to spearhead collaboration between organizations across the Global South with the goal to elaborate best practices in transitional societies. Further comparative research on

---

58   Retributive justice mechanisms, however, have also a truth-disclosing component and therefore are considered by some as history-setting institutions. For a discussion on the history-defining capacity of the ICTY cf. Richard Wilson, "Judging History: The Historical Record of the International Criminal Tribunal for the Former Yugoslavia," Human Rights Quarterly 27, no. 3 (2005): 908–942.

59   See interview with RECOM coalition members in June 2011.

60   See interview with Sven Marius Urke, secondee of the Norwegian Foreign Ministry and currently international advisor at the Bosnian High Judicial and Prosecutorial Council in May 2011.

these projects in the futures might help evaluate the consequences of this phenomenon for victims and post-conflict societies.

Bibliography

B92. "NGOs Fall Out over Donations." *Život*, June 30, 2011. http://www.b92.net/eng/news/society-article.php?yyyy=2011&mm=06&dd=30&nav_id=75197&version=print.

Backer, David. "Understanding Victim's Justice: Evidence from Five Countries in African Countries." In *Conference "Accountability After Mass Atrocity: Latin American And African Examples In Comparative Perspective" May 6*. Washington, DC, 2009.

Bilefsky, Dan. "Nationalist Wins Serbian Presidency." *New York Times*. New York, May 20, 2012, sec. Europe.

Burt, Jo-Marie. "Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations." *International Journal of Transitional Justice* 3, no. 3 (2009): 384.

Coalition for RECOM. *Report About the Consultative Process on Instruments of Truth- Seeking About War Crimes and Other Serious Violations of Human Rights in Post-Yugoslav Countries*, 2009. http://www.korekom.org/webpage/1.

Collins, Cath. "Grounding Global Justice: International Networks and Domestic Human Rights Accountability in Chile and El Salvador." *Journal of Latin American Studies* 38 (2006): 711–38.

Drumbl, Mark. *Atrocity, Punishment, and International Law*. Cambridge University Press, 2007.

Elster, Jon. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge University Press, 2004.

Grodsky, Brian. "International Prosecutions and Domestic Politics: The Use of Truth Commissions as Compromise Justice in Serbia and Croatia." *International Studies Review* 11, no. 4 (2009): 687–706.

Hagan, John. *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal*. University of Chicago Press, 2003.

Huntington, Samuel P. *The Third Wave: Democratization in the Late Twentieth Century*. University of Oklahoma Press, 1993.

Jeffrey, Alex. "The Political Geographies of Transitional Justice." *Transactions of The Institute of British Geographers* (2011).

Jouhanneau, Cécile. "Les Mésaventures Des Projets De Commission Vérité Et Réconciliation Pour La Bosnie-Herzégovine (1997-2006): Une Étude De La Circulation Des Modèles Internationaux De Résolution Des Conflits Mémoriels." In *Le Passé Au Présent: Gisements Mémoriels Et Politiques*

Publiques En Europe Centrale Et Orientale, edited by George Mink and Pascal Bonnard. Paris: Michel Houdiard Editeur, 2010.

Linz, Juan, and Alfred Stepan. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Johns Hopkins University Press, 1996.

Marcenaro, Pietro. *Reconciliation and Political Dialogue Between the Countries of the Former Yugoslavia*. Parliamentary Assembly Rapporteur Report. Council of Europe, 2011.

McEvoy, Kieran. "Beyond Legalism: Towards a Thicker Understanding of Transitional Justice." *Journal of Law and Society* 34, no. 4 (2007): 411–440.

Miraftab, Faranak, and Shana Wills. "Insurgency and Spaces of Active Citizenship." *Journal of Planning Education and Research* 25, no. 2 (2005): 200.

Noy, Chaim. "Sampling Knowledge: The Hermeneutics of Snowball Sampling in Qualitative Research." *International Journal of Social Research Methodology* 11, no. 4 (2008): 327–344.

O'Donnell, Guillermo, and Paul Schmitter. *Transitions from Authoritarian Rule: Tentative Conclusions About Uncertain Democracies*. Johns Hopkins University Press, 1986.

Olsen, Tricia D., Leigh A. Payne, and Andrew G. Reiter. *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy*. Washington, DC: United States Institute of Peace, 2010.

Payne, Leigh. *Unsettling Accounts: Neither Truth nor Reconciliation in Confessions of State Violence*. Duke University Press, 2008.

Peskin, Viktor. *International Justice in Rwanda and the Balkans: Virtual Trials and the Struggle for State Cooperation*. Cambridge, NY: Cambridge University Press, 2008.

Ramet, Sabrina. "Politics in Croatia Since 1990." In *Central and Southeast European Politics Since 1989*, 258, 2010.

Roht-Arriaza, Naomi. *The Pinochet Effect: Transnational Justice In The Age Of Human Rights*. University of Pennsylvania Press, 2005.

Sikkink, Kathryn, and Carrie B. Walling. "Errors About Trials: The Emergence and Impact of the Justice Cascade". Paper presented at the Princeton International Relations Faculty Colloquium, March 27, 2006.

Silverman, David. "Analyzing Talk and Text." In *Handbook of Qualitative Research*, edited by Norman K. Denzim and Yvonna S. Lincoln, 821–834. Thousand Oaks, CA: Sage, 2000.

Stover, Eric. *The Witnesses: War Crimes and the Promise of Justice in The Hague*. University of Pennsylvania Press, 2007.

Subotic, Jelena. *Hijacked Justice: Dealing with the Past in the Balkans*. Ithaca, London: Cornell University Press, 2009.

Teitel, Ruti G. "Global Transitional Justice." *Center for Global Studies Working Paper Series on Human Rights, Global Justice & Democracy*, no. 8 (Spring 2010).

———. "How Are the New Democracies of the Southern Cone Dealing with the Legacy of Past Human Rights Abuses?" In *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*, edited by Neil J. Kritz, 146–154. United States Institute of Peace Press, 1995.

———. "The Law and Politics of Contemporary Transitional Justice." *Cornell International Law Journal* 38 (2005): 837–862.

———. *Transitional Justice*. Oxford University Press, USA, 2000.

———. "Transitional Justice Genealogy." *Harvard Human Rights Journal* 16 (2003): 69.

Urry, John. "Sociology of Time and Space." In *The Blackwell Companion to Social Theory*, 416–444. Oxford, United Kingdom: Blackwell Publishers, 2000.

Vinjamuri, Leslie, and Jack Snyder. "Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice." *Annual Review of Political Science* 7, no. 1 (2004): 345–362.

Wilson, Richard. "Judging History: The Historical Record of the International Criminal Tribunal for the Former Yugoslavia." *Human Rights Quarterly* 27, no. 3 (2005): 908–942.

Appendix 1: List of Selected Organizations and Interviewees

For confidentiality reasons the names of many interview participants do not appear in the list below. Instead their institutional affiliation is listed.

Organizations

BiH Court, Sarajevo. September (9-10 September 2009, 45-60 min. each)
> International and local judges and prosecutors
> Other Staff and representatives

Belgrade District Court, Serbia. (15-16 September 2009, 45-60 min. each)
> Sinisa Vazic, President of the War Crimes Chamber
> Ivana Ramic, Media Spokesperson of the Court
> Bruno Vekaric, Deputy War Crimes Prosecutor
> Other Staff and representatives

Center for Peace Studies, Zagreb, Croatia. (15-16 February 2011, 45-60 min. each)
> Gordan Bosanac
> Other Staff and representatives

Croatian Disabled Homeland War Veterans Association (14 February 2011, 45-60 min. each)
> Renato Selj, President
> Other Staff and representatives

Delegation of the European Union to BiH. (17 May 2011, 45-60 min. each)
> Several leading country experts
> Other local staff

Delegation of the European Union to Croatia. (17 February 2011, 45-60 min. each)
> Several leading country experts
> Other local staff

Documenta Center for Dealing with the Past, Zagreb, Croatia. (September 2009 to May 2011, 10-90 min. each; repeated interviews)
> Vesna Teršelic, Director
> Eugen Jakovcic, Media Spokesperson
> Darija Maric, Regional Coordinator
> Other Staff and representatives

Muslim-Croat Federation's Veterans Association, Sarajevo, BiH (16 October 2010, 30-45 min. each).
           Senad Hubijer, President
           Other Staff and representatives

Research and Documentation Center, Sarajevo, BiH.
           Mrsad Tokaca, Director (17 May 2011, 60 min.)
           Lejla Mamut, Regional Coordinator (8 September 2009, 45 min.)
           Other Staff and representatives (8 September 2009, 30-60 min.)

Humanitarian Law Center, Belgrade, Serbia. (September 2009 to May 2011, 30-60 min. each, repeated interviews)
           Nataša Kandic, Director
           Sandra Orlovic, Deputy Executive Director
           Matthew Holliday, Outreach and Development Director
           Dragan Popovic, Program Director
           Lazar Stojanovic, RECOM Media Spokesperson
           Other Staff and representatives

International Center for Transitional Justice, New York, United States. (April 2010 to March 2011, 30-60 min. each)
           Eduard Gonzalez, Director, Truth and Memory Program
           Several transitional justice and Balkans experts
           Other local staff and representatives.

International Crisis Group, Sarajevo, BiH. (2-3 September 2009, 30-60 min each)
           Several Balkans experts
           Other local staff

International Criminal Tribunal for the former Yugoslavia, The Hague, Netherlands. (5-9 November 2010, 30-60 min. each)
           Current and former judges and prosecutors
           Other staff and representatives

International Criminal Tribunal for the former Yugoslavia, Outreach, Zagreb, Croatia. (28 September 2010, 30-60 min. each)
           Several leading country experts
           Other local staff

Office of the High Representative, Sarajevo, BiH. (28-31 August 2009, 45-60 min. each)
           Several leading country experts
           Other local staff

Organization for Security and Cooperation in Europe, Mission in Sarajevo, BiH. (10 September 2010 and 12 May 2011, 60 min. each)
>> Several leading country experts
>> Other local staff

Coalition for RECOM Initiative (September 2009 to May 2011, 10-90 min. each; repeated interviews)
>> Coordination Council members
>> Expert members
>> Partner organizations including victims' association and veterans' organizations

United Nations Development Program, Sarajevo, BiH. (16 May 2011, 60 min. each)
>> Several leading country experts
>> Other local staff

Youth Initiative Croatia (21-24 May 2011, 45-60 min. each)
>> Mario Mažic
>> Other local staff

Youth Initiative Serbia (20 May 2011, 45-60 min. each)
>> Maja Mićić, Director
>> Other local staff

SUBSTANTIVE EQUALITY, POPULAR SOVEREIGNTY, AND ANTAGONISTIC POLITICS: AN INTRODUCTION TO CARL SCHMITT'S DEMOCRATIC THEORY

Jan Smolenski
The New School for Social Research

Abstract:

This paper critically explores Carl Schmitt's theory of democracy. I present the emergence of the democratic principle of legitimacy as described by Schmitt, then elaborate on the people as sovereign qua constituent power and present its threefold relationship with the constitution. Later I formulate three lessons to be taken from Schmitt's theory and discuss its importance and implications for democratic theory in terms of the normative and formative principle of democracy, core subject and core mode of democratic politics, and conditions of possibility of constituent democratic politics. In concluding part I discuss the differences between liberal, republican and deliberative model of democracy and Schmitt-inspired theory.

Keywords: democracy, constituent power, the people, Carl Schmitt, sovereignty.

1. Introduction

For good reasons – partly stemming from his theoretical work, partly from his biography – Carl Schmitt never made it into the canon of the theorists of democracy: his grounding of politics in existential conflict between friends and enemies, definition of sovereignty as the capacity to breach the established law, and his antisemitism and active collaboration with the Nazi regime earned him an infamous (but at least partly deserved) title of the "'Crown Jurist' of the Third Reich."[1] Nevertheless, the label should not be the excuse for disinterest in his thought. In this paper I intend to focus on Schmitt's theory of democracy which, I believe, provides not only important insights into the mechanisms and the functioning of democracy but also poses a challenge for the dominant liberal understanding of democracy, and helps us to understand recent developments in social contention. Let me briefly explain: variants of liberal theory usually trace democracy to effective protection of individual rights against the oppression of the state and society. Whether it is the well-ordered society of Rawls or the partnership conception of democracy of Dworkin, it is the individual and their rights that occupy the central place. Every challenge to that vision is either discredited as an illegitimate limitation of liberties, like in the case of communitarian critique,[2] or

---

1   Andreas Kalyvas, "Hegemonic sovereignty: Carl Schmitt, Antonio Gramsci and the constituent prince," in: *Journal of Political Ideologies*, 5(3), 344.
2   See for example Kymlicka's refutation of communitarianism. Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, second edition (Oxford, New York: Oxford University Press 2002), especially chapter on communitarianism (pages 208-283).

rejected as possibly totalitarian, as in the case of the conceptions of democracy labeled as 'majoritarian'[3] (under which civic republicanism, for example, can be ascribed). One way or the other, the debate over democracy ends up in deadlock.

At first glance, Schmitt takes the communitarian/majoritarian side of this debate. I argue, however, that Schmitt's theory of democracy can help us find the way out of this deadlock and broaden the spectrum of the debate over democracy. The reading of Schmitt performed in this paper is by necessity selective, due to the volume of his work and the plethora of topics he considers and his intellectual development. The aim of this paper is therefore twofold: first I intend to familiarize readers with Schmitt's democratic theory; second, going beyond Schmitt, I intend to highlight the critical aspects of his theory of democracy that can contribute to and broaden democratic theory in general and improve its utility in responding to recent events.

I start my exposition of Schmitt's theory of democracy with the description of the emergence of the democratic principle of legitimacy: sovereignty of the people. This leads me to the question of the relation of the people as sovereign to democracy as the political form. I elaborate on this question by reflecting on the identity of the people and democratic principle of equality; I then proceed to the threefold relation of the people with democracy. Next, I claim that there are three lessons of to be drawn from Schmitt for democratic theory and democratic politics: about the normative and formative principle of democracy (substantive and concrete equality), the core subject and the core mode of democratic politics (the people as a constituent sovereign acting in public), and the condition of possibility of democratic constituent politics (a social strife). I argue that there are normative principles of democratic politics to be taken from Schmitt. I diagnose shortcomings of Schmitt-inspired democratic theory and point to ways of overcoming these deficiencies. As a matter of conclusion I briefly describe, how Schmitt-inspired democratic theory differs from three normative models of democracy as described by Habermas.

2. The emergence of the democratic principle of legitimacy

In *Political Theology*, Schmitt defines sovereignty as the capacity to make *the* decision on the exception.[4] What he means in this peculiar definition is that the distinctive feature of sovereignty is the capacity to suspend the existing legal order and thus to question the normalcy of a concrete situation. An exception cannot be

---

3   Accusation of totalitarianism is made by Dworkin against communal vision of the people, that is the people which is not merely the sum of individuals. See: Ronald Dworkin, *Freedom's Law. The Moral Reading of the American Constitution* (Oxford: Oxford University Press, 1995), 20.
4   Carl Schmitt, *Political Theology. Four Chapters on the Concept of Sovereignty*, trans. By George Schwab (Cambridge, Mass., London: The MIT Press, 1988), 5.

defined in legal terms, it is rather proclaimed by the decision, which is understood as a comprehensive act. In terms of the topology of power, the sovereign is external to the legal system defined by the norm, but at the same, he belongs to it.[5] The flip side of the decision on the exception is the decision on normalcy: by abstaining from proclaiming the exceptional situation the sovereign sustains and confirms the normalcy.[6] In other words, the legal system defined in terms of norms has its foundation in the singular exception that is external and prior to it: legal and political order is legitimate if it is grounded in the sovereign decision; at the same time, the exception does not disappear after creation of the order, but remains dormant.[7] The decision on the exception is sovereign not by the virtue of its legitimation (it is the source of legitimacy), but by the virtue of the situation in which it is made: the decision is made in a normative void.[8] It is ultimate, because there is no higher authority one can appeal to when challenging the decision.[9] Thus sovereignty is *both* the creational force and ultimate power, but the feature of being ultimate stems from its creational character. In Chapter 8 of his 1928 *opus magnum, Constitutional Theory*, Schmitt calls this creational power a constitution-making power and defines it as "the political will, whose power or authority is capable of making the concrete, comprehensive decision over the type and form of its own political existence."[10] In other words, constituent power is defined by the capability to determine its own "type and form" of political existence in its entirety.[11] Such a decision makes sense only in terms of political existence.[12] This means that it is not simply a choice between accessible options, but to-be-or-not-to-be question with ontological consequences in the strong sense of the word. Put differently, the decision on the exception is the decision about existence. In this sense, the constituent power is "unified and indivisible" and is not exhausted by the act of constitution-making.[13]

Schmitt's definition of sovereignty is usually interpreted as a sign of a fascination with the strong authority and dictatorial tendencies. The last chapter of *Political Theology*, where Schmitt praises the decisionism of Donoso Cortes, and his political choice in 1933 to join the Nazi party gave him a label of the ideological enemy of democracy. It is true that Schmitt was interested in dictatorship; however, he introduces the distinction of the two types of dictatorship, namely between

---

5   Ibid., 7.
6   Ibid., 13
7   Carl Schmitt, *Constitutional Theory*, trans. and edited by Jeffry Seitzer (Durham, London: Duke University Press, 2008), 149.
8   Schmitt, *Political Theology*, 32.
9   See: ibid., 55.
10   Schmitt, *Constitutional Theory*, 125.
11   Ibid., 126.
12   Ibid., 136.
13   Ibid., 125-126.

comissarial dictatorship and sovereign dictatorship. The first is a discretionary enforcement of exceptional measures employed to restore public order and it does correspond to conservative longing for secured order.[14] It is by definition reactionary and not fully sovereign in the Schmittian sense, since it is designated by already existing order threatened with dissolution by the internal strife. Schmitt traces its origin to the Ancient Roman dictator, who in a time of unrest was granted discretionary power to restore peace. A similar understanding of supreme power can be found in Jean Bodin, where the sovereign is also bound by external requirements of natural and divine law.[15] Sovereign dictatorship, on the other hand, is a provisional assembly acting on behalf of the people that abolishes the old constitution and creates a new one. It is revolutionary power, the embodiment of the popular sovereignty that determines the new political order[16] and therefore cannot be judged as legal or illegal since there are no criteria to do that. In this sense, sovereign dictatorship is also a delegated power,[17] but not responsible to old regime but to the people, who remains the ultimate sovereign.

While elaborating on his secularization theorem,[18] Schmitt states that the sovereign plays the same structural role in political and legal theories as omnipotent God in theology. Due to this fact sovereignty was necessarily bound to the person of the prince as an incarnation of the divine power. Laws in the absolutist state were legitimate, because they were decided upon by the sovereign monarch. During the process of the secularization, however, the metaphysical view of the world changed,[19] and J. J. Rousseau's theory and the French Revolution signified the birth of different principle of legitimacy – the democratic one.[20] Since then the people, understood as unitary political will, were considered to be the sovereign and every decision had to stem from the will of the people. According to the democratic principle of legitimacy, the laws are legitimate if they are created and authorized by the people. In metaphysical terms, democracy is based on the idea of immanence, while monarchy is based on the idea of transcendence.[21] From this point of view, the prince is not truly the constituent power, because God is the creator of order, including political and legal order.[22] The monarch enforces this order in the name of

---

14   Gopal Balakrishnan, *The Enemy: The Intellectual Portrait of Carl Schmitt* (London, New York: Verso 2000), 32.
15   Ibid, 34.
16   Ibid, 32, 36.
17   Andreas Kalyvas, "Carl Schmitt and Three Moments of Democracy" in *Cardozo Law Review* 21, p. 1533.
18   See: Schmitt, *Political Theology*, 36 and following pages.
19   Ibid., 47
20   Ibid., 48; Schmitt, *Constitutional Theory*, 127-128
21   Schmitt, *Political Theology*, 49; Schmitt, *Constitutional Theory*, 266.
22   Schmitt, *Constitutional Theory*, 127

God.[23] According to Schmitt, Bodin's, and later Machiavelli's, inability to theorize the truly sovereign – that is constituent – power results from the divine character of constituent power in pre-modern times.[24] *Potestas constitutens* is an attribute of omnipotent God, and a monarch is only God's servant since his power is based on delegation of supreme power from the divine source to an earthly representative. Secularization of the legitimacy of power and the secularization of the concept of sovereignty itself culminated in French Revolution, in which the people designated itself as the ultimate source of the legitimacy of power.[25] In this context it may be said that democratic legitimacy is the truly political one, because hereditary absolutist monarchy is justified simply in terms of family law while democratic legitimacy derives its power from the depth of the political existence of the people:[26] Democratic legitimacy stems from a sovereign decision, whereas the legitimacy of a monarch rests on the laws of inheritance.

3. Identity, equality, democracy

Every theory of democracy presupposes an already existing community of the people.[27] For example, contract theorists assume that the people *qua* sovereign constitutes itself in the act of mutual agreement of free and equal holders of rights on the collective life; the people, then, are no more than a collection of individuals who decide, each separately, that they agree to live in a collectivity under particular

---

23   Ibid, 49, 266-267.
24   Schmitt, *Constitutional Theory*, p. 126; see also: Balakrishnan, *The Enemy*, 34.
25   Different interpretation of the theological source of democratic sovereignty is proposed by Anne Norton. She argues that monarchical power was based on the incarnation, while democratic sovereignty has its origin in Pentecost. She claims also, that from this difference stems another one concerning the grounding of politics. Since for the incarnation the decisive moment is the death of the God-Son, (the ever present possibility of) death grounds politics of the monarchical sovereign in enmity. In the case of democratic sovereignty, however, the decisive moment is the new form of equality that surpasses old divisions: democratic politics is grounded in friendship. Although her argument is not entirely convincing, it points to important and in most cases neglected part of Schmitt's definition of the political as the friend-enemy distinction: friendship as equality and solidarity. See: Anne Norton, "Pentecost: Democratic Sovereignty in Carl Schmitt", in: *Constellations* Volume 18 Number 3 2011, 389-402.
26   Schmitt, *Constitutional Theory*, 130.
27   'The people' is an ambiguous notion. In the context relevant for this paper, that is the people as the political subject in democracy, can have two meanings. In the first one, the people are nothing more than the aggregate of individuals; in the other, the people are treated as one, unitary will. If the context permits, in order to maintain this difference I will refer to the people in the second sense as 'the people-as-one' and use verbs in singular. This will not be always possible, however.

conditions.[28] Contrary to the contractarian theories, Schmitt claims that the people cannot be reduced to aggregation of individuals; it is rather the collective but unitary political will. The unity and identity of the people stems from the truly political distinction, that is, the distinction between friend and enemy[29]. The people-as-one is always already a collectivity of friends. For Schmitt, the friend-enemy distinction is not a normative one but factual, defining the core of political, collective existence. 'The political' is an existential relation, in which two groupings confront each other and the existence of one grouping is a threat to the existence of the other. The political enemy is a public enemy: what defines him as enemy are not moral or esthetic features, but the sole fact of belonging to other grouping.[30] *Per analogiam*, a political friend is always a public friend. It is not the person one personally knows or has positive feelings about; it is rather a member of the same grouping with whom one shares substantive commonality, i.e. has something substantive in common that distinguishes us from those who do not share this feature. Thus, the political relation on the one hand is the highest one, since it overrides all other distinctions (moral, aesthetic, etc.) and thus preserves the unity of the people, and on the other hand it is the most profound one, because it defines the identity of the people.[31] Schmitt is not essentializing any feature as the basis for the friend-enemy distinction. Rather, the distinction appears whenever any difference – or in Schmitt's language, 'antithesis' – between groupings becomes so strong it turns into the conflict in which the war appears as possible, although ultimate, solution.[32] In Ellen Kennedy's words: "the political delimits a sphere of conflict and potential conflict, but it has no substance. It can be about anything over which people disagree so strongly that war over it is possible."[33]

On this political conception of identity rests Schmitt's concept of democracy. While in a monarchical state, political unity was represented by the person of the prince, in democracy the unity has to be present in the people, who are capable of identifying itself as one. The identity of the people has in this context a double meaning which corresponds to the double character of the political relation as the highest and the

---

28   See for example: Martin Loughlin, "The Social Contract," in: *Sword and Scales. An Examination of the Relation Between Law and Politics*, (Oxford, Portland: Hart Publishing 2000), 161-175. This individualism is present in as different authors as Thomas Hobbes and John Locke. In Hobbes, during the initial covenant, individuals give up their natural rights for protection by the sovereign who receives unrestrained power. In Locke, the contract is supposed to produce limited government to protect their welfare and rights. Nevertheless, in both cases we the people is still nothing more than an aggregation of individuals.

29   Carl Schmitt, *The Concept of the Political*, expanded edition (Chicago, London: Chicago University Press 2007), 26.

30   Ibid., 28.

31   Ibid., 30.

32   Ibid., 37.

33   Ellen Kennedy, "*Hostis* not *inimicus*: Toward a theory of the public in the work of Carl Schmitt", in: *The Canadian Journal of Law & Jurisprudence*, January 1997, vol X, no 1, 43.

most profound at the same time. More generally, as a political concept, the identity means that the people have some distinctive feature that differentiates it from other peoples. At the same time, and more importantly, it means that the members of the people are substantively similar in a particular respect: the identity of the people means in fact homogeneity. The interplay of identity and democracy is mediated in Schmitt by the concept of equality:

> Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally. Democracy requires, therefore, first homogeneity and second – if the need arises – elimination or eradication of heterogeneity.[34]

Schmitt equates equality with homogeneity, because he understands it substantively as "found in certain physical [sic!] and moral qualities, for example, in civic virtue, in arete"[35]. Scary racist connotations aside, this idea of equality *qua* homogeneity is essentially political because it enables to make a distinction between the members of the community (friends) and non-members (potential enemies). It forms the people as politically conscious nation, aware of its distinctive common language, common history and "conscious willing of this commonality".[36]

One brief clarification is necessary here. It may seem that Schmitt contradicts himself when defining the friend-enemy distinction as purely formal and homogeneity as substantive. It is not the case. Democratic equality is substantive because it is not merely legal (defined by, for example, equal rights); it precedes this legal equality. Nonetheless, the content of this equality is not specified in the sense that Schmitt does not essentialize any particular feature or the set of features as the ultimate basis for the commonality. In this sense both the friend-enemy distinction and democratic equality/homogeneity are understood formally. Thus, it is the friend-enemy distinction that elevates some common features as the defining features of a grouping and the basis of equality.

Democracy as a political form is a realization of this principle of equality. This radical democratic idea of equality is the basis for the democratic notion of the people as nation and means that there can be no qualitative difference between those in power and those who are subject to that power; the ruler is not distinguished *from* the people, but *by* the people.[37] One can trace in this

---

34   Carl Schmitt, *The Crisis of Parlamentary Democracy*, 8.
35   Ibid, 9.
36   Schmitt, *Constitutional Theory*, 262.
37   Ibid., 266.

formulation elements of Emmanuel-Joseph Sieyès's theory of *pouvoir constituant.*[38] In his famous article 'What is Third Estate?' Sieyès claims that the third estate is the nation, because it performs all necessary duties for the nation to "survive and prosper".[39] Sieyès also claims, however, that the remaining two estates, the clergy and the aristocracy, do not belong to the nation, because they were legally privileged and their privileges undermine the equality that defines the nation. Schmitt regards this through his conception of politics *qua* the conflict between friends and enemies, and gives the substantive equality the status of the formative principle of democracy as political form. The democratic principle of identity assumes that there is a strong and conscious similarity among the (particular) individual people that overrides possible differences. Hence, democracy is the identity of the governing, the sovereign, and the governed, the subject.[40] In this context, identity means the lack of qualitative difference that would give the possible ground for political distinction. The political democratic equality of the people is the ground for every other form of equality. Only within the community of friends, defined in terms of substantive similarity, can individuals be equal before law, and be bearers of equal liberties or equal political rights.[41] In other words, all these forms of equality are derived from democratic equality as its prerequisite. The principle of equality of the people *qua* homogeneity leads to the repression of heterogeneity inside the political community. The foreigners are aliens and on this ground they are treated as unequals, they are deprived of the equal rights that stem from political democratic equality. As Schmitt notes, the minorities' rights are protected not as rights of political communities against another, dominant, political community, but as rights of individual persons.[42]

Given the fact that in democracy the people are the sovereign and the sovereign *qua* constitution-making power is indivisible and unified, the people are always present at hand.[43] This is the reason why, for Schmitt, the most proper way to express the will of the people is through acclamation in a public rally,[44] not through voting. In the voting procedure, although each person is considered as a citizen, not a private individual, the votes are cast in separation from each other, not in public,

---

38 See: Emmanuel Joseph Sieyès, "What Is the Third Estate?", in: *Political Writings In Political Writings Including the Debate between Sieyès and Tom Paine in 1791* (Indianapolis, Cambridge: Hackett Publishing Company, Inc. 2003): 92-162.

39 Ibid., 94-95. Although Sieyès claims that not all public offices are filled by the members of the Third Estate, he insists that the great majority of them ("nineteen out of twenty) is and the ones reserved for and occupied by other Estates are not essential for the well-being of the nation.

40 Schmitt, *The Crisis*, 26.

41 Schmitt, *Constitutional Theory*, 259.

42 Ibid., 262.

43 Schmitt, *Constitutional Theory*, 239.

44 Ibid., 131.

and only later are aggregated via a counting procedure. At a public rally the will of the people is expressed not as an aggregation of private opinions but as an opinion of the actually present collectivity.[45] This distinguishes Schmitt's conception of democracy from the liberal democratic one. In fact, Schmitt claims that liberalism and democracy are incompatible, because democracy rests on equality *qua* homogeneity, while central concepts of liberalism are individual and humanity. A secret voting procedure is liberal, because it reduces the will of the people to the aggregation of the individual opinions.

The principle of equality is radically democratic, as it assumes the actual existence of the unity of the nation that decides on its own existence without any mediation. The formative principle of monarchical state, the principle of representation, on the other hand, is based on the assumption that there is no actual unity of the people and it has to be represented in person by an individual.[46] In other words, the people are not united, thus the unity has to be represented, made existentially present.[47] These two principles signify also different kinds of unity: decision of the monarch representing the unity creates the unity of the state over divisions among different estates and other interest groups; unity of the democratic people *qua* nation is an existing, organic one. Precisely because it is constantly present, it cannot be represented. Although these two principles point in opposite directions, in the real world every constitutional state – the liberal bourgeois *Rechtsstaat* at the time of Schmitt and liberal democracy of today – is a combination of both.[48]

In fact there is no state without representation. One obvious explanation for this is the fact that every state as a unity is confronted by other states. In other words, the ruler does not represent the people *for* the people,[49] but represents the unity of the people outside the boundaries of the state. This is the only ground for a differentiation between the government and the governed:[50] homogenous equality within political unity and heterogeneous inequality with the outside. There is, however, a deeper problem concerning the presence of the people in already established constitutional state: the actual assembly of the people is limited to particular time and place, but the unity of the state transcends it, although simple aggregate of citizens is not the political unity of the people itself.[51] Moreover, the people are disaggregated by the liberal voting procedure and individualist basic rights into mere private individuals, who cast their votes in the privacy of the polling both. Yet Schmitt still insists on the sovereignty of the people.

---

45   Ibid., 273-273.
46   Ibid., 239.
47   Ibid., 243.
48   Ibid., 239-240.
49   Ibid., 264.
50   Ibid., 265.
51   Ibid., 240.

4. "Three bodies of the people"[52]

In the concluding remarks of Chapter 18 of *Constitutional Theory*, Schmitt lists two main "meanings of the word 'people' for a modern constitutional theory."[53] First, it is the people as unformed by constitution; second, it is the people as constitutionally formed entity. In his text "Carl Schmitt and the Three Moments of Democracy," Andreas Kalyvas points out, that this typology in fact speaks of not a twofold but a *threefold* relation of the people to the constitution, which in turn corresponds to three moments of democratic politics.[54] The first one is the people before and above the constitution. It is the people as the democratic sovereign, the constituent power, the unified collective subject, unanimous general will that through comprehensive act establishes the type and form of its political existence. It is the people whose concrete decision is the source the constitution, the people whose power to create is not contained by any legal guidelines. This comprehensive act of foundation gives a ground for every other constituted power. It points to the normative grounds of a democratic polity and states that it has to be based on the will of the people. This formulation gives the normative criterion not only for distinguishing legitimate and non-legitimate constitutions,[55] but also – as one is tempted to add in the context of contemporary development in crisis-ridden states – to discriminate between legitimate and illegitimate actions of government.

However, this concept of the unrestrained creational power of the people poses a serious threat to the stability of the political order, and, contrary to the interpretations of Schmitt as the theorist of unrestrained decisionism, he was quite aware of this. The only way for the constituent power to achieve a concrete political existence is through institutional stabilization.[56] This is the second moment of democracy that relates to the people within the constitution. This reading contradicts the usual image of Schmitt as the theorist – and admirer – of discretionary power and introduces a new dimension into his political theory, dimension of normalcy. The distinction between the first and the second type of the relation between the people and the constitution gives a ground for distinguishing the constitution (*Verfassung*) from mere constitutional law (*Verfassungsgesetz*).[57] The constitution (*Verfassung*) is the concrete form of the collective existence, while the constitutional law (*Verfassunggesetz*) are legal provisions that sum up to the

---

52   This subtitle is an expression taken directly and consciously from Kalyvas' text "Carl Schmitt and the Three Moments of Democracy", which this section heavily relies on.
53   Schmitt, *Constitutional Theory*, 279.
54   Kalyvas, "Three Moments", 1529-1530.
55   Kalyvas, "Three Moments", 1539.
56   Ibid., 1552.
57   Ulrich K. Preuss, "Political Order and Democracy: Carl Schmitt and His Influence", in: Chantal Mouffe, ed. *The Challenge of Carl Schmitt* (London, New York: Verso 1999), 158. See: *Constitutional Theory*, p. 125.

document called by liberals "a constitution". Schmitt's notion of the constitution should be understood in the rather pre-modern sense, not as a document, but as a political correlate of physical condition, as an existential status of the collective unity, which can be only a political status.

This second moment of democracy is the moment of normalcy, which the people as sovereign affirm by abstaining from resorting to its extraordinary powers. It is the moment of legality (as opposed to legitimacy) in which the static rhythm of collective life is set by the legal procedures, not by the ruptures of the emergence of sovereign power; in this moment it is the formal normative rules that govern the polity, not normatively groundless decision.[58] The people within the constitution are legally defined subjects of rights, are citizens that are empowered by the constitutional provisions to take part in the collective life through elections. Although Schmitt calls this embodiment of the people as "constitutionally formed," he admits that in fact the will of the people comes into being through the system of validations. "Then people = simple or qualified majority of the voters casting ballots or those entitled to vote."[59] Without much sympathy Schmitt calls this embodiment a fiction,[60] which is nonetheless necessary for a stable existence of a polity.[61] Paradoxically for the constituent will of the people to assume the concrete political form it is necessary to abstain from the execution of its will directly as constituent power and resort to constituted procedures. As Kalyvas puts it, "The omnipotence of the popular sovereign requires a partial repudiation of its omnipresence."[62] It is the moment, in which the principle of representation takes precedence over the principle of identity. Since the people qua sovereign is not present, the unity of the people qua nation is preserved in representative institutions like parliament, where each representative represents not its constituency but the unity of the nation as a whole.[63]

This fiction is not, however, the only guise in which the people appear in the time of normalcy. The third relation of the people to constitution is the people compared with the constitution. This is the point of mediation between the two mutually exclusive moments of democracy – the revolutionary founding and procedural normalcy – between the people qua sovereign and the people qua the fiction.[64] It is

---

58   The core of the difference between legality and legitimacy lies in the distinction between what is allowed by the rules and what is approved by the rule-maker. In the context of parliamentarian democracy anti-democratic forces can perfectly legally assume power and turn it (legally) against parliamentarian democracy. This action is not legitimate, though.
59   Schmitt, *Constitutional Theory,* 279.
60   Ibid.
61   Kalyvas, "Three Moments", 1553.
62   Ibid., 1554.
63   Schmitt, *Constitutional Theory*, 240.
64   Kalyvas, "Three Moments", 1557.

the people qua the "bearer of public opinion and subject of acclamations".[65] This embodiment of people is defined by Schmitt negatively, that is as opposed to administrative organs, that are constituted powers. Because democracy rests on the principle of the sovereignty of the people and the sovereign power is not exhausted after the establishment of political unity, any incorporation of the people into the constitution does not reduce it to mere constituted power. In other words, "even if one incorporated constitutional institutions of a so-called direct democracy into the state organization, the people are not excluded from all other relationships [with the constitution]."[66]

In *Legality and Legitimacy*, the book published four years after *Constitutional Theory*, Schmitt calls the people an extraordinary lawgiver that competes with an ordinary lawgiver, that is the parliament. "[I]n the referendum ... the people appear as extraordinary lawmaker in opposition to and certainly also superior to the parliament. And their extraordinariness as well as their superior status produces *ratione suprematitis* from their characteristic as sovereign."[67] This sentence refers to the provisions concerning referendum in Weimar Constitution which in *Constitutional Theory* Schmitt ascribes to the second moment of democracy; this phrase, however, points to the importance ascribed to the people's will as lawgiving force. In the 1928 *opus magnum* the people *qua* public opinion or the subject of acclamations manifests its dormant constituent power in public assemblies, in which they directly express their preference. Unlike a referendum, these assemblies are not contained in the provisions of the constitution and therefore are not contained within the administrative system, but are spontaneous gatherings and in this spontaneity rests the contingency constitutive for every political act: they, like the sovereign power, are unpredictable. To put it bluntly, the referendum, although being a form of direct democracy, is just a procedure in which citizens secretly cast votes. The public assembly, on the other hand, is held by definition – and however tautologically it sounds – in public, therefore every participant is there not as a private person expressing private opinion, but as public citizen, as the people.

> When indeed only the people are actually assembled for whatever purpose, to the extent that it does not only appear as an organized interest group, for example during the street demonstrations and public festivals, in theaters, on the running tracks, or in the stadium, this people engaged in acclamation is present, and it is, at least potentially, a political entity.[68]

---

65   Schmitt, *Constitutional Theory*, 279.
66   Ibid., 271.
67   Carl Schmitt, *Legality and Legitimacy*, trans. and edited by Jeffrey Seitzer (Durham, London: Duke University Press 2004), 60.
68   Schmitt, *Constitutional Theory*, 272.

Thus, every public gathering has the potential of transforming into an assembly and awaken the dormant constituent power of the people.

It is important to note that Schmitt's people is in fact inarticulate, capable only of expressing its preferences in shouts, but not in articulate speech, *logos*, and (interpretation of) their shouts is reduced to simple "yes" or "no". The people

> can *acclaim* in that they express their consent or disapproval by a simple calling out, calling higher or lower, celebrating a leader or suggestion, honoring the king or some other person, or denying the acclamation by silence or complaining.[69]

The people in fact do not express their *opinion*, but only react to the suggestions. That is why Schmitt advocated plebiscitarian democracy with the strong leader, who would be followed by the people. One might pose a legitimate question, whether Schmitt insists on democratic identity to make democracy fit his discretionary and decisionistic theory of sovereignty or the other way around. If it is the first case, then the claim about the identity of the ruler and the ruled would be a fallacious solution for a logical inconsistency between the democratic principle of legitimacy and the factual difference between the governing and the governed.

5. The three lessons of Carl Schmitt

The authoritarian core of this conclusion is the usual argument drawn by critics of Schmitt. This possibility is pointed out by Renato Cristi, who insists that Schmitt's theory of democracy is deeply rooted in monarchical principle developed in *Political Theology*.[70] In a similar spirit Urlich Preuss denounces anti-democratic and dictatorial core of Schmitt's political theory.[71] Even such a generous reader of Schmitt as Kalyvas points out to shortcomings of his democratic theory, one of them being the oversimplified opposition between democracy and liberalism. His juxtaposition of liberalism and democracy leads to simplistic identification of democracy with homogeneity and leaving the public freedom in the "intellectual world of liberalism", which in turn strips democracy of its emancipatory potential.[72]

It is important not to be ignorant about these issues as well as Schmitt's personal involvement in Nazism regime, however, as I insist along with a few other authors, his insight into mechanisms of politics and of democracy should be incorporated into democratic theory. One of the authors who use Schmitt to theorize democratic politics (besides the already mentioned Kalyvas) is Chantal Mouffe. She mostly relies

---

69   Ibid., 272, emphasis original.
70   Renato Cristi, "Schmitt on Constituent Power and the Monarchical Prince", in: *Constellations* Vol. 18, No. 3/2011. 352-364.
71   See: Preuss, "Political Order and Democracy".
72   Kalyvas, "Three Moments", 1563.

on his writings on the political and on parliamentary democracy to develop and argue for her conception of agonistic pluralist democracy. She draws on his claim that parliamentary democracy is a self-defeating project since it rests on two contradictory traditions and hence principles – democracy identified with homogeneity and particularity on the one hand and liberalism identified with universalism, public deliberation and liberty on the other. In her interpretation it is not a contradiction but rather an articulation that installs in liberal democracy a tension that helps to avoid abstract universalism of human rights as well as oppressive homogeneity. This interpretation stems from her particular reading of Schmitt's friend-enemy distinction. According to her, this distinction is one of the many forms of the "us"-and-"them" division. Another possible version of this relation, and as Mouffe claims more suitable for modern democracy, is agonism in which opponents in political struggle do not even aim at agreement or compromise, but nonetheless recognize each other as legitimate; and it is the job of the institutions of liberal democracy to channel the "us"-and-"them" into agonistic relation, not antagonistic one, so that the democratic logic of homogeneity can create a demos (differentiate demos from non-demos, or citizens from non-citizens) whereas liberal logic of human rights can protect individuals' rights and minorities from the tyranny of majority.[73]

However, as Kalyvas notes, it is not clear whether Mouffe attempts to argue for the importance of Schmitt for democratic thought or rather use some of his insight to argue for a more agonistic liberalism.[74] I argue that there are three major lessons for contemporary democratic theory to be taken from Schmitt. First, his reading of equality *qua* qualitative indifference of the people and of the rulers and the ruled in decisive aspects reminds us about the radically egalitarian character of democracy. Schmitt's democratic equality is not the abstract equality expressed in the language of natural or human rights; rather, it is a concrete equality of the concrete people. Neither is this conception of equality is grounded in any essentialized feature; rather, this understanding of equality is anti-essentialist, it is a formal criterion of democracy. But most importantly and, in contrast to many conceptions of equality including liberal and communitarian ones which are grounded in pre-political qualities like human dignity or a particular feature, democratic equality for Schmitt is profoundly political because it stems directly from the political; it is the result of the constituent decision of the popular sovereign. Read in normative terms, the condition of the equality *qua* concrete qualitative indifference amounts to

---

73   Chantal Mouffe, "Carl Schmitt and the Paradox of Liberal Democracy", in: *The Democratic Paradox*, (London, New York: Verso, 2000), 36-59; for a very brief description see also the Introduction. For a more elaborate of account of differences between Mouffe and Schmitt and their potential implications, see mine: "Chantal Mouffe vs. Carl Schmitt: The Political, Democracy, and the Question of Sovereignty", in: *Hybris* no 16 (2012), 63-81, http://www.filozof.uni.lodz.pl/hybris/pdf/h16/05.Smolenski.pdf, accessed on July 29, 2012.
74   Kalyvas, "Three Moments", n2, 1525.

normative principle of democracy according to which democracy requires substantive equality agreed upon by the people. In other words, one cannot speak of democracy in the absence of substantive equality; existence of inequalities that ultimately result in political inequalities negates democracy. Thus, democracy is not merely a form of government but rather the form of collective life.

Second, Schmitt's insistence on the inalienability and inexhaustibility of the constituent power on the one hand and his conception of the people compared to the constitution on the other imply that even in the time of normalcy popular sovereignty can reveal itself. More importantly, however, it appoints the people as the only true subject of democratic politics. Consequently, democratic politics is in its root a constituent politics. It also describes the proper mode of democratic politics: democratic politics is manifested not in a procedure (of, say, aggregating individual opinions) but in action; this contrasts with the theories of democracy which perceive the people as purely legal concept. It is important in this context to remember Schmitt's qualitative distinction between the rule of majority and the rule of the people. This is why this action has to have public character, because it is only in the public that multiplicity of individual opinions can be transformed into a will of collective subject and not just an aggregation of individual opinions.

In normative terms, this lesson demands citizens to publicly state their minds in order to assert their opinion as the voice of the people; political opinions which are not expressed are simply irrelevant. It also requires the rulers to confront the 'demands of the street'. Consequently, it amounts to the criterion of legitimacy of both dissent and governmental actions. Political dissent of citizens is legitimate if it takes place in public. Actions of the government are delegitimized if they are confronted with the popular dissent; and when it comes to salient or controversial issues, they cannot be legitimized by the invocation of the 'silent majorities' of different kinds. From this perspective, acts of civil disobedience should be seen not as merely the expression of dissent against the particular move of the government but rather the delegitimation of the government's action. To put it clearly and relate to reality: democratic legitimacy is with the occupiers of Zuccotti Park in New York City, not with Mayor Bloomberg, who in the name of the right to property, evicted the protesters.[75] From this perspective, the execution of Troika-imposed austerity measure in Greece without popular consent and against mass protests resembles commissarial dictatorship rather than sovereign and – given the democratic principle of legitimacy – is illegitimate.

---

75   James Barron, Colin Moynihan, City Reopens Park After Protesters Are Evicted, in: New York Times, http://www.nytimes.com/2011/11/16/nyregion/police-begin-clearing-zuccotti-park-of-protesters.html?pagewanted=all, last accessed at January 5 2012.

The people-as-one in Schmitt's theory is inarticulate. It does not deliberate, it does not explicitly state an opinion, but only acclaims if it is given a chance by the leader. However, every public gathering has the potential to become politicized. From this perspective, the actions like riots in French suburbs in 2005, riots in Greece in 2008 (Kalyvas called it explicitly an anti-statist uprising[76]), and looting in London in 2010 cease to be merely criminal acts and should be treated as having a political meaning. There is, however, a more radical reading of inarticulateness of the people-as-one in Schmitt. Looked at from a different angle, such an understanding of the people-as-one as inarticulate can be seen as a failure to theorize it as a coherent unanimous will. This radicalized third lesson is a negative one: instead of accepting Schmitt's conclusion (heavily influenced by his statism and preoccupation with the unity of the political entity, that is the state) that the only way of expressing the people's will is acclamation, we should embrace his failure and accept that in fact the coherent and unitary people-as-one does not exist, but rather the people is always already barred, divided by an internal conflict.[77] For Schmitt, such a conclusion was unacceptable because, for him, it amounted to civil war and hence to the negation of the unity of the state.[78] However, if one rejects Schmitt's statism, the internal conflict loses its negative connotation. Rather, stripped off of its statism, Schmitt's theory of constituent power, insists on the conflict, rupture, as the moment that by breaking up the existing political unity creates the normative void and gives space for the constituent decision. Thus (internal) conflict is a moment of politics, when the people-as-one re-constitutes itself and re-establishes the substantive equality democracy is based on: conflict understood as antagonism is a condition of possibility of constituent politics.

The three lessons of Schmitt beg for additional questions. An obvious question to the first lesson is about the criterion of desirability of the concrete type of substantive equality. Since it is just a formal requirement, it says nothing about the content of substantive equality. This, however, in the age of diverse societies, requires clarification. The question for the second and the third lesson is about the potential of the tyranny of majority or mob rule, an argument against democracy brought forth by both liberals and republicans: how to deal with public actions that are aimed against already oppressed minorities?[79] Related question is about the

---

76   Andreas Kalyvas, "An Anomaly? Some Reflections on the Greek December 2008", in: *Constellations* Volume 17, Number 2, 2010, 351-365.
77   Similar point, although in different context, is made by Slavoj Žižek, who argues that Schmitt's understanding of politics as a (potential) conflict between two separate groupings is in fact the externalization of the antagonism always already present within the society. For more details, see: Slavoj Žižek, "Carl Schmitt in the age of post-politics," in *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London, New York: Verso, 1999), 18-37.
78   See: Schmitt, *The Concept of the Political*, 32.
79   The standard liberal example is the ruling of the US Supreme Court in the case *Brown v. Board of Education* and the resulting from this abolition of the racial segregation in

tool for deciphering the (potentially) political meaning of riots. All these questions can be aggregated into one: how to prevent democratic politics from arbitrariness and how to ensure emancipatory character of politics within the framework set by the lessons taken from Schmitt? Since, if deprived of its statist underpinning of normative stability and order, Schmitt's democratic theory lacks firmly stated normative goal, such a normative element needs to be introduced from the outside.

A possible solution to this problem, suggested by Kalyvas, is a principled action.[80] In short, principled action is guided by immanent principles that also guide and inform the formation of the new order. "The very act of founding a new legal order, from which the constitution of a self-governing political community originates, contains … implicit principles that are spelled out and substantiated during the historical framing and ordering of a new constitutional document."[81] According to Kalyvas, the immanent principles necessary for democratic politics and preservation of the public realm as the sphere of free action are freedom and equality. The concept of principled action can be applied to democratic politics in the sense that these would be considered as immanent to any politics that is to be called democratic; in other words, the outcomes of politics not guided by these principles as well as the politics itself would be marked by repression and inequality.

If accepted, this solution would facilitate the requirement of substantive equality from the first lesson with the requirement of freedom – or better: autonomy *qua* self-government – and thus give the criterion to distinguish desirable type of equality from undesirable ones; similar criterion could be applied to judging the whether the public actions of citizens are aimed against already oppressed minorities. The principles of freedom and equality can also help to decipher the (potentially) political meaning of riots by seeking their roots in deprivation and relations of subalternity and reading them as the ways of expressing grievances. Another solution, of more Marxist flavoring, is possible as well: grounding the criterion in concrete, material social antagonism and deriving the desirable concrete form of substantive equality from this antagonism. The perspective of this privileged antagonism would be the criterion for preventing the assessing the demands of the people and deciphering the political meaning of the riots. It also can give the insight in which sites the antagonism over re-constitution of the substantive equality might occur.

---

the US which occurred against then dominant opinion of the white majority; in such a case non-discrimination is necessary for a meaningful private pursuit. Republican version of this charge would stress the importance of public autonomy as necessary for the meaningful self-governance.

80   Andreas Kalyvas, "Popular Sovereignty, Democracy, and the Constituent Power", *Constellations*, Vol. 12, No 2, 2005, 234 and following.

81   Ibid., 236.

5. Conclusion

The first solution is attractive because it provides a formal criterion and introduces the aspect of freedom/autonomy to the theory that otherwise can be accused of lacking such. The other – because it relates the theory to a concrete struggle and embeds it in a real world as opposed to the world of values or principles. Possibly, the two solutions can be merged, but such a step is beyond the scope of this paper. The aim of this short detour was to give the reader the idea of the possibilities of filling in the void in democratic theory inspired by the three lessons taken from Schmitt. I claim, even without this externally introduced element, the three lessons of Schmitt brings an important insight into democratic theory. This normative model of democracy – radically egalitarian and participatory, anti-elitist and grounded in popular sovereignty – contributes to the body of conflictual theories of democracy which are becoming increasingly important in the field of democratic theory. As a matter of conclusion, let me briefly explain how in my view such a theory of democracy – based on normative requirement of substantive equality, on popular sovereignty as the criterion of legitimacy and action in public as a mode of democratic politics, and acknowledgment of conflict as *sine qua non* of democratic sovereignty *qua* constituent power – can contribute to debates in democratic theory, by comparing it with the three normative models of democracy presented by Jürgen Habermas.[82]

According to Habermas, a liberal understanding of political process comes down to an aggregation of and mediation between competing interests, determined in the realm of civil society modeled on the market, and it itself resembles competition. The citizen is defined as the right-holder and the rights themselves are understood as protective tools against external interference of both the state/administration and other citizens. The legitimate function of the government is to protect the rights of individuals against abuses. The republican approach as described by Habermas understands political process as aimed at expression and creation of a common good. In its communitarian version, politics is supposed to promote ethical substance of the community. Citizenship is understood as a right to participate a common self-government, and freedom from coercion is understood not as a right of noninterference but as a right to live under self-made laws. Since establishment of solidarity presupposes inter-subjectivity, republican politics resembles dialogue. Theory inspired by Schmitt, by contrast, perceives political process as (re)constitution of a sociopolitical order in the political struggle. Citizens are those, who share the concrete and substantive equality. The role of the state is to realize the will of the people expressed in constituting act and public actions in the time of normalcy. In line with the republican view, the theory I present in this paper

---

[82] Jürgen Habermas, "Three normative models of democracy", in ed. Seyla Benhabib, *Democracy and Difference. Contesting the Boundaries of the Political*, (Princeton: Princeton University Press, 1996), 21-30.

understands a political community as something more than a mere aggregation of individuals, but *contra* communitarian reading, it does essentialize any feature as privileged locus of identity.

In contrast with the liberal and republican models of democracy and in line with deliberative one advocated by Habermas, in a theory of democracy inspired by the lessons of Schmitt the state loses its privileged position as a site of politics. However, it departs from the proceduralist view supported by Habermas in that the proceduralist approach identifies the institutional sites of deliberation, whereas Schmitt-inspired democratic theory even more strongly stresses the extra-institutional character of popular sovereignty. It understands the subject of politics differently, as well: whereas in liberalism it is individuals and interest groups, in republicanism the people as a whole, in deliberative democracy deliberation is – as Habermas claims – subjectless, for Schmitt-inspired democracy the subject is the people which is always barred and in conflict with itself.

Theory inspired by the three lessons of Schmitt can also be distinguished from other views by its implied approach towards the divisive differences in a polity.[83] Political liberalism (or at least some variants of it) opts for a privatization of divisive differences in order to achieve some sort of overlapping consensus over basic institutions and rules of living together; in other words, these differences are translated into individual features and/or rights. Republicanism represses the conflicting differences (with the institutional devices like emergency powers modeled on an Ancient Roman dictator) to preserve existing order. And deliberative democracy *a-la* Habermas strives to achieve rationally motivated agreement over contested issue. The theory of democracy inspired by Schmitt, in contrast, brings the crisis-inducing difference to the fore and encourages citizens to publicly take sides in the strife.

In his analysis of parliamentary democracies and the chains of legitimation within these systems Peter Mair claims that in recent decades there has been a growing tension between the responsiveness of the governments to the demands of the people on the one hand and the responsibility of the government defined as predictability and responsiveness to demands that come from typical chain of delegation: corporations, expert bodies, supranational institutions.[84] Consequently, democracy *qua* government by the people has been losing its strong, emancipatory

---

83   This reflection is inspired by Andreas Kalyvas' remarks during Q&A session after his keynote address "Solonian Citizenship: Democracy, Conflict, Participation" at the SSIS Graduate Conference at the University of Exeter on May 3, 2012. I owe him my gratefulness for this inspiration.

84   For example, see: Peter Mair, "Bini Smaghie vs. the Parties: Representative Government and Institutional Constraints", European University Institute Working Paper, RSCAS 2011/22.

meaning. Democratic theory, informed by recent developments in governmental actions which were widely protested against, has to face this challenge. Theories of democracy inspired by the three lessons taken from Schmitt remind us that for democracy to retain its proper meaning we should rather challenge these developments rather than accommodate them and bring the very timely issues of non-responsiveness of governments, social protests and contentious politics into the heart of the debates within democratic theory.

Acknowledgments

Bibliography

Barron, James and Colin Moynihan. City Reopens Park After Protesters Are Evicted, http://www.nytimes.com/2011/11/16/nyregion/police-begin-clearing-zuccotti-park-of-protesters.html?pagewanted=all, last accessed at January 5, 2012.

Balakrishnan, Gopal. *The Enemy: The Intellectual Portrait of Carl Schmitt*. London, New York: Verso, 2000.

Cristi, Renato. "Schmitt on Constituent Power and the Monarchical Prince." In Constellations Vol. 18, No. 3/2011: 352-364.

Dworkin, Ronald. *Freedom's Law. The Moral Reading of the American Constitution*. Oxford: Oxford University Press, 1995.

Habermas, Jürgen. "Three normative models of democracy", in ed. Seyla Benhabib, *Democracy and Difference. Contesting the Boundaries of the Political*. Princeton: Princeton University Press, 1996, 21-30.

Kalyvas, Andreas. "An Anomaly? Some Reflections on the Greek December 2008". In *Constellations* Volume 17, Number 2, 2010: 351-365.

_____. "Carl Schmitt and Three Moments of Democracy" in *Cardozo Law Review* 21/2000: 1525-1565.

_____. "Hegemonic sovereignty: Carl Schmitt, Antonio Gramsci and the constituent prince", in *Journal of Political Ideologies*, 5(3): 343–376

_____. "Popular Sovereignty, Democracy, and the Constituent Power", in *Constellations*, Vol. 12, No 2, 2005, 223-244.

Kennedy, Ellen. *Hostis* not *inimicus*: Toward a theory of the public in the work of Carl Schmitt", in: *The Canadian Journal of Law & Jurisprudence*, January 1997, vol X, no 1, 35-47.

Kymlicka, Will. *Contemporary Political Philosophy: An Introduction*, second edition. Oxford, New York: Oxford University Press 2002.

Loughlin, Martin. "The Social Contract." In *Swords and Scales. An Examination of the Relation Between Law and Politics*. Oxford, Portland: Hart Publishing 2000: 161-175.

Mair, Peter. "Bini Smaghie vs. the Parties: Representative Government and Institutional Constraints". European University Institute Working Paper, RSCAS 2011/22.

Mouffe, Chantal. "Carl Schmitt and Paradox of Liberal Democracy." In Chantal Mouffe, ed., *The Challenge of Carl Schmitt*. New York: Verso 1999: 38-53.

_____. Introduction: The Democratic Paradox, in: *The Democratic Paradox*, 1-16.

Norton, Anne. "Pentecost: Democratic Sovereignty in Carl Schmitt." In *Constellations* Volume 18 Number 3, 2011: 389-402.

Preuss, Ulrich K. "Political Order and Democracy: Carl Schmitt and His Influence." In: Chantal Mouffe, ed. *The Challenge of Carl Schmitt*. London, New York: Verso 1999, 155- 179.

Schmitt, Carl. *Constitutional Theory*, trans. and edited by Jeffry Seitzer. Durham, London: Duke University Press, 2008.

_____, *Legality and Legitimacy*, trans. and edited by Jeffrey Seitzer. Durham, London: Duke University Press 2004.

_____, *Political Theology. Four Chapters on the Concept of Sovereignty*, trans. By George Schwab. Cambridge, Mass., London: The MIT Press, 1988.

_____, *The Concept of the Political*, expanded edition. Chicago, London: Chicago University Press 2007.

Sieyès, Emmanuel Joseph. "What Is the Third Estate". In *Political Writings Including the Debate between Sieyès and Tom Paine in 1791*. Indianapolis, Cambridge: Hackett Publishing Company, Inc. 2003, 92-162.

Smolenski, Jan. "Chantal Mouffe vs. Carl Schmitt: The Political, Democracy, and the Question of Sovereignty". In: *Hybris* no 16 (2012), 63-81, http://www.filozof.uni.lodz.pl/hybris/pdf/h16/05.Smolenski.pdf, accessed on July 29, 2012.

Žižek, Slavoj. "Carl Schmitt in the age of post-politics." In: Chantal Mouffe, ed. *The Challenge of Carl Schmitt*. London, New York: Verso 1999, 18-37.

(IN)CONGRUENCE:
A STUDY OF OPINION-POLICY DISTANCE IN 33 DEMOCRACIES

Nicolae Bîea
Albert-Ludwigs University Freiburg

Abstract

This article seeks to answer two questions. First, is government policy in contemporary democracies congruent with public opinion? Second, what are the factors that determine opinion-policy congruence? The opinion-policy incongruence is conceptualized as the distance between actual government policy and the policy preferred by the median citizen. This article uses international survey data that assessed citizens' preferences regarding government spending in 33 countries. The results suggest that opinion-policy congruence is more often absent than present in contemporary democracies with significant variation between countries. This variation is explored using fuzzy-set Qualitative Comparative Analysis (fsQCA). I identify two causal paths leading to the opinion-policy congruence: richness and relatively equal distribution of income or richness, decentralization, and usage of non-proportional electoral system.

1. Introduction[1]

For almost 200 years, the trend in Western democracies was enfranchisement of the masses. Power shifted from unelected monarchs to popular representatives, while political rights, initially the province of a privileged few, were gradually expanded to most of the population. In the last decades of the twentieth century, however, this trend of increased mass involvement in politics seems to have reversed. The large, community-embedded mass parties gave way to smaller and more professionalized cartel parties.[2] Trade unions lost membership and influence. Governments began to delegate decision-making authority to independent regulatory agencies. Last but not least, after a period of so-called "eurosclerosis", the process of European integration gained momentum again in the late 1980s; important powers were ceded to European institutions whose popular legitimacy is often questioned. In this context, complaints about "democratic deficits" abound.[3]

---

[1] This article is based on my MA thesis (Central European University 2012). I wish to thank Carsten Q. Schneider and Levente Littvay for their valuable comments and advice.

[2] Richard S. Katz, and Peter Mair, "Changing Models of Party Organization and Party Democracy. The Emergence of the Cartel Party," *Party Politics* 1(1995): 5-28.

[3] David Beetham, Unelected Oligarchy: Corporate and Financial Dominance in Britain's Democracy (Liverpool: Democratic Audit, 2011).

An empirical analysis of the relationship between citizens' political preferences and government policy is thus badly needed. This is what I attempt in this article. Using survey data from 33 countries, I explore whether government policy is congruent with public preferences. I examine whether there are differences in opinion-policy congruence across different countries and try to identify which factors, institutional or otherwise, can explain these patterns. My research questions are thus twofold. First: Is government policy in contemporary democracies congruent with public opinion? Second: What are the factors that determine opinion-policy congruence?

2. Gaps in the literature

The study of how politicians respond to public opinion has a long tradition, starting with the work of Miller and Stokes[4], who found a link between U.S. Congressmen's votes and public opinion in their respective constituencies. Following in Miller and Stokes' footsteps, subsequent studies on the effect of public opinion on politics have generally relied on Parliament roll call votes[5] or on various measures of party ideology (manifestos, expert surveys, voter assessments)[6] as their dependent variable. In effect, such studies examine whether the preferences of politicians are influenced by the preferences of the voters. However, there is a rich literature in public choice theory and in political economy that suggests that the preferences of politicians are not the only determinant of public policy. The details of policy implementation, for example, are usually left to unelected bureaucracies who enjoy a substantial degree of independence from interference by elected politicians.[7] Furthermore, important functions of government, such as monetary and regulatory policy, are frequently delegated to agencies with a high degree of autonomy and whose democratic accountability is often doubtful.[8] Thus, a true audit of the complex of institutions that is modern democracy requires that we examine the relationship between public opinion and actual policy instead of the one between

---

4   Warren E. Miller, and Donald E. Stokes, "Constituency Influence in Congress," *American Political Science Review* 57 (1963): 45-56.

5   Christopher H. Achen, "Measuring Representation," *American Journal of Political Science* 22 (1978): 475-510; Larry M. Bartels, "Opinion and Congressional Policy Making: The Reagan Defense Build Up," *American Political Science Review* 85(1991): 457-474; Sören Holmberg, "Dynamic Opinion Representation, "*Scandinavian Political Studies* 20(1997): 265-283.

6   James A. Stimson, "Party Government and Responsiveness," in *Democracy, Accountability, and Representation*, ed. Adam Przeworski, Susan C. Stokes, and Bernard Manin (Cambridge: Cambridge University Press, 1999); André Blais, and Marc André Bodet, "Does Proportional Representation Foster Closer Congruence Between Citizens and Policy Makers?" *Comparative Political Studies* 39 (2006): 1243-1262.

7   William A. Niskanen, *Bureaucracy and Representative Government* (Chicago: Aldine, Atherton, 1971).

8   Giandomenico Majone, "Two Logics of Delegation. Agency and Fiduciary Relations in EU Governance." *European Union Politics* 2(2001): 103-122.

public opinion and politicians' preferences, be they measured by roll call votes or party ideology.

Unfortunately, fewer authors have investigated the link between public preferences and actual government policy. Of those few that do investigate the influence of public opinion on policy, almost all focus on a single country, usually the United States.[9] Unfortunately, such single-country longitudinal studies usually limit themselves to examining if policy moves in tandem with opinion and almost never investigate the factors that determine whether policy is congruent or incongruent with public opinion. This happens because the factors we would most expect to influence opinion-policy congruence, like institutions and political culture, are generally stable over relatively long periods.

Some single-country longitudinal studies have tried to explain opinion-policy congruence using variables that do vary in the medium run, like the party in power or the size of the majority in parliament. Stimson, Mackuen, and Erikson[10], for example, find that public opinion and policy in the United States were closer during Democratic presidencies and farther away during Republican ones. Nevertheless, most variables of interest, like electoral systems and political regime, do not change even in the medium run, so a different research design is needed to determine their effects on opinion-policy congruence.

This article thus fills two gaps in the literature. First, it studies actual policy instead of votes in Parliament or party ideology. Second, it provides an extensive comparison of opinion-policy congruence in 33 nations rather than focusing on a single case. By examining 33 different countries, with diverse political cultures and institutional arrangements, I shed new light on the determinants of opinion-policy congruence. My analysis includes variables whose effect on opinion-policy congruence has never been investigated (the level of income inequality), but also involves hypotheses that have previously been suggested but have never been tested in a rigorous manner (decentralization[11], electoral systems[12]).

---

9   Patrick Flavin, "Income Inequality and Unequal Political Representation in the American States", APSA 2009 Toronto Meeting Paper; Jeffrey R. Lax, and Justin H. Phillips, "The Democratic Deficit in the States." *American Journal of Political Science* 56(2012): 148-166.

10   James A. Stimson, Michael B. Mackuen, and Robert S. Erikson, "Dynamic Representation," *American Political Science Review* 89 (1995): 543-565.

11   Stuart N. Soroka, and Christopher Wlezien, "Opinion Representation and Policy Feedback: Canada in Comparative Perspective," *Canadian Journal of Political Science / Revue canadienne de science politique* 37 (2004): 531-559.

12   Larry M. Bartels, "The Opinion-Policy Disconnect: Cross-National Spending Preferences and Democratic Representation," prepared for the Annual Meeting of the American Political Science Association, 2008.

3. Measuring opinion-policy distance

I conceptualize the incongruence between public policy and public preferences as the intensity with which the median citizen disagrees with current government levels of spending. To better understand how this can be measured in practice, let us imagine that, on a specific issue, citizens' preferences regarding the level of government spending can be represented on a straight line, with higher preferred levels of spending to the left and lower preferred levels to the right. Government's actual policy position can also be represented on the same line. We can then measure a given citizen's satisfaction with public policy as simply the distance between his position on the line and the government's position. Figure 1 shows such a line, with two possible distributions of citizen preferences along it (red and blue).

Figure 1: Two possible distributions of spending preferences among citizens
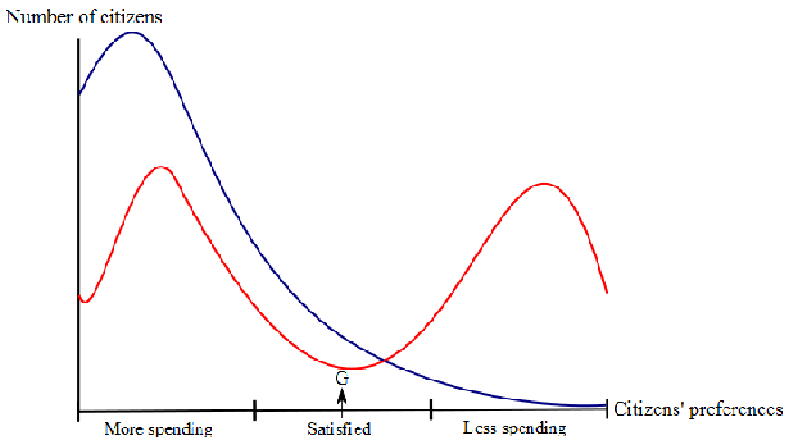
In the figure above, citizens are classified into three categories according to their relative position regarding government's actual level of spending. We can compute the relative position of the median citizen vis-à-vis government spending simply by subtracting the percentage of people who want less spending from the percentage of people who want more:

$$M = (\% \text{ who want more spending}) - (\% \text{ who want less spending}).$$

M will represent the distance from the median citizen to the government's actual policy.[13] In other words, the indicator tells us how satisfied the median citizen is with current government policy. If M=0, this means that those who agree with government levels of spending and those who disagree exactly balance each other out and that the median citizen is in total agreement with government levels of spending.[14] On the other hand, if absolutely all citizens wants more spending (and none want less), then M will be 100. In other words, the median citizen will want considerably more spending. Similarly, if all citizens want less spending (and none want more), the M will be -100, which indicates that the median citizen wants considerably less spending. M can take any value between these two extremes (-100 and 100); negative values suggest that the government is spending more than people would prefer, while positive values indicate a bias towards too little spending. Its absolute value can be considered a measure of the median's citizen disagreement with the actual level of policy.

The median citizen has important normative relevance. It can be shown that, if people's satisfaction with government policy is proportional to how close it is to their ideal points, then the policy that maximizes general welfare will be the one which reflects the preferences of the median citizen.[15] A high level of agreement between the median citizen and government actual policy can thus be seen as a normative standard for evaluating a political regime.

Of course, condensing a frequency distribution to a single number will lead to information loss. Two distributions that are substantively different might receive the same numerical score. Nevertheless, I have argued that, from both a normative and an empirical point of view, the median citizen score is appropriate for summarizing a distribution of public preferences. As describing public preferences using a single indicator makes data presentation and analysis more manageable, I consider the loss of detail to be well worth the trade-off.

4. Is there opinion-policy congruence in contemporary democracies?

Table 1 shows the results of applying the median citizen indicator to survey data that measure public preferences regarding government spending in thirty-three

---

13   Obviously, continuous measures of a person's relative position to government policy would allow us to compute the median voter indicator in a more accurate manner. Opinion polls, however, generally use a small number of categories when asking people to describe their positions. The fact that my indicator uses discrete rather than continuous measures of distance reflects this.

14   This assumes a symmetric distribution within the "Satisfied" category.

15   Otto A. Davis, Melvin J. Hinich, and Peter C. Ordeshook, "An Expository Development of a Mathematical Model of the Electoral Process." *American Political Science Review* 64 (1970): 426-448.

countries. The data comes from the Role of Government module of the 2006 International Social Survey Program (ISSP). For eight different policy areas (unemployment, environment, health, law enforcement, education, defense, retirement, culture), people were asked whether the government should spend much more, more, about the same, less, or much less. Adapting it to the question format, our median citizen indicator becomes:

M = (% who answered "much more" + % who answered "more") – (% who answered "less" + % who answered "much less").

Table 1 offers us a wealth of information regarding the link between public preferences and government policy in contemporary democracies. First of all, we can see that government policy is often incongruent with median citizen preferences. Of the 262 country-issue couplets presented in table 1, 125 (or 48%) show levels of disagreement below 50 and only 68 (or 26%) show levels of disagreement below 33. We can thus see that, for most countries and for most policy areas, the median citizen substantially disagrees with government policy.

Another interesting result is that governments generally spend less than the median citizen would want. Of the 262 country-issue pairs, for only 39 (or 15%) of them is the median citizen indicator negative. It thus seems that a median citizen which actually wants less spending is a rare occurrence. If we divide the -100-100 scale of our indicator into three discrete categories (-100 - -33 = wants less spending, -33 – 33 = satisfied, 33 - 100 = wants more spending), we can see that 181 (69%) of our country-issue couplets have median citizens that want substantially more spending, 68 (26%) have median citizens that are satisfied with levels of government spending, and only 13 (5%) have median citizens that want substantially less government spending.

Another insight we gain by looking at Table 1 is that median citizen satisfaction has significant variability between policy areas and, more importantly, between nations. For the purpose of creating a measure of overall congruence I employ factor analysis, a statistical technique that can be used to reduce a number of variables to their underlying dimensions.[16] In our case, this procedure will assume that the eight issue-specific congruence variables are indicators of an unobserved "overall" opinion-policy congruence and will estimate the correlation coefficients between each variable and this latent dimension. Table 2 shows the factor loadings and the unique variances for the congruence variables for each of the eight policy areas.

---

16   Jae-On Kim, and Charles W. Mueller, *Factor Analysis. Statistical Methods and Practical Issues* (Thousand Oaks, CA: Sage, 1978), 19.

Table 1: Median citizen disagreement with government policy in 33 countries

Country	Unemploy ment	Environment	Health	Law enforcement	Education	Defense	Retirement	Culture	AVERAGE[17]
Australia	-27.34	54.08	89.91	65.07	79.12	3.9	50.75	-29.86	50
Canada	8.65	42.13	74.23	48.83	63.79	24.8	49.15	-15.55	40.89
Chile	76.44	28.36	95.05	48.51	94.65	-20.82	91.35	19.4	59.32
Taiwan	44.95	60.2	45.8	53.65	60.84	15.05	46.64	34.3	45.18
Croatia	62.66	66.64	87.52	21.4	88.37	-7.07	89.69	47.87	58.9
Czech Republic	-20.65	39.94	68.32	18.01	59.69	-33.96	56.49	-3.41	37.56
Denmark	0.15	50.75	79.73	61.09	60.81	-50.35	49.09	-38.67	48.83
Dominican Republic	NA	57.92	97.29	46.37	95.44	36.11	71.4	55.43	65.71
Finland	21.54	37.41	79.1	49.44	39.29	-18.09	70.3	-33.43	43.56
France	-26.44	44.51	51.9	19.97	50.64	-40.59	38.85	-20.45	36.67
Germany	14.77	26.91	59.78	36.45	80.3	-43.8	45.35	-18.03	40.67
Hungary	19.61	63.01	92.91	39.05	71.68	-3.71	74.87	41.11	50.74
Ireland	42.52	64.81	92.08	78.83	87.34	-2.37	89.89	15.71	59.19
Israel	13.42	54.03	88.83	54.04	90.69	38.11	80.34	31.46	56.37
Japan	8.63	51.25	55.32	5.27	46.21	-16.6	49.64	-4.64	29.7
South Korea	38.79	68.27	79.18	59.82	63.83	16.73	73.07	27.71	53.43
Latvia	26.17	53.15	86.73	34.92	77.45	-2.08	85.66	33.96	50

---

17   Computed using the absolute values of the indicator.

Netherlands	-22.94	24.12	68.33	47.66	70.94	-57.01	36.85	-42.51	46.3
New Zealand	-51.46	28.12	82.74	63.01	68.97	2.86	50.78	-30.57	47.31
Norway	-2.48	34.06	84.78	69.21	60.85	-26.2	57.2	-36.12	46.36
Philippines	NA	54.67	85.23	31.06	86.28	37.34	80.96	44.75	60.04
Poland	37.82	60.38	91.29	60.83	78.28	36.35	91.16	43.18	62.41
Portugal	52.58	64.89	92.91	56.65	84.19	4.02	91.2	37.07	60.44
Russia	48.58	66.9	87.97	27.82	83.52	64.86	90.06	54.88	65.57
Slovenia	19.3	64.23	78.97	23.49	78.33	-39.37	56.8	24.9	48.17
South Africa	61.7	27.25	86.98	56.89	82.53	13.91	75.05	17.42	52.72
Spain	52.1	67.05	86.24	76.76	85.91	-24.13	81.31	36.73	63.78
Sweden	2.16	35.11	78.36	65.65	49.3	-36.21	57.73	-24.61	43.64
Switzerland	17.21	52.4	38.73	21.62	68.75	-56.7	52.67	0.73	38.60
Great Britain	-22.88	53.57	80.67	59.75	71.69	7.1	72.8	-36.19	50.58
United States	22.97	40.95	74.22	47.8	78.62	9.02	57.26	-5.52	42.05
Uruguay	57.08	40.51	89.67	82.28	91.58	-32.05	87.39	31.14	63.96
Venezuela	74.79	46.14	85.68	65.69	86.95	23.43	90.49	63.94	67.14
AVERAGE	32.22	49.2	79.29	48.39061	73.84	25.6	67.95	30.34	

I chose to retain a single factor for both empirical and theoretical reasons. Theoretically, the eight issue-specific congruences can all be considered to be components of a single, more general concept of opinion-policy congruence. Empirically, attempts at retaining more than one factor created factors that were significantly correlated with only one of the eight variables and thus did not reduce the data to a simpler structure.

Table 2: Factor loadings and unique variances for issue specific congruence

variable	Factor1	Uniqueness
unemployment	0.7768	0.3965
environment	0.4786	0.7710
health	0.6760	0.5430
lawenforce~t	0.2901	0.9159
education	0.6947	0.5174
defense	0.5562	0.6907
retirement	0.9268	0.1410
culture	0.8556	0.2679

I then compute a country's overall opinion-policy congruence score as a weighted average of its eight issue-specific congruence scores, with the scores for each area being multiplied by that area's factor loading in the factor analysis described above. I thus assume that overall congruence is a linear combination of issue specific congruences and that the factor loadings for each issue are the coefficients of this linear combination.

5. Wealth and opinion-policy congruence: a statistical analysis
Table 3 presents this overall opinion-policy distance score for each of the 33 countries and also shows their level of GDP per capita in 2006 (the year in which the surveys used to measure opinion-policy distance were taken). From an inspection of the table, it can be seen that the countries with the smallest distance between the preferences of the median citizen and actual government policy tend to have a high GDP per capita, while the countries with the largest distance between the median citizen and government policy tend to have a low GDP per capita. This suggests that a country's level of wealth might play an important role in determining whether it will achieve opinion-policy congruence.

Table 3: Opinion-policy distance and GDP per capita

Country	Opinion-policy distance	GDP per capita (2006) – U.S. dollars
Japan	29.695	31837.8
France	36.6688	30322.2
Czech Republic	37.5588	19478.2
Switzerland	38.6012	33793.5
Germany	40.6738	31571.6
Canada	40.8913	35747.9
United States	42.045	43202.9
Finland	43.575	32822.4
Sweden	43.6413	31235.1
Taiwan	45.1787	29086.7
Netherlands	46.295	32061.9
Norway	46.3625	44341.9
New Zealand	47.3138	25625.7
Slovenia	48.1738	23250.3
Denmark	48.83	36079.5
Australia	50.0037	32127.5
Latvia	50.015	13784.3
Great	50.5812	31627.6
Hungary	50.7438	18491.5
South Africa	52.7163	12786.9
South Korea	53.425	21876.6
Israel	56.365	24297
Croatia	58.9025	12885.1
Ireland	59.1937	42858.9
Chile	59.3225	12737.1
Philippines	60.0414	5159.91
Portugal	60.4388	19948.5
Poland	62.4113	13797.2
Spain	63.7788	27542.5
Uruguay	63.9625	10580.1
Russia	65.5738	11904.3
Dominican Republic	65.7086	7550.51
Venezuela	67.1387	6467.17

Figure 2: GDP per capita and opinion-policy distance
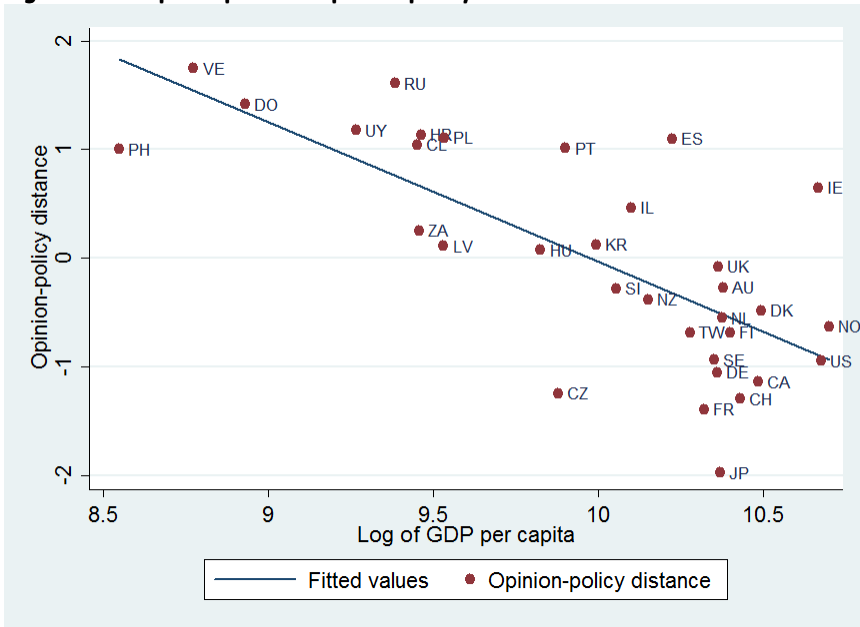
Figure 2 shows the relationship between GDP per capita and the distance between public opinion and public policy for the 33 countries included in my dataset. Table 4 presents the corresponding univariate regression equation.

Table 4: Overall opinion-policy distance regressed on logged GDP per capita.

Dependent variable: Overall opinion-policy distance.	
Intercept	12.82 *** (2.16)
Log GDP Per Capita	-1.29*** (0.22)
R-squared	0.53

* p<0.05, ** p<0.01, *** p<0.001

Both the scatter plot and the regression table indicate a positive relationship between GDP per capita and policy-opinion congruence. In general, public opinion and public policy more will be more closely aligned in richer countries than in poorer countries. Variation in per capita GDP explains about 53 percent of the cross-national variation in opinion-policy congruence.

Why does GDP per capita have a positive effect on opinion-policy congruence? One plausible explanation is that poorer states have less capacity to implement the policies desired by their citizens.[18] We should therefore expect decision makers in poorer countries to have a more restricted set of policies from which they can choose.[19] Politicians in poor countries, even if they are benevolent, will thus be less likely to be able to implement the specific policies desired by the public.

A second reason why public opinion and government policy might be more closely aligned in richer countries is that politicians there are more likely to be held accountable by the public. On the one hand, wealthy countries are more likely to have a developed mass media system than can monitor politicians' actions and transmit this information to the public.[20] On the other hand, wealthier people tend to be more informed about politics, and thus are more likely to identify whether government policy matches their preferences or not.[21] In conjunction, these two facts suggest that, compared to policymakers in poorer countries, those in wealthy countries will be more likely to be punished if policy strays too far from what the public prefers; politicians in rich countries will thus have higher incentives of moving policy in the direction of the public opinion.

Despite the reasonably strong positive relationship between GDP per capita and opinion-policy congruence, several outlier cases can be seen in figure 2. Most notably, Japan and the Czech Republic have much higher levels of congruence than we would expect given their GDP per capita, while the level of opinion-policy congruence in Spain and Ireland is much lower than what their GDP per capita would predict.

Also of note in figure 2 is that richer countries are more likely to be outliers than poorer ones. The data-points in figure 2 form a funnel-like patter around the regression line, with poorer countries sticking close to the regression line and richer ones being much more dispersed. In other words, GDP per capita serves as a good predictor of opinion-policy congruence for poor countries but not for rich ones. The fact that the regression residuals are correlated with the independent variable indicated heteroskedasticity and thus missing factors.[22] The pattern in figure 2 can also be interpreted in terms of sufficiency. Being poor seems to be sufficient for a country to have low levels of opinion-policy congruence (all countries with GDP per

---

18   Timothy Besley, and Torsten Persson, "The Origins of State Capacity: Property Rights, Taxation, and Politics." NBER Working Paper Series, National Bureau of Economic Research (2007).
19   Ibid.
20   Ibid.
21   Ibid.
22   John Fox. *Regression Diagnostics*. (London: Sage Publications, 1991).

capita lower than 19 000 dollars have low levels of congruence). Being rich, however, is clearly not sufficient for having a high level of congruence.

Another way of interpreting the scatter plot in figure 2 is that, for about a third of the countries in our sample, we have found a good explanation for the observed levels of opinion-policy congruence. Chile, Croatia, the Dominican Republic, Hungary, Latvia, the Philippines, Poland, Russia, South Africa, Uruguay, and Venezuela all have the relatively low levels of opinion-policy congruence we would expect given their GDP per capita. Given that all poorer countries tend to have low levels of congruence, regardless of their institutions or other characteristics, we can safely conclude that wealth is the main factor that explains the low level of congruence in poorer nations.

Figure 3: Income per capita and opinion-policy distance (only countries with GDP per capita > $19,000 included).
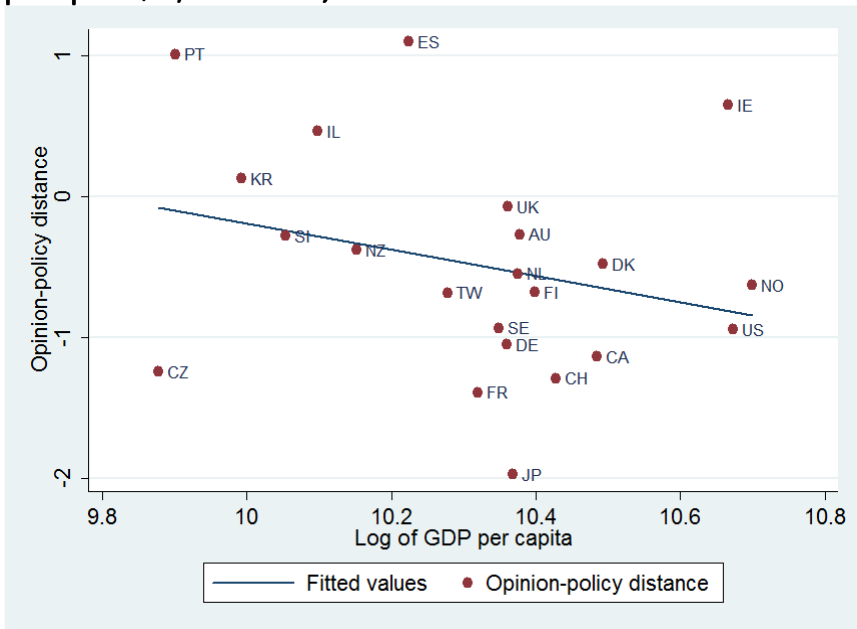
What we cannot explain yet, however, are the congruence levels seen in richer countries. Spain and France, for example, have very a similar GDP per capita but Spain has one of the lowest opinion-policy congruence levels in the sample while France has one of the highest. Likewise, Ireland and Japan have similar levels of GDP per capita, but Japan has the highest congruence score in the sample while Ireland has one of the lowest. It is thus clear that, for richer countries, there are some factors besides GDP per capita that influence their opinion-policy congruence

levels. This conclusion is reinforced by figure 3, which shows the relationship between GDP per capita and opinion-policy distance only for countries with a GDP per capita higher than 19,000 $. We can clearly see that the relationship between GDP per capita and opinion-policy congruence is much weaker for this subset of countries than it is for the entire sample. In fact, GDP per capita only explains about 7 percent of the variance in congruence among this subset of countries. What this means is that we need to look at other variables to explain why public policy matches public opinion in some rich countries but not in others.

6. Wealth and opinion-policy congruence: a set-theoretical analysis

The pattern of data points in figure 2 suggests that having a high GDP per capita is a necessary but not sufficient condition for having high opinion-policy congruence. In what follows, I will offer a more rigorous test of this hypothesis. For this purpose, I will use the method of fuzzy set Qualitative Comparative Analysis (fsQCA), which is well suited for investigating relationships of necessity and sufficiency. Fuzzy set QCA is different form crisp set QCA (csQCA) in that it allows for different degrees of membership in a set. This means that fsQCA can capture not only qualitative differences between cases, but also quantitative differences between them.[23]

The index of opinion-policy distance that I developed ranges from 0 (perfect congruence) to 100 (total incongruence). A score of 50 marks a qualitative difference on our index: in countries that score more than 50, those that wish for a change of government policy in a particular direction outnumber those that prefer a change in the other direction by more than 50 percentage points. A score of 50 will thus serve as a qualitative anchor in transforming the values of my incongruence index into set membership scores. A score of 50 on a particular policy area will thus correspond with a set membership of 0.5 in the set of countries in which opinion and policy in that area are congruent. I will also use two other qualitative anchors for set calibration. A opinion-policy distance score of 33 will correspond to a membership score of 0.95 in the set of countries in which policy and opinion are congruent, while a opinion-policy distance score of 66 will correspond to a membership score of 0.05 in the set of countries in which policy and opinion are congruent. In short, my calibration function can be represented as follows:

23   Carsten Q. Schneider, and Claudius Wagemann. *Set-Theoretic Methods for the Social Sciences: A Guide to Qualitative Comparative Analysis* (Cambridge: Cambridge University Press, 2012).

$$\text{Membership score (Opinion and policy are congruent)} \begin{cases} >0.95 \textbf{ if } \text{Opinion-policy distance} < 33 \\ >0.5 \textbf{ if } \text{Opinion-policy distance} < 50 \\ <0.05 \textbf{ if } \text{Opinion-policy distance} > 66 \end{cases}$$

Opinion-policy distance values are then transformed into set membership scores using a logistic function, according to Charles Ragin's direct method of calibration.[24]

I also use a GDP per capita of 19 000 dollars as a qualitative anchor; I chose this value of GDP per capita to serve as a qualitative because it is typical of middle-income countries (Hungary, the Czech Republic). Thus, a country which has a GDP per capita of 19 000 dollars will have a membership score of 0.5 in the set of rich countries. I also use two other qualitative anchors in my calibration: a GDP per capita value of $4 000 corresponds to a membership score of 0.05 in the set or rich countries, while a GDP per capita of $38 000 corresponds to a membership score of 0.95 in the same set. I chose these scores as qualitative anchors because they characterize they characterize the typical poor (the Philippines) and the typical rich (Ireland, Denmark, Switzerland) countries in my sample. My use of qualitative anchors can be summarized as follows:

$$\text{Membership score (Rich country)} \begin{cases} >0.95 \textbf{ if } \text{GDP per capita} > \$38\ 000 \\ >0.5 \textbf{ if } \text{GDP per capita} > \$19\ 000 \\ <0.05 \textbf{ if } \text{GDP per capita} < \$4\ 000 \end{cases}$$

Any countries with GDP per capita higher than $38 000 will have a membership near 1. (In other words, a country with a GDP per capita of $40 000 and one with a GDP per capita of $80 000 will have almost the same membership score in the set of rich countries, even though the latter's GDP per capita is twice as much as the former's. Such countries might have different membership scores in a set of very rich countries.)

---

24   Charles C. Ragin, "Measurement versus Calibration. A Set-theoretic Approach," in *The Oxford Handbook of Political Methodology*, ed. Janet M. Box-Steffensmeier and David Collier (Oxford: Oxford University Press, 2008), 186-190.

Table 5 shows the countries included in my analysis and their membership scores in the set of countries in which public opinion and policy are congruent and in the set of rich countries.

Table 5: Membership scores in the set of countries in which opinion and policy are congruent

Country name	Public opinion and policy are congruent	Rich country
Venezuela	0.02	0.08
Russia	0.03	0.19
Uruguay	0.07	0.16
Croatia	0.08	0.23
Poland	0.08	0.26
Spain	0.08	0.79
Chile	0.09	0.22
Portugal	0.09	0.54
Ireland	0.16	0.98
Israel	0.22	0.70
South Africa	0.29	0.22
South Korea	0.35	0.61
Latvia	0.36	0.26
Hungary	0.38	0.47
United Kingdom	0.44	0.88
Australia	0.54	0.89
Slovenia	0.54	0.66
New Zealand	0.59	0.74
Denmark	0.63	0.94
Netherlands	0.67	0.89
Norway	0.70	0.98
Finland	0.72	0.90
Taiwan	0.73	0.83
Sweden	0.81	0.87
United States	0.82	0.98
Germany	0.85	0.88
Canada	0.87	0.93
Czech Republic	0.89	0.52
Switzerland	0.90	0.91
France	0.92	0.86
Japan	0.97	0.88

Using the data from the table above, I check whether being a rich country is a necessary condition for having opinion-policy congruence. The software I use for this test of necessity is fsQCA. Table 6 presents the results of this test.

Table 6: Analysis of necessary conditions for the outcome "Policy and opinion are congruent"

Condition tested	Consistency	Coverage
Rich country	0.951	0.697
Not rich country	0.311	0.495

We can see being a rich country is indeed a necessary condition for having opinion-policy congruence. The consistency value is larger than 0.9, which is the conventional threshold for accepting a condition as necessary. The coverage, however, is only 0.722. This suggests that, while all countries that have opinion-policy congruence are rich, not all rich countries have opinion-policy congruence.

Figure 4: Fuzzy-set XY Plot: Being a rich country is a necessary condition for having public opinion and public policy congruent.
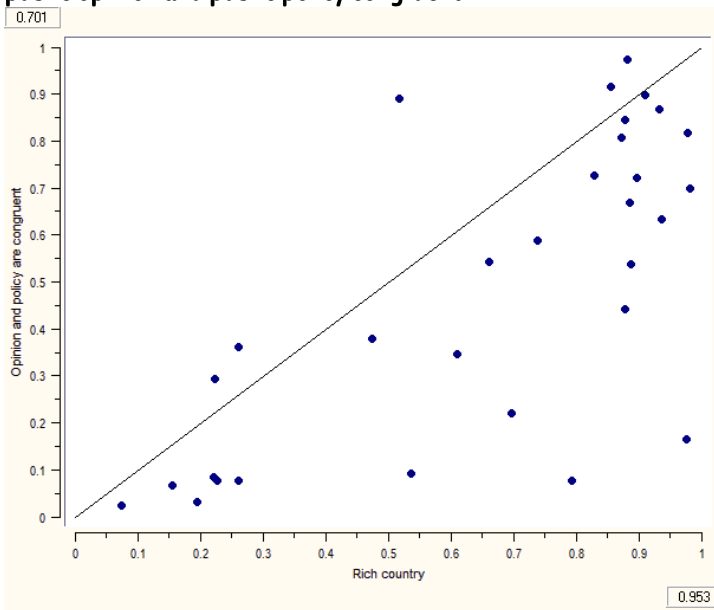
7. The causes of congruence

We have previously seen that being rich is a necessary condition for a country to have congruence between public opinion and public policy. Nevertheless, we have also seen that being a rich country is not sufficient for the occurrence of opinion-policy congruence: public opinion and public policy are closely matched in some rich countries, but not in others. In this section, I examine the combinations of factors that are sufficient for the occurrence of opinion-policy congruence. A survey of the comparative politics and political economy literatures suggests three other factors, besides economic wealth, that have a major effect on whether public policy in a country is congruent with citizens' preferences. These three factors are the income distribution in the society, the electoral system, and the level of state decentralization. I proceed by examining the mechanisms through which each of these factors could plausibly affect opinion-policy congruence in a country. I then describe how I operationalize and measure a country's income distribution, its electoral system, and its level of decentralization. Finally, employing fuzzy-set Qualitative Comparative Analysis (fsQCA), I present an empirical account of how the three factors previously mentioned, together with a country's level of wealth, interact with each other and contribute to the presence of opinion-policy congruence.

7.1 The distribution of income in society

One reason why public policy might stray from what the median citizen prefers is political inequality. If, during the policy-making process, politicians give more weight to preferences of a certain subset of society, the policy adopted will not be the one desired by the median citizen.

Politicians who wish to be elected need the triple resources of volunteers, money, and votes.[25] They will thus tend to be more responsive to those that can provide them with these resources. This alone, however, does not guarantee that policy will deviate from what the median citizen wants. If people who volunteer, donate money, and vote have, on average, the same policy preferences as those who do not, then public policy will still be congruent with the preferences of the general public. Nevertheless, if the groups who are most politically active have policy preferences that are significantly different from those of the general public, government policy will no longer reflect what the median citizen wants. Thus, the degree of opinion-policy congruence in a country will be negatively affected by the presence of groups who have both higher levels of political participation and

---

25   Henry E. Brady, Sidney Verba, and Kay Lehman Schlozman, "Beyond the SES: A Resource Model of Political Participation," *American Political Science Review* 89 (1995), 271-294.

different policy preferences than the general public. There is strong evidence that, in modern democracies, the wealthy form exactly such a group, being more likely to be politically active[26] and having policy preferences that are significantly different from those of the median citizen.[27]

As policy makers will tend to be more responsive to people who are politically active, we should expect policy to deviate from what the median citizen prefers and to be biased towards the preferences of the rich. Of course, modern democracies differ with respect to their income distributions. Some, like the United States, are highly unequal, while others, like Sweden, have a relatively more equal distribution of income. While public policy is likely biased in favor of the rich in most countries, this effect will be much stronger in countries with a very unequal distribution of income than in relatively equal countries. Thus, countries with high income inequality should exhibit low levels of opinion-policy congruence, as the rich will be quite different from the majority in both policy preferences and political influence. In contrast, countries with low levels of income inequality should have high levels of opinion-policy congruence, as relative economic equality will make people more similar in both preferences and political influence.
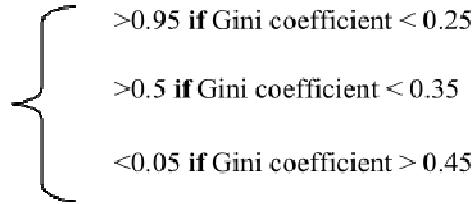
The most widely used measure of the inequality of an income distribution is the Gini index. In theory, the Gini index can take any value from 0 (maximum equality) to 1 (maximum inequality). In practice, however, the Gini index for countries varies from 0.2 to 0.7. The values of the Gini index for the countries included in my study come from the World Bank database.[28] The data is from 2006 (the year the survey data used to compute opinion-policy congruence comes from) or the closest year available. Using Ragin's direct method of calibration, I transform the Gini index values into set membership scores, which are the appropriate data for fuzzy-set Qualitative Comparative Analysis. The calibration function is summarized bellow:

---

26   Marian Currinder, *Money in the House. Campaign Funds and Congressional Party Politics* (Boulder, CO: Westview Press, 2009), 21; Arend Lijphart, "Unequal Participation. Democracy's Unresolved Dilemma," *American Political Science Review* 91 (1997), 1-14.
27   Giacomo Corneo, and Hans Peter Grüner. "Individual Preferences for Political Redistribution." Discussion Paper No. 2694, Centre for Economic Policy Research, London (2001); Daniel Doherty, Alan S. Gerber, and Donald P. Green, "Personal Income and Attitudes toward Redistribution: A Study of Lottery Winners," *Political Psychology* 27 (2006), 441-458.
28   http://data.worldbank.org/indicator/SI.POV.GINI.

$$>0.95 \textbf{ if } \text{Gini coefficient} < 0.25$$

$$>0.5 \textbf{ if } \text{Gini coefficient} < 0.35$$

$$<0.05 \textbf{ if } \text{Gini coefficient} > 0.45$$

Membership score (Countries with equal distributions of income)

Gini index values of 0.25, 0.35, and 0.45 are used as qualitative anchors. I chose 0.25 and 0.45 as qualitative anchors because they are the Gini scores for what I consider to be archetypically equal (Sweden and Denmark) and unequal countries (U.S.). The third qualitative anchor, 0.35, is the approximate value of the Gini index in moderately unequal countries (France, Poland).

7.2 The level of decentralization

One of the main arguments in favor of decentralization and federalism offered by the public finance literature is that it increases the congruence between citizens' preferences and government policy. There are several theoretical reasons why we should expect policy to be more congruent with public opinion in a federal and decentralized state rather than in a unitary and centralized one. First of all, decentralization leads to smaller policy jurisdictions; thus, instead of complying with a one-size-fits-all national policy, subnational units have the possibility to adapt their policy to local preferences. Therefore, if preferences vary among regions, federalism and decentralization will tend to promote more opinion-policy congruence.[29]

Furthermore, collective action is easier to organize in a smaller jurisdiction, so citizens in a federal state will be more likely to influence policy through these means. In addition, we should realize that moving government policy towards the public's preferences is not the only way to increase congruence between the two; congruence also increases if people move from regions' whose policies they dislike to ones in which policy is more akin to their preferences. Charles Tiebout argues that, given fully mobile citizens, fiscal federalism leads to an optimal supply of public goods.[30] To use Albert Hirschman's terminology[31], we could say that federalism and decentralization make both "voice" and "exit" more effective.

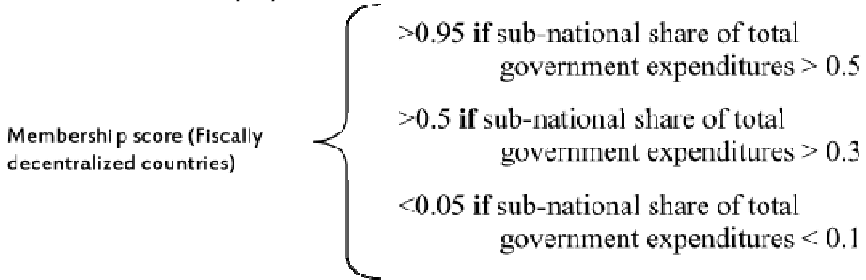29 Wallace E. Oates, "An Essay on Fiscal Federalism," *Journal of Economic Literature* 37(1999), 1122.
30 Charles M. Tiebout, "A Pure Theory of Local Expenditures," *Journal of Political Economy* 64 (1956), 416-424.
31 Albert O. Hirschman, Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States (Cambridge, MA: Harvard University Press, 1970).

Finally, federalism will foster competition between subnational units and will thus promote better government.[32] As far as opinion-policy congruence is an element of the quality of government, we should expect it to increase in a federal system.

Measuring federalism and decentralization raises conceptual difficulties. Rodden observes that a country's level of decentralization has three different dimensions (fiscal, policy and political) and that about a dozen variables have been used to measure them.[33] What is worrisome to him is that most of these variables are not strongly correlated with each other. This means that the same country can be quite decentralized according to one indicator and centralized according to another. Because of this, argues Rodden, the measure of decentralization that we use must be in accordance with our hypothesis. In my case, I am interested in the effect on decentralization on the congruence between citizens' spending preferences and government spending policy. It is thus natural that my measure of federalism should capture how decentralized government expenditure actually is. For this purpose, I will measure a country's level of fiscal decentralization by looking at what share of government expenditures is spent by sub-national governments.

My data for comes from the Quality of Government Institute[34] and is from the year 2006. Using Ragin's method of direct calibration, I transform the share of government spending done by sub-national units into set-memberships scores. The calibration function employed is summarized below:

$$\text{Membership score (Fiscally decentralized countries)} \begin{cases} >0.95 \text{ if sub-national share of total government expenditures} > 0.5 \\ >0.5 \text{ if sub-national share of total government expenditures} > 0.3 \\ <0.05 \text{ if sub-national share of total government expenditures} < 0.1 \end{cases}$$

I have used 0.1, 0.3, and 0.5 as qualitative anchors. In archetypically highly decentralized countries (U.S., Canada), sub-national governments account for around 50 percent of total government expenditures. This value will thus serve as a qualitative anchor; a country in which spending by sub-national governments is 50 percent of total government expenditure will thus have a membership score of 0.95

32   James M. Buchanan, "Federalism as an Ideal Political Order and an Objective for Constitutional Reform," *Publius* 25 (1995), 19-27.
33   Jonathan Rodden "Comparative Federalism and Decentralization: On Meaning and Measurement," *Comparative Politics* 36 (2004), 481-500.
34   http://www.qog.pol.gu.se/data/qogstandarddataset/.

in the set of fiscally decentralized countries. In moderately decentralized countries (Spain, Sweden), sub-national governments account for around 30 percent of total government expenditures. This value serves as my second qualitative anchor; a country in which spending by sub-national units is 30 percent of total government expenditures will have a set membership score of 0.5 in the same set. Finally, in very centralized countries (New Zealand, Portugal), sub-national government only account for around 10 percent of total government expenditures. This value will serve as my third qualitative anchor; a country in which local governments account for 10 percent of total government expenditure will have a set membership score of 0.05 in the set of fiscally decentralized countries.

7.3 The electoral system

An electoral system can be seen as a function that turns votes into seats in the legislature.[35] There is a great diversity of electoral systems; for our purpose, however, we will only focus on the two most widespread electoral systems: proportional representation systems and plurality systems. There are several reasons why we should expect plurality electoral systems to foster more opinion-policy congruence than proportional representation ones.

First of all, plurality systems tend to generate single-party cabinets.[36] When the cabinet is formed by a single political party, voters will easily be able to discern who is responsible for unpopular policies. Parties in plurality systems will thus avoid adopting policies that deviate too much from the median voter's preference. In contrast with plurality systems, proportional representation systems tend to generate coalition cabinets. As responsibility for unpopular policies will be more dispersed, parties in proportional representation systems will face lower costs for supporting policies that go against the median citizen's preferences.

Rogowski and Kayser[37] offer a second reason why plurality systems promote more opinion-policy congruence. They observe that seat-vote elasticities are much greater for plurality systems than for proportional ones. In other words, a similar increase in vote share for a party will tend to generate a larger number of seats in plurality systems than in proportional representation ones. Small increases in a party's vote share will, in plurality systems, often lead to large increases in seat share. Because of this, argue Rogowski and Kayser, politicians will be more

---

35   Gary W. Cox, Making Votes Count. Strategic Coordinates in the World's Electoral Systems (Cambridge: Cambridge University Press, 1997), 95.
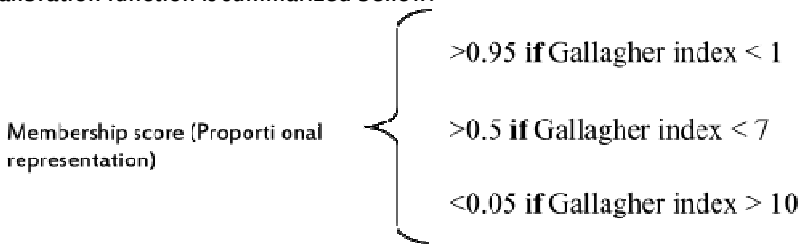36   Arend Lijphart, Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries (New Haven, CT: Yale University Press, 1999), 167.
37   Ronald Rogowski, and Mark Andreas Kayser, "Majoritarian Electoral Systems and Consumer Power: Price-Level Evidence from the OECD Countries." *American Journal of Political Science* 46 (2002), 526-539.

responsive to voter's preferences in plurality systems than in proportional representation systems. Rogowski and Kayser support their hypothesis by showing that price levels are lower in countries with plurality systems; they interpret this pattern as proof that, in plurality electoral systems, voters have more political clout relative to producer interest groups.

Duverger's law and the median voter theorem suggest another reason why public policy in countries with plurality electoral systems will not stray too far from what the median citizen prefers. According to Duverger[38], plurality electoral systems should bring about two-party systems. But we know from Downs that, in a two-party system, the platforms of the two political parties will converge on the median voter's position.[39] In contrast, proportional representation tends to generate multiparty systems, where the median voter's position is not necessarily an equilibrium on which parties will converge.[40]

To measure how proportional an electoral system is, I use the Gallagher index. This index, developed by Michael Gallagher[41] measures the disproportionality between the distributions of votes and seats in an election. The index can take any value from 0 (most proportional) to 100 (most disproportional). Professor Gallagher's website provides values of his index for recent elections in all the countries included in my study.[42] For each country, I averaged the values of the Gallagher index for the three elections prior to 2006, so as to avoid any perturbations due to random events in a given election year. I then transformed this average Gallagher index into set-membership scores using Ragin's (2008) direct method of calibration. The calibration function is summarized bellow:

$$
\text{Membership score (Proportional representation)} \begin{cases} >0.95 \text{ if Gallagher index} < 1 \\ >0.5 \text{ if Gallagher index} < 7 \\ <0.05 \text{ if Gallagher index} > 10 \end{cases}
$$

---

38   Maurice Duverger, Political Parties: Their Organization and Activity in the Modern State (London: Methuen, 1959), 224.
39   Anthony Downs. *An Economic Theory of Democracy*.
40   Norman Schofield, Itai Sened, and David Nixon, "Nash Equilibrium in Multiparty Competition with Stochastic Voters," *Annals of Operations Research* 84(1998), 3-27.
41   Michael Gallagher, "Proportionality, disproportionality and electoral systems," *Electoral Studies* 10 (1991), 33-51.
42   http://www.tcd.ie/Political_Science/staff/michael_gallagher/ElSystems/Docts/ElectionIndices.pdf.

Gallagher index values of 1, 7, and 10 serve as qualitative anchors. I choose 1 as qualitative anchor because that is the value of the Gallagher index for countries with almost perfectly proportional electoral systems (Denmark, Netherlands). A country with a Gallagher index value of 1 will have a set-membership score of 0.95 in the set of countries with proportional representation. Typical plurality systems (U.K., Canada) have Gallagher index values of around 10. A country with a Gallagher index value of 10 will thus have a membership score of 0.05 in the set of countries with proportional representation. I chose a Gallagher index value of 7 to serve as a qualitative anchor because it is typical of the most disproportional PR electoral systems (Croatia's Gallagher index value of 6.77 is the highest of any country included in my study that uses a proportional representation system). A country with a Gallagher index value of 7 will have a membership score of 0.5 in the set of countries with proportional representation.

8. Results

We have seen that a survey of the literature suggests that four major factors influence a whether a country's public opinion and public policy are congruent: its level of wealth, its distribution of income, its electoral system, and its level of decentralization. In this section, I put the theories previously discussed to the test. Using data from 28 countries[43], I investigate the sufficient conditions for the occurrence of opinion-policy congruence. In addition, I also examine the necessary and sufficient conditions for the non-occurrence of this outcome. The method I use is fuzzy set qualitative comparative analysis (fsQCA) Fuzzy set QCA is different form crisp set QCA (csQCA) in that it allows for different degrees of membership in a set. This means that fsQCA can capture not only qualitative differences between cases, but also quantitative differences between them.[44] There are several reasons for choosing this particular method. First of all, as we have previously seen, the relationship between opinion-policy congruence and the factors that influence it can best be expressed in set-theoretic terms such as necessity and sufficiency. Second, my study includes a relatively small number of cases, which makes multivariate statistical analysis difficult. Fuzzy-set QCA appears to be the best solution for my analysis, striking a balance between quantitative and qualitative methods both in terms of number of cases included and of attention to detail. Furthermore, the literature on the determinants of opinion-policy congruence

---

43   Five countries (Dominican Republic, Philippines, Taiwan, Uruguay, and Venezuela) are not included in this part of the analysis because data was unavailable for at least one of the conditions tested.

44   Schneider and Wagemann, *Set-Theoretic Methods for the Social Sciences*.

suggests that complex interactions of factors are involved; QCA would be the best method to deal with this, as it can easily deal with conjunctural causation.[45]

My analysis has four causal conditions: whether a country is rich (R), whether it has an equal distribution of income (E), whether it has proportional representation (P), and whether it is decentralized (D). The outcome is whether opinion and policy in a country are congruent (CON).[46]

We have previously seen that being a rich country is a necessary condition for having opinion-policy congruence. Now we can examine if any of the other conditions, or their negations, also serve as necessary condition for the occurrence of opinion-policy congruence. The results of this analysis of necessary conditions are presented in table 7.

Table 7: Analysis of necessary conditions for the outcome CON.

Conditions tested	Consistency	Coverage
R	0.951	0.697
E	0.806	0.671
P	0.636	0.585
D	0.757	0.748
r	0.311	0.495
e	0.448	0.567
p	0.569	0.628
d	0.549	0.560

It can be seen that, besides R, no other condition or negation of condition has a consistency value larger than 0.9, which is the conventional threshold for accepting a condition as necessary.[47] Thus, being a rich country is the sole necessary condition for the occurrence of opinion-policy congruence. None of the other conditions or negations of conditions are, by themselves, necessary for the occurrence of the outcome.

---

45   Charles C. Ragin, *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies* (Berkeley and Los Angeles, CA: University of California Press, 1989), 25
46   I will use capital letters (e.g. R, CON) to indicate the presence of a condition or outcome and small letters (e.g. c, con) to indicate their absence.
47   Schneider and Wagemann, *Set-Theoretic Methods for the Social Sciences*.

Table 8: Set-membership scores for the casual conditions and for the outcome (CON)

Country	R	E	P	D	CON
Russia	0.195	0.124	0.467	0.760	0.031
Croatia	0.227	0.858	0.524	0.133	0.076
Poland	0.261	0.507	0.604	0.299	0.076
Spain	0.793	0.710	0.703	0.544	0.077
Chile	0.222	0.002	0.345	0.112	0.085
Portugal	0.537	0.259	0.690	0.143	0.092
Ireland	0.977	0.710	0.568	0.369	0.164
Israel	0.697	0.253	0.873	0.166	0.220
South Africa	0.224	0.000	0.944	0.704	0.293
South Korea	0.611	0.752	0.029	0.910	0.347
Latvia	0.261	0.425	0.645	0.353	0.361
Hungary	0.475	0.890	0.255	0.337	0.378
UK	0.879	0.574	0.000	0.310	0.442
Australia	0.887	0.794	0.068	0.865	0.537
Slovenia	0.661	0.964	0.819	0.130	0.543
New Zealand	0.739	0.410	0.884	0.129	0.588
Denmark	0.936	0.964	0.914	0.879	0.633
Netherlands	0.886	0.773	0.926	0.340	0.667
Norway	0.981	0.952	0.834	0.614	0.700
Finland	0.897	0.838	0.831	0.682	0.720
Sweden	0.872	0.973	0.897	0.582	0.808
US	0.978	0.047	0.096	0.934	0.816
Germany	0.878	0.916	0.825	0.809	0.846
Canada	0.932	0.704	0.025	0.984	0.866
Czech Republic	0.518	0.937	0.632	0.288	0.889
Switzerland	0.910	0.596	0.857	0.932	0.897
France	0.855	0.665	0.000	0.222	0.916
Japan	0.882	0.282	0.007	0.666	0.972

Table 8 is a data matrix showing the 28 countries included in my analysis and their membership scores for the four causal conditions and for the outcome. Table 9 shows the data matrix transformed into a truth table. In contrast to data matrices, truth table rows do not indicate cases, but logically possible combinations of conditions.[48] As the model has four conditions, there are 2^4 = 16 possible

---

48   Ibid.

combinations of conditions. As 28 cases are included in the analysis, it would have been theoretically possible for each truth table row to have at least one case allocated to it.[49] However, we can see that 4 of the 16 truth table rows do not have any cases. The fact that not all possible combinations of conditions occur in reality raises the problem of limited diversity. I will come back to this issue later in my analysis.

Table 9: Truth table for the outcome CON (opinion-policy congruence)

R	E	P	D	number	CON	Raw consist.	PRI consist.	Product	Cases
1	0	0	1	2	1	0.839	0.640	0.537	JP, US
1	1	1	1	7	1	0.826	0.675	0.559	CH, DE, DK, ES, FI, NO, SE,
1	1	0	1	3	1	0.795	0.491	0.390	AU, CA, KR
1	1	0	0	2	1	0.773	0.460	0.356	FR, UK
1	1	1	0	4	1	0.768	0.442	0.340	CZ, IE, NL, SI
0	0	0	1	1	0	0.723	0.133	0.097	RU
0	1	0	0	1	0	0.710	0.246	0.175	HU
0	1	1	0	2	0	0.692	0.214	0.148	HR, PL
0	0	1	1	1	0	0.626	0	0	ZA
1	0	1	0	3	0	0.619	0.089	0.055	IL, NZ, PT
0	0	0	0	1	0	0.610	0.091	0.056	CL
0	0	1	0	1	0	0.579	0	0	LV
0	1	0	1	0	-	0.845	0.357	0.301	-
0	1	1	1	0	-	0.819	0.244	0.199	-
1	0	0	0	0	-	0.747	0.335	0.251	-
1	0	1	1	0	-	0.774	0.269	0.209	-

The analysis of sufficient conditions for the outcome CON is complicated by the problem of limited diversity; as already mentioned, out of the 16 truth table rows, 4 are logical remainders. There are three different strategies for solving the problem of limited diversity.[50] First, the researcher could adopt a conservative strategy,

---

49   A case is allocated to a truth table row if its membership score in the condition combination that describes that row is more than 0.5. A case can only be a member of one truth table row.
50   The rest of this paragraph draws on Schneider and Wagemann, 2012.

which doesn't make any assumptions about counterfactuals and uses only the data in the truth table. Second, one could incorporate in the analysis only those counterfactuals that correspond to theoretical expectations (easy counterfactuals). Third, one could aim at reaching the most parsimonious solution of the truth table, using both easy and difficult counterfactuals in the process. Using only those counterfactuals for which theoretical expectations exist should produce an intermediate solution, which is a super-set of the complex/conservative solution and a sub-set of the most parsimonious solution.

Employing the fsQCA software, I generate all three solutions (conservative, intermediate, most parsimonious). For the intermediate solution, I use the following directional expectations, based on the theories discussed in the previous sections: being rich (R), being equal (E), being decentralized (D), and not having proportional representation (p) should contribute to the occurrence of opinion-policy congruence (CON). I use a frequency threshold of 1 and a consistency threshold of 0.75.

Table 10: Analysis of sufficient conditions for the outcome CON (conservative / intermediate solution)

Solution:	R*E	+	R*D*p	→	CON
Path consistency	0.753		0.800		Cases not covered
Raw coverage	0.772		0.479		by any path but members of CON:
Cases covered[51]	Australia		Australia		New Zealand
	Canada		Canada		
	Czech Republic		Japan		
	Denmark		United States		
	Germany				
	Finland				
	France				
	Netherlands				
	Norway				
	Sweden				
	Slovenia				
	Switzerland				
Unique coverage	0.406		0.103		
Solution consistency	0.761				
Solution Coverage	0.876				

---

51   Cases whose membership value in that path is higher than 0.5.

The first notable thing about the results is that conservative and the intermediate solutions are the same. The reason for this is that no easy counterfactuals can be made; assuming that any of the missing condition combinations leads to the outcome CON would violate our directional assumptions. A solution that only incorporates easy counterfactuals is, in this case, a solution that incorporates no counterfactuals.

Examining the conservative solution, we see that there are two paths for reaching the outcome CON. A country can achieve opinion-policy congruence either by being rich and equal or by being rich, being decentralized, and having a non-proportional system. The first path covers several Western European nations, plus Australia and Canada. The second path covers Australia, Canada, the U.S., and Japan. Being rich (R) is part of both paths to congruence, which confirms its status as a necessary condition.

The second causal path to congruence (R*D*p) nicely illustrates the concept of conjunctural causation. For rich countries, it is not enough to be decentralized or to have a non-proportional electoral system in order to achieve opinion-policy congruence; opinion-policy congruence only occurs if the two factors are present simultaneously. Decentralization will not produce opinion-policy congruence if the country has a proportional electoral system. Similarly, a non-proportional electoral system will not lead to opinion-policy congruence if the country is centralized. This finding fits nicely with Elinor Ostrom's theory[52] that institutions operate configurationally and that their effects cannot be separable.

Table 11: Sufficient conditions for the outcome CON (most parsimonious solution)

Solution:	R*E	+	R*p	→	CON
Path consistency	0.753		0.746		Cases not covered
Raw coverage	0.772		0.552		by any path but
					members of CON:
Cases covered	Australia		Australia		New Zealand
	Canada		Canada		
	Czech Republic		France		
	Denmark		Japan		
	Germany		United States		
	Finland				
	France				
	Netherlands				

---

52   Elinor Ostrom, "An Agenda for the Study of Institutions," *Public Choice* 48 (1986): 3-25.

	Norway Sweden Slovenia Switzerland	
Unique coverage	0.353	0.132
Solution consistency	0.745	
Solution Coverage	0.905	

Table 11 shows the most parsimonious solution for the occurrence of the outcome CON. According to this solution, there are two paths to opinion-policy congruence: a country can be rich and equal, or it can be rich and have a non-proportional electoral system. We can see that this solution has a higher coverage value than the conservative solution, though at the cost of less consistency; this is to be expected, as the most parsimonious solution is a super-set of the conservative solution. The problem with the most parsimonious solution is that it does not discriminate between easy and difficult counterfactuals. To examine the counterfactuals that are used in this case to produce the most parsimonious solution, I intersect the Boolean expression for limited diversity with the solution itself, producing the following result:

$$(r*E*D + R*e*p*d + R*e*P*D) * (R*E + R*p) \Leftrightarrow$$
$$\Leftrightarrow R*e*p*d$$

The most parsimonious solution thus rests on the following counterfactual:

$$R*e*p*d \rightarrow CON$$

We should be careful in interpreting the most parsimonious solution because, as we have seen, none of the counterfactuals incorporated in it are easy ones. The most parsimonious solution rests on the counterfactual assumption that a country that is rich, unequal, centralized and uses a non-proportional electoral system will have opinion-policy congruence. How plausible is this assumption? From the complex solution, which rests on no assumptions, we do know that countries that are rich and unequal but combine two congruence-fostering institutions (fiscal decentralization and a non-proportional electoral system) will have opinion-policy congruence. We also know that countries that are rich and unequal but lack both congruence fostering institutions do not show opinion-policy congruence. The most parsimonious solution rests on the assumption that countries that are rich and unequal but have only one opinion-policy congruence institution (a non-proportional electoral system) will also show congruence. While this counterfactual

can be supported by some theoretical arguments[53], the fact that all countries that were unequal but still showed opinion-policy congruence had more than one congruence-fostering institution points against it. For this reason, our interpretation should, in this case, focus on the complex solution rather than the most parsimonious one.

9. Discussion

What information has our fuzzy-set Qualitative Comparative Analysis brought us? First of all, we now know that being rich is a necessary condition for having opinion-policy congruence. All countries that showed opinion-policy congruence were rich countries, and none of the non-rich countries showed opinion-policy congruence. Being rich, however, is not sufficient for the occurrence of opinion-policy congruence. Several rich countries (Ireland, Israel, Portugal, South Korea, Spain, and the United Kingdom) did not show opinion-policy congruence. An analysis of sufficient conditions suggests that there are two paths to opinion-policy congruence. On the one hand, being rich and being equal are jointly sufficient for the occurrence of opinion-policy congruence. In other words, countries that are rich and equal will have opinion-policy congruence regardless of their level of decentralization or their electoral system. Most of the countries in my study that do have opinion-policy congruence have followed this path, being both rich and equal. Of note is that almost all the countries that are uniquely covered by this path are located in Northern Europe (Denmark, Finland, Norway, Sweden) or Western Europe (France, Germany, the Netherlands, Switzerland). The only post-communist countries in which opinion-policy congruence occurs, Slovenia and the Czech Republic, are also uniquely covered by this rich and equal path. The other path to congruence is being rich, being decentralized, and having a non-proportional electoral system. This path includes much fewer countries; the only two countries uniquely covered by it are Japan and the United States. Australia and Canada are covered by both paths.

The results suggest that the easiest way for a rich country to achieve opinion-policy congruence is to have a relatively equal distribution of income. In relatively equal societies, the rich have fewer resources and politicians will thus have fewer incentives to deviate from what the median citizen prefers in order to appease the rich. In addition, the rich themselves will have fewer incentives to try to steer policy their own way, as the more equal distribution of income will make them more similar to the non-rich in both preferences and level of information.

---

53   Rogowski and Kayser, "Majoritarian Electoral Systems and Consumer Power: Price-Level Evidence from the OECD Countries".

The second path to opinion-policy congruence requires a combination of two congruence-fostering institutions: fiscal decentralization and a non-proportional electoral system. Decentralization favors opinion-policy congruence by making collective action easier and by allowing policies that are tailored to local preferences. In addition, decentralization will also encourage competition between sub-national units, which will also favor congruence. Non-proportional electoral systems, on the other hand, will give more power to voters as compared to interest groups; furthermore, due to Duverger's law and to the median voter theorem, the platforms of political parties in countries with non-proportional electoral systems are likely to converge on the median voter. When combined in a rich country, fiscal decentralization and a non-proportional electoral system are enough to guarantee that public policy will match public opinion. Nevertheless, relatively few countries have followed this path towards opinion-policy congruence. Japan and the United States are the only countries in my study that have achieved opinion-policy congruence through a combination fiscal decentralization and non-proportional electoral system while having an unequal distribution of income.

What can we say about the robustness of opinion-policy congruence? Countries that have achieved congruence solely through a relatively equal distribution of income are vulnerable to increases in income inequality. If a country lacks the institutional combination of fiscal decentralization and non-proportional electoral system, increases in income inequality are likely to lead public policy away from what the median citizen prefers. On the other hand, countries that have achieved opinion-policy congruence through fiscal decentralization and a non-proportional electoral system will not be vulnerable to increases in income inequality; Japan and the United States are already quite unequal countries and they still show opinion-policy congruence. Such countries, however, are vulnerable to changes in their institutions. If a country has reached opinion-policy congruence solely through its institutional combination, then any change in its level of decentralization or electoral system can damage its opinion-policy congruence. If, for example, Japan or the United States would adopt more proportional electoral systems, it is likely that public policy in these countries would move away from the preferences of the median citizen.

In the end, opinion-policy congruence is most robust in those countries that are covered by both causal paths. Australia and Canada have both relatively equal distributions of income and a combination of fiscal decentralization and non-proportional electoral system. In these countries, opinion-policy congruence is likely to survive an increase in income inequality due to their combination of institutions. Similarly, moves towards more proportional electoral systems or higher fiscal centralization should not damage opinion-policy congruence in Australia and Canada, as long as the two countries remain relatively equal.

10. Conclusions

This article has sought to answer two questions. First, is government policy in contemporary democracies congruent with public opinion? Second, what are the factors that determine opinion-policy congruence? The results suggest that opinion-policy congruence is more often absent than present in contemporary democracies. Nevertheless, there is significant variation between countries. I identified two causal paths that lead to opinion-policy congruence: to achieve opinion-policy congruence, a country must either be rich and have a relatively equal distribution of income or it must be rich, decentralized, and use a non-proportional electoral system.

Bibliography:

Achen, Christopher H. 1978. "Measuring Representation." *American Journal of Political Science* 22: 475-510.

Bartels, Larry M. 1991. "Opinion and Congressional Policy Making: The Reagan Defense Build Up." *American Political Science Review* 85: 457-474.

Bartels, Larry M. 2008. "The Opinion-Policy Disconnect: Cross-National Spending Preferences and Democratic Representation." Prepared for the Annual Meeting of the American Political Science Association, 2008.

Beetham, David. 2011. *Unelected Oligarchy: Corporate and Financial Dominance in Britain's Democracy*. Liverpool: Democratic Audit.

Besley, Timothy, Robin Burgess, and Andrea Prat. 2002. "Mass Media and Political Accountability." Department of Economics working paper, London School of Economics, February 2002.

Besley, Timothy, and Torsten Persson. 2007. "The Origins of State Capacity: Property Rights, Taxation, and Politics." NBER Working Paper Series, National Bureau of Economic Research.

Blais, André, and Marc André Bodet. 2006. "Does Proportional Representation Foster Closer Congruence Between Citizens and Policy Makers?" *Comparative Political Studies* 39: 1243-1262.

Brady, Henry, E., Sidney Verba, and Kay Lehman Schlozman. 1995. "Beyond the SES: A Resource Model of Political Participation." *American Political Science Review* 89: 271-294.

Buchanan, James M. 1995. "Federalism as an Ideal Political Order and an Objective for Constitutional Reform." *Publius* 25: 19-27.

Corneo, Giacomo, and Hans Peter Grüner. 2001. "Individual Preferences for Political Redistribution." Discussion Paper No. 2694, Centre for Economic Policy Research, London.

Cox, Gary W. 1997. *Making Votes Count. Strategic Coordinates in the World's Electoral Systems*. Cambridge: Cambridge University Press.

Currinder, Marian. 2009. *Money in the House. Campaign Funds and Congressional Party Politics*. Boulder, CO: Westview Press.

Davis, Otto A., Melvin J. Hinich, and Peter C. Ordeshook. 1970. "An Expository Development of a Mathematical Model of the Electoral Process." *American Political Science Review* 64: 426-448.

Downs, Anthony. 1957. *An Economic Theory of Democracy*. New York: Harper.

Duverger, Maurice. 1959. *Political Parties: Their Organization and Activity in the Modern State*. London: Methuen.

Flavin, Patrick. 2009. "Income Inequality and Unequal Political Representation in the American States", APSA 2009 Toronto Meeting Paper.

Fox, John. 1991. *Regression Diagnostics*. London: Sage Publications.

Gallagher, Michael. 1991. "Proportionality, disproportionality and electoral systems." *Electoral Studies* 10: 33-51.

Hirschman, Albert O. 1970. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*, Cambridge, MA: Harvard University Press.

Holmberg, Sören. 1997. "Dynamic Opinion Representation." *Scandinavian Political Studies* 20: 265-283.

Katz, Richard S., and Peter Mair. 1995. "Changing Models of Party Organization and Party Democracy. The Emergence of the Cartel Party." *Party Politics* 1: 5-28.

Kim, Jae-On, and Charles W. Mueller. 1978. *Factor Analysis. Statistical Methods and Practical Issues*. Thousand Oaks, CA: Sage.

Lax, Jeffrey R., and Justin H. Phillips. 2012. "The Democratic Deficit in the States." *American Journal of Political Science* 56: 148-166.

Lijphart, Arend. 1997. "Unequal Participation. Democracy's Unresolved Dilemma." *American Political Science Review* 91: 1-14.

Lijphart, Arend. 1999. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven, CT: Yale University Press.

Lind, Jo Thori, and Dominic Rohner. 2011. "Knowledge is Power: A Theory of Information, Income, and Welfare Spending." CESifo Working Paper No. 3613.

Majone, Giandomenico. 2001. "Two Logics of Delegation. Agency and Fiduciary Relations in EU Governance." *European Union Politics* 2: 103-122.

Miller, Warren E., and Donald E. Stokes. 1963. "Constituency Influence in Congress." *American Political Science Review* 57: 45-56.

Niskanen, William A. 1971. *Bureaucracy and Representative Government*. Chicago: Aldine, Atherton.

Oates, Wallace E. 1999. "An Essay on Fiscal Federalism." *Journal of Economic Literature* 37: 1120-1149.

Ostrom, Elinor. 1986. "An Agenda for the Study of Institutions." *Public Choice* 48: 3-25.

Ragin, Charles C. 1989. *The Comparative Method: Moving Beyond Qualitative and Quantitative Strategies*. Berkeley and Los Angeles, CA: University of California Press.

Ragin, Charles C. 2008. "Measurement versus Calibration. A Set-theoretic Approach," in Janet M. Box-Steffensmeier and David Collier (eds.), *The Oxford Handbook of Political Methodology*, Oxford: Oxford University Press.

Roberts, Andrew. 2009. *The Quality of Democracy in Eastern Europe: Public Preferences and Policy Reforms*. Cambridge: Cambridge University Press.

Rodden, Jonathan. 2004. "Comparative Federalism and Decentralization: On Meaning and Measurement." *Comparative Politics* 36: 481-500.

Rogowski, Ronald, and Mark Andreas Kayser. 2002. "Majoritarian Electoral Systems and Consumer Power: Price-Level Evidence from the OECD Countries." *American Journal of Political Science* 46: 526-539.

Schmitter, Philippe C. 2004. "The Quality of Democracy: The Ambiguous Virtues of Accountability." *Journal of Democracy* 15: 47-60.

Schmitter, Philippe C., and Terry Lynn Karl. 1991. "What Democracy Is . . . and Is Not."
Journal of Democracy 2: 75–89.

Schneider, Carsten Q., and Claudius Wagemann. 2012. *Set-Theoretic Methods for the Social Sciences: A Guide to Qualitative Comparative Analysis*. Cambridge: Cambridge University Press.

Schofield, Norman, Itai Sened, and David Nixon. 1998. "Nash Equilibrium in Multiparty Competition with Stochastic Voters." *Annals of Operations Research* 84: 3-27.

Schumpeter, Joseph A. 1942 [1962]. *Capitalism, Socialism, and Democracy*. New York: Harper Perennial.

Soroka, Stuart N., and Christopher Wlezien. 2004. "Opinion Representation and Policy Feedback: Canada in Comparative Perspective." *Canadian Journal of Political Science / Revue canadienne de science politique* 37: 531-559.

Stimson, James A. 1999. "Party Government and Responsiveness," in Adam Przeworski, Susan C. Stokes, and Bernard Manin (eds.), *Democracy, Accountability, and Representation*, Cambridge: Cambridge University Press.

Stimson, James A., Michael B. Mackuen, and Robert S. Erikson. 1995. "Dynamic Representation." *American Political Science Review* 89: 543-565.

Tiebout, Charles M. 1956. "A Pure Theory of Local Expenditures." *Journal of Political Economy* 64: 416-424.

ONE ACTOR, ONE TOO MANY VOICES?
THE EU AT THE UN GENERAL ASSEMBLY

Attila Molnar
Central European University

Abstract

The article tests the assumption that the deepening integration brought on by the European Union's Treaty of Lisbon should have a palpable effect on the dynamics of EU Member States' action at the United Nations. Building on existing scholarly literature, on interviews with diplomats and staff of the European External Action Service at two UN headquarters locations, as well as on a case study of what is arguably the most universal of multilateral bodies, the UN General Assembly, the article assesses the "voice of the EU" on the global multilateral scene. It concludes that, in spite of the abundance of theoretical and practical arguments for increasing the unity of European diplomacy, action in the UNGA does not provide grounds for an overly hasty departure from a state-centric view of EU foreign policy.

1.   Introduction[1]

In September 2010, the Belgian Presidency of the European Union (EU) introduced a draft resolution to the United Nations General Assembly (UNGA),[2] in which the Member States of the EU wanted to update their participation in the Assembly's meetings in accordance with the latest of their fundamental treaties, the Treaty of Lisbon. The draft resolution proposed that:

> "the representatives of the European Union [...] be invited to speak[,] [...] be permitted to circulate documents, [...] make proposals and submit amendments, [...] raise points of order, [...] and to exercise the right of reply".[3]

The proposal was not about quasi-membership, as it would not have allowed EU representatives to vote, it merely asked for a more palpable presence as an

---

1   An earlier version of the manuscript of the present study served as the basis for the author's MA thesis (Central European University, 2012).
2   UNGA Draft Resolution A/65/L.64 on the Participation of the European Union in the work of the United Nations
3   Michael Emerson and Jan Wouters, "The EU's Diplomatic Debacle at the UN – What else and what next?" CEPS Commentaries, Centre for European Policy Studies, http://www.ceps.eu/book/eu's-diplomatic-debacle-un-what-else-and-what-next   (accessed December 26, 2010), 4.

observer. It also proposed that the same rules apply to any other regional organization "when [...] [it] has reached the level of integration that enables that organisation to speak with one voice".[4]

Following the introduction of the draft resolution, a motion was raised to adjourn the debate on the EU's participation in the United Nations (UN). The motion passed with 76 votes in favor, 71 against and 26 abstentions, putting off the discussion on the EU's new "voice" to the next session of Assembly. Before the adoption of the motion to adjourn the debate,

> speakers representing the African Group, Caribbean Community (CARICOM) and various small island developing States requested more time to analyse the text and its implications, arguing that it would alter the working methods of the Organization and interaction among States.[5]

As an EU official said, countries other than the partners of the EU in the UNGA saw the EU effort as an attempt to get a twenty-eighth voice for the Union.[6] The EU, on the other hand saw, it as the exact opposite: as an attempt to limit themselves and formulate only one statement instead of twenty-seven (let alone twenty-eight), but one which carries more weight.[7] The facts became that, when the issue was taken from the table at the sixty-fifth session of the UNGA, a very similar draft[8] was adopted without significant obstruction. Clearly, Member States would be allowed to intervene in support of the single European voice, making it, in theory, twenty-eight, but, as the present account will demonstrate, this has neither been the ambition of the EU, nor has it become an unintended reality. The goal the EU and its Member States set was rather the contrary: closer coordination, and less intervention.

Whether the fact that a special entity and not the country holding the Council Presidency speaks for the EU truly "alter[s] the working methods" of the UN remains to be studied and understood, but the point that can be noted already is that it took almost a year for the EU to "muddle through" a question with significant operative implications for its Member States, in a forum where its "partners in the rest of the world[, who] generally want the EU to speak with one voice and act more coherently"[9] are supposed to be in the majority. What the debacle revealed was

---

4   Ibid., 4.
5   http://www.un.org/News/Press/docs/2010/ga10983.doc.htm (accessed December 28, 2010).
6   Interview no. 2.
7   Ibid.
8   UNGA Draft Resolution A/65/L.64 on the Participation of the European Union in the work of the United Nations
9   Graham Avery, "Towards a European Foreign Service: Conclusions and Recommendations," in European Policy Centre. "The EU Foreign Service: How to Build a

that what was responsible for the cumbersomeness of the process to reach a "vocal" coordination of EU diplomacy in the UN was weak EU diplomacy in the UN! This raises fascinating questions pertaining to the EU's "voice" in international relations, and, notably, on the global multilateral scene.

This article makes an empirical contribution to the literature on common European foreign policy, and the question of "European voice" in international relations. The European voice is defined as the degree to which the European Union, a closely integrated polity in several domains, and an entity dedicated to "effective multilateralism"[10] while being multilateral in itself, is capable of acting as a unified actor on the international stage, with a view to coupling its economic weight with political leverage. Bearing this fundamental challenge in mind, the article analyzes to what degree the Lisbon Treaty, "the foreign policy treaty of the EU",[11] has proven to be a meaningful step forward in the Union's external representation, and how its provisions have been implemented in European foreign policy coordination at the UN during the first three years of its implementation, 2009-2012. Speaking with one voice in the United Nations tells much about the stage of foreign policy integration,[12] and, with a "foreign policy treaty" in force for the EU, the topic is as relevant today as ever before.

This inquiry aims at filling a small part of the a considerable gap in existing research, by providing the UN section of "[d]etailed case studies of specific policy areas [...] needed to properly understand the political competition between the different institutional actors within the EU, and its role in shaping foreign policy cooperation".[13] Bickerton points out that

> more work is needed to understand the paradox of member states struggling with other EU actors over who has final authority in foreign policy and yet also using

More Effective Common Policy." EPC Working Paper No. 28. (Brussels: European Policy Centre, 2007),
http://www.epc.eu/documents/uploads/
555858396_EPC Working Paper 28 The EU Foreign Service.pdf, 76.

10   European Union, *A Secure Europe in a Better World. European Security Strategy* (Brussels, 2003), 9, http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf (accessed January 3, 2012).

11   Richard Whitman, "Promised You a Miracle? The EU's Global Role in the Afterglow of Lisbon," (lecture at the Center for European Union Research Launch Conference, Central European University, Budapest December 2, 2010).

12   Katie Verlin Laatikainen and Karen E. Smith, "Introduction – The European Union at the United Nations: Leader, Partner or Failure?" in *The European Union at the United Nations: Intersecting Multilateralisms,* ed. Katie Verlin Laatikainen and Karen E. Smith (New York: Palgrave Macmillan, 2006), 3.

13   Christopher J. Bickerton, "Funcionality in EU Foreign Policy: Towards a New Research Agenda?" *European Integration* 32, no. 2 (2010): 224.

foreign policy cooperation as a way of escaping their own international responsibilities. How can we reconcile this struggle for political power within the EU with a refusal of power projection in the rest of the world?[14]

Acknowledging the "recognised shortcomings in the macro-theories",[15] this study aims at providing part of the answer "through empirical observation, examining the nature of the actors involved".[16] The following two research questions are specifically addressed: firstly, how has the Lisbon Treaty changed the framework of European external representation at the UN; secondly, what is the practical manifestation of this framework and what are its implications for the EU's voice on the international stage?

Hypotheses can be set up on a continuum between two extremes. On the one extreme, the null-hypothesis, coherent with the intergovernmentalist school of European Studies, holds that EU Member States as principals are and will remain in full control of their foreign policy agents, and European presence at the UN will remain of full-fledged national-state character. The alternative or federalist hypothesis, would hold that the Lisbon institutions are to take over European foreign policy-making and representation, and there will soon be only one, pan-European voice in the UN. This extreme would also question the applicability of the principal-agent approach, asserting that agency loss is of such a large scale that it exceeds the conceptual limits of the principal-agent model. What the present study undertakes is to seek out the actual point on the continuum between these two extremes.

The foreign policy of a significantly enlarged European Union is as salient an issue today as ever before. As opposed to previous fundamental treaties, which primarily had an internal focus through building the internal market (Singe European Act, 1986), the "pillar system" (Maastricht, 1992), reweighting Council votes or preparing for enlargement (Amsterdam, 1997, and Nice, 2001), the Lisbon Treaty has been a serious institution-builder in the foreign policy domain. With only symbolic changes to the Constitutional Treaty in this realm, and with the highest number of foreign policy clauses, it has established several *sui generis* institutions and mechanisms in the already existing, but overwhelmingly intergovernmental European foreign policy framework. It can be assumed that the significant deepening of foreign policy integration brought by the Lisbon Treaty should have a palpable effect on the dynamics of EU Member States' actions in what is arguably the most universal of multilateral organizations, the United Nations, and, notably,

---

14   Ibid., 224.
15   Laura Cram, "Integration Theory and the Study of the European Policy Process," in *European Union. Power and Policy-Making*, ed. Jeremy Richardson, New York: Routledge, 1996., 54.
16   Ibid., 55.

its plenary organ, the UNGA, understood to be "the only forum in which a large number of states meet and vote on a regular basis on issues concerning the international community".[17] The study departs from this fundamental assumption, and sets out to analyze the European voice in the United Nations, following the Lisbon Treaty.

2. Fundamental Considerations

Through more than six decades of European integration, theoretical understandings have proliferated considerably, with some views, such as neofunctionalism, gaining more popularity at times than others, but none ever becoming hegemonic. The foreign policy domain, one of the few policy areas that are traditionally considered to be at the hard core of nation-state sovereignty, has, for most of the process, remained characterized, at its best, by intergovernmental coordination, and, at its worst, by complete disagreement. It has been the Constitutional Treaty and, after its failure, the Lisbon Treaty whose institutions seemingly contain the first promises of anything not unadjacent to what might be referred to as *integration*.

It is meaningful to make reference to what is probably the most fundamental division in European Studies: the cleavage between state-centric and non-state-centric approaches, which have traditionally dominated integration theory and continue to do so today.[18] Applied to the foreign policy domain, a hypothetical line can be drawn. On one side of the line are theories which regard the prevailing consensus-based model of foreign policy decision-making a meaningful and decisive obstacle in the way of a shift towards supranationality. This collection of views might be referred to as *diplomatic state-centrism*. A certain member of this collective might view Europe's future role as the economic superpower in a multipolar world comprising several actors of great power status, who wield power on largely different dimensions. Notwithstanding this vision, diplomatic state-centrism aims at little more than describing the status quo.

On the other side of our dividing line are theories which consider solely consensus-based decision-making at least partly outdated, and, in turn, which emphasize internal and external incentives capable of causing *political spillover* of integration to the foreign policy domain. The essence of political spillover was eloquently captured in the Schuman Declaration of 1950, which called for the creation of the European Coal and Steel Community. In his declaration, French Foreign Minister Robert Schuman asserted that "Europe [...] will be built through concrete

---

17   Erik Voeten. "Clashes in the Assembly." *International Organization* 54 (2000): 185-186.
18   Laura Cram, "Integration Theory and the Study of the European Policy Process," 51.

achievements which first create a *de facto* solidarity"[19] among member states. This solidarity would then cause further integration not out of sheer necessity (*functional spillover*), but much like among members of a community of friends. Spillover to the foreign policy domain can be hypothesized to be preceded by integration in domains such as economic policy or justice and home affairs.

Several theorists, including Hill and Toje, argue that there is an obstinate "capability-expectations gap" or a "consensus-expectations gap"[20] with regard to several policy domains, which also affects the aptitude of Europe as an international actor. That is, those calling for a strategic actor Europe or a Europe capable of global (hard-power) leverage are unfoundedly optimistic, or misguided about its potential. The EU, in this view, is not capable of becoming a state-like actor in international relations, based on the resources or tools it is able to wield, or the consensus-based decision-making it employs. Accordingly, Europe must make do with what she has, and must try to make the most of her soft power.

The following arguments provide theoretical considerations for departing from the static view of diplomatic state-centrism, thus establishing the theoretical basis for the alternative hypothesis, which is then tested in the sections that follow. It can be argued that globalization confronts the EU with the question of what it *must* do, rather than the question of what it *can*, which some theorists choose to deal with. In a way, globalization necessitates *development through crisis*. If the EU does not manage to speak with one voice, and one that is taken seriously by the international community, it will inevitably lose out in a number of fields. Pressures of globalization produce or threaten to produce an international leverage crisis if the EU does not come up with new mechanisms and solutions to speak with one earnest voice on the international stage. Developing countries, especially the BRICs (Brazil, Russia, India and China) are exerting increased pressure on multilateral institutions for the stronger representation of their interests.[21] Without the possibility of going into the details of their claims and the debates surrounding them, the study holds that it is unavoidable that the needs of these countries be attended to, but believes that the corresponding fall-out of former colonial masters, today arguably mediocre (European) states has equal justification to be compensated for by a clear European voice on the multilateral scene. The reason why this is a necessity for Europe, rather than merely an option, is that the management of globalization is impossible merely through commanding a sizeable market, and requires the wielding of power in

---

19   http://www.eppgroup.eu/Activities/docs/divers/schuman-en.pdf (accessed March 22, 2012).

20   See Asle Toje, "The Consensus–Expectations Gap: Explaining Europe's Ineffective Foreign Policy," *Security Dialogue* 39, no. 1 (2008): 121-141, http://sdi.sagepub.com/.

21   Discussing the details of the representational reform of multilateral forums, and, most notably, the United Nations Security Council (UNSC) goes beyond the limits of the present study, and is only referred to briefly in *Sections 4* and 5, where relevant.

harder fields,[22] as does the pursuance of the EU's strategic objectives, such as market expansion, energy security or competitiveness.

Institutions, once established, often have a penchant for developing their own rules and practices. Focusing on EU negotiators as agents, Delreux and Kerremans provide an empirical study of EU negotiators, primarily at multilateral trade negotiations, and highlight ways in which these agents can widen their choice sets *vis-à-vis* their principals (Member States), primarily through making the principals themselves interested in surrendering some of their control.[23] While Delreux and Kerremans examine policy domains that have for a long time belonged to the community sphere, it should be noted that a similar network of EU negotiators is created by the Lisbon Treaty for the foreign policy domain. Furthermore, that this is done so with an agency with a record of innate pro-activity.[24]

Besides EU negotiators – mainly Commission and Council officials, or, after the Lisbon Treaty, the High Representative of the Union for Foreign Affairs and Security Policy, and the European External Action Service (EEAS) in its entirety – there are other actors contesting the supremacy of national leaders in the foreign policy domain. Bickerton points to the role of foreign policy space-gaining as "identity building" for the European Parliament,[25] arguably the entity which is empowered the most by the Lisbon Treaty. While the construction and staffing of the EEAS was mainly to be done from three building bricks devised in the Treaties (Member States' foreign services, the Commission, and the Council Secretariat), Parliament has also become involved in the form of consultation, especially in questions with budgetary implications.[26] Furthermore, as is often the case in any international negotiation, issue linkages have been employed extensively by Parliament, which in this way has become involved in other issues, as well.[27] This empirical phenomenon fits in well with Parliament's penchant for a nonrestrictive interpretation of its (foreign policy) licenses, and its push for increased involvement in numerous dimensions of the EU's external relations.

Outcomes caused by agency are amplified by the established network of the EU's relations with international organizations: a web of structures of multi-level

22   Wade Jacoby and Sophie Meunier, "Europe and the Management of Globalization," 313.
23   Tom Delreux and Bart Kerremans, "How Agents Weaken their Principals' Incentives to Control: The Case of EU Negotiators and EU Member States in Multilateral Negotiations," *Journal of European Integration* 32, vol. 4 (2010): 357-374.
24   See *Section 3*.
25   Christopher J. Bickerton, "Functionality in EU Foreign Policy: Towards a New Research Agenda?" *Journal of European Integration* 32, vol. 2 (2010): 220-221
26   Interview no. 2.
27   Ibid.

governance. Young[28] used Putnam's two-level game metaphor[29] to describe how the domestic and foreign spheres of EU actors impact their international bargaining position. In the case of state-actors, the model consists of two spheres or levels: level I is the actor's position in an international negotiation, and level II is the domestic politics of a country.[30] "The range of possible outcomes that would command sufficient domestic support for ratification [of an international agreement]" is the "win-set", which is proportional to the opportunity cost of international agreement.[31] Applied to the EU's foreign relations, the game becomes a double-two-level or three-level game with a similar logic, but with two important implications. Firstly, that, *ceteris paribus*, the win-set of the EU is smaller than that of other governments; and, secondly, that EU Member States have a choice between a two-level game and a three-level game in policy areas that are not exclusively within Community competence.[32] On trade issues within the World Trade Organization (WTO), for instance (where, besides its Member States, the EU is itself a genuine member), the choice between two- and three-level games can be said to be decided a priori. International trade is a domain that has long been community competence, with the "Commission — the EU's executive arm — speak[ing] for all EU member States at almost all WTO meetings."[33]

The multi-level game metaphor, with some restrictions, may be applied equally well to the more narrowly-conceived foreign policy domain. Some scholars of international relations would argue that this policy realm constitutes an autonomous and independent sphere which is isolated from constituencies. Accordingly, level II of the game actually makes no sense (foreign policy makers do not care what their constituents think). This argument, however, clearly fails in the case of democracies, where politicians can be and are often held accountable for their actions, including their foreign policy decisions,[34] and can also be effectively

---

28   Alasdair R. Young, "What Game? By Which Rules? Adaptation and Flexibility in the EC's Foreign Economic Policy," in *Understanding the European Union's External Relations*, ed. Michèle Knodt and Sebastiaan Princen, (London: Routledge, 2003), 55.
29   Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (1988): 427-460,
http://www.jstor.org/stable/2706785.
30   Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games."
31   Alasdair R. Young, "What Game?," 55.
32   Ibid., 56.
33   http://www.wto.org/english/thewto_e/countries_e/european_communities_e.htm (accessed October 9, 2012).
34   For a vivid example, see the (in)stability of governments, owing, not to an insignificant degree, to their ethnic politics, in Central Europe (e.g. the case of ethnic Hungarians in Slovakia) or Western and Northern Europe (immigration policy in France, the Netherlands or Denmark) or the Middle East and Afghanistan policy of the Blair

argued to fail in nondemocracies, where the political elite, corporatist, aristocratic or otherwise, can be seen as a "functional equivalent" to an electorate that holds its leaders accountable.[35] The point to be emphasized here is that in democratic Europe, the domestic sphere does matter, and governments with a view to re-election should and most often do bear this in mind. In fact, it seems increasingly meaningful to speak of the suggested choice between two- and three-level games at the UN, where EU member states can either choose to go their own way (as in the cases of Iraq or Palestine), upholding the three-level game, or can opt for coordination and have the EU negotiator (until recently: the Council Presidency, but since 2011, if technically possible, the High Representative, and the External Action Service) speak on their behalf.

If they choose to opt for coordination and/or delegation, then the implications of having a smaller win set than negotiating partners come into play. On the one hand, a smaller win set decreases chances for coming to an agreement,[36] but, on the other hand, it makes it possible to drive a harder bargain, by shifting the blame for not being able to compromise with negotiating partners to level II,[37] or, directly or indirectly, to level III (the domestic spheres of EU member states).

In summary, EU member states may be motivated to coordinate their foreign policies and to delegate authority to EU-level actors for a number of reasons.

3. The New CFSP at the UN

The Maastricht Treaty on European Union (1992) was the first of the Treaties not only to envision a Common Foreign and Security Policy (CFSP) for the European Union, but also to develop an institutional framework for it. The new CFSP brand grew out of the European Political Cooperation (EPC), an intergovernmental foreign policy coordination mechanism, brought to life by the so-called Davignon or Luxembourg Report of 1970, which had described the EPC's *raison d'être*: to back up the Communities' economic power with a capacity for international action in a realist sense, but on predominantly intergovernmental grounds. The intergovernmental nature of the EPC was later also preserved in the CFSP.

How the Maastricht Treaty did go past intergovernmentalism with regard to European voice, however, was basically two instruments: "common position", set up

---

35   I thankfully acknowledge Dr. Tamás Meszerics of Central European University for making this point.

36   Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," 437-438.

37   Ibid., 440.

by the Council and pertaining to *general issues*, to be upheld by the Member States in various international fora; and "joint action" decided on by the Council, guided by the Heads of State and Government, designed to react to *specific situations* (Articles J.2. and J.3.). The Maastricht Treaty also set up the so-called "pillar system", which based the newly-founded Union on three distinct pillars: the first, the community pillar, included the former European Communities; the second was the CFSP, largely intergovernmental; and the third pillar was *Justice and Home Affairs*, intergovernmental to start with, but later partly relocated into the first pillar by the Treaty of Amsterdam.

Figure 1 lists the most important EU actors which have had a role in defining common foreign policy. With the entering into force of the Lisbon Treaty, and subsequent episodes in European politics and on the international stage, it can be claimed that some actors have become more important than others, in a way that cannot be derived from the text of the Treaty.

Figure 1: The EU actors of the CFSP under the Treaty of Lisbon
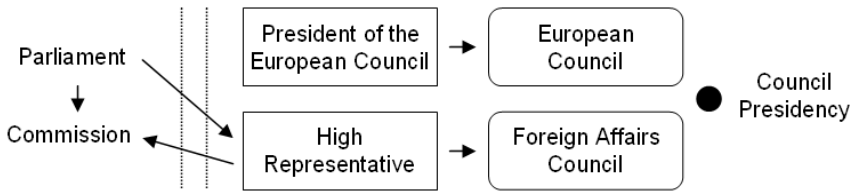
At first glance, the Commission, traditionally seen as a consistent and pro-active entity in external policies within its competence, has been sidelined with the introduction of new posts: the permanent President of the European Council and the High Representative for Foreign Affairs and Security Policy. The Commission has also "lost weight" due to the elevation of the Parliament to co-decision-maker status with the Council, and not least its role in selecting the College of Commissioners. Look more closely at the role of the Commission, however, and one finds subtleties that question the supposed decline of its impact on the EU's external role and representation. Such a view is further strengthened by a report leaked in 2012, which indicates that the Commission "still pulls the strings on" the EEAS through significantly influencing the allocation of its budget.[38]

Outside the realm of finances, however, one might take the operational case of Geneva, where the WTO has its headquarters, as an example. The facts are that consequent to the Treaty of Lisbon, two separate EU delegations, with roles, office space, but what is vital to note, with staff of different backgrounds, have been

---

38   http://euobserver.com/18/115145 (accessed May 13, 2012).

created. (1) The Permanent Delegation of the European Union to the United Nations Office and to other international organisations in Geneva (EUDEL-UNOG) promotes internal and external coordination of EU Member States' foreign policy at diverse UN fora in Geneva covering a wide range of issues including human rights and humanitarian affairs; while (2) the Permanent Mission of the European Union to the World Trade Organisation (EUMIS-WTO) deals with international trade issues, which have long been in community competence. The latter realm of EU action was, before Lisbon, dealt with by the Commission, but EUMIS-WTO has since then become an integral part of the EEAS. What has to be noted, however, and what indicates that the Commission still has considerable impact on trade matters, is the fact that EUMIS-WTO is staffed primarily by former Commission officials, while EUDEL-UNOG reflects the general composition of the EEAS.[39] This is arguably more than a human resources technicality, as it is indicative of the fact that expertise, as well as operative control remains with the Commission, albeit under the aegis of the new EU diplomatic service. This can be seen to be in strict accordance with the policy lines of Lisbon, or the *Europeanization of foreign policy*.

Bearing its history of coordination in this field in mind, and the fact that trade has been, since the 1970s, but arguably since the Single European Act (1986), an area for Member State non-intervention, it is unsurprising that at the WTO, besides speaking with a unified voice through EUMIS-WTO, the strong rule is no Member State intervenes in plenary debates.[40] However, the fact is that some Member States, and notably the United Kingdom, arguably an odd-one-out from continental interests pertaining to trade issues, have retained the habit of intervening in debates,[41] not to undermine the EU effort substantively, but rather to have their voice heard as separate cornerstones of international trade. A recent example includes an intervention of the representative of the United Kingdom emphasizing the country's contribution to the WTO's International Trade Centre.[42] Such episodes can be seen as examples of countervailing forces to the integrative spirit of Lisbon, ultimately showing that Member State sovereignty should not be downplayed by the analyst, and its pooling cannot be taken for granted even in the most straightforward of policy domains.

What has to be seen as the bigger and, in a way, genuinely new trend with the Treaty in force, however, is strong pressure (both internal and external) to achieve a common position. Nevertheless, if a Member State has a strong particular interest in a question that diverges from the EU consensus, such a Member State might be

---

39   Interview no. 2.
40   Interview no. 4.
41   Ibid.
42   Ibid.

unwilling to give in, and may choose to pursue a separate path (for example, to maintain their individual high profile as a generous humanitarian donor).[43]

For the purposes of this study, it is meaningful to make an admittedly simplified division of the EU-UN relationship. Firstly, there are issues on which the EU and the UN, basically two international organizations, cooperate. In this cooperation, what is meant by "the UN" is, in fact, the UN Secretariat, the body of bureaucrats responsible for the day-to-day running of the Organization, but also, at the more senior-level positions, making a number of substantive decisions which affect the actual content of projects. This type of relationship may be referred to as *EU-UN relations*, or the *EU and the UN*.

The philosophical underpinning of such cooperation is that the EU, as one of the most prosperous entities of the globe, and at the same time, also an international organization, aids the UN in facing the global challenges of the twenty-first century (such as development, climate change or humanitarian issues). These instances of cooperation have a clear-cut financial aspect, as the EU, which can be argued to have a rather limited budget itself, is considerably better financed than the UN in relative terms, which, in turn is, at least in theory, better positioned to effectively tackle most global challenges where they arise. From a theoretical perspective, the relationship can be understood as a principal-agent one, or at a closer and more analytical look, an event of "orchestration", depending on the actual scenario and field of cooperation discussed.[44]

The EU's external policies towards the UN were first articulated and elaborated in detail in 2001, in a Communication from the Commission to the Council to the European Parliament,[45] which was further developed in another Communication two years later.[46] While in line with the EU's status and identity as a donor, the first

---

43   Interview no. 4.

44   For an elaboration of the concept, see Kenneth Abbot, Philipp Genschel, Duncan Snidal and Bernhard Zangl, "International Organizations as Orchestrators", paper presented by Philipp Genschel on 28 November 2012 at the Center for European Union Research, Central European University, Budapest, Hungary, available online at http://ceur.ceu.hu/sites/default/files/field_attachment/event/node-25616/agsz-orchestraton-draft-for-munich-conference-2011-09-28.pdf (accessed March 22, 2012).

45   *Communication from the Commission to the Council and the European Parliament - Building an Effective Partnership with the United Nations in the fields of Development and Humanitarian Affairs (COM(2001)231)*, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0231:FIN:EN:PDF (accessed February 3, 2012).

46   *Communication from the Commission to the Council and the European Parliament - The European Union and the United Nations: The Choice of Multilateralism (COM/2003/0526)*,

Communication focused on development and humanitarian affairs, which could be referred to as "mainstream" North-South aid policies, the second Communication contained a more genuinely foreign policy approach, and bore numerous characteristics of foreign policy strategies, with an entire section dedicated to "[p]romoting the EU's values and interests effectively in the UN system",[47] and already taking into account the prospective provisions of the Constitutional Treaty.[48] As with all not-for-profit activities in the international domain, perhaps the most crucial question is funding, whose most important lines in the case of EU-UN "programmatic partnership" (cooperation mainly in the design and implementation projects, programs or operations), are laid down in the Financial and Administrative Framework Agreement (FAFA).[49]

In short, it can be argued that EU-UN relations, with the FAFA notably at its core, have, until the present, entailed cooperative ventures primarily between the administrative staffs of two international civil services (i.e. the UN Secretariat and the European Commission). How the EU, as the UN's largest contributor, can influence the UN, and indirectly, pursue a global role through this technically symmetrical, financially asymmetrical channel of interchange, is a fascinating question which should be explored within the context of International Political Economy, with a view to furthering the conceptualization of the EU's global role in the twenty-first century, similarly to the goals set by this study. The purpose of highlighting this at this point was to tell apart *EU-UN relations* from *EU action at the UN*.[50]

The preposition *at* used in a meaning rather close to that of *in*, suggests that the EU is somehow a subset of the UN. In fact, if one speaks about the EU *in* the UN, it is completely clear that one means EU (member state) presence in various UN fora. In many cases, and especially in the Food and Agriculture Organization of the United Nations (FAO) or the WTO, where the EU is a genuine member, it would specifically refer to the action of the EU representatives either directly at the meetings of a given forum, or in a more general way. *At* might also have a more representational

---

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0526:FIN:EN:PDF
(accessed February 3, 2012); Ervin Gömbös, "Cooperation Between the UN and the European Union", 15 (endnote 1).

47   *The European Union and the United Nations: The Choice of Multilateralism,* 16.

48   Ibid., 18.

49   Financial and Administrative Framework Agreement,
http://ec.europa.eu/echo/files/partners/humanitarian_aid/fafa/agreement_en.pdf (accessed February 2, 2012).

50   It is noted that this telling apart primarily serves analytical reasons, and as most social scientific ventures, it is not utterly and completely clear-cut. Furthermore, that there are clearly a number of areas that can be argued to be cases of the EU *and* the UN, as well as the EU *at* the UN.

meaning, such as the presence of a given member state's diplomatic mission *at* the headquarters of an international organization.[51]

The Treaty of Lisbon introduces a number of innovations pertaining to this representational aspect of the phenomenon. The Treaty states that

> Member States shall coordinate their action in international organizations and at international conferences. They shall uphold the Union's positions in such forums. The High Representative of the Union for Foreign Affairs and Security Policy shall organize this coordination.[52]

Regarding the role of the EEAS, it is stipulated that "Union delegations in third countries and at international organizations shall represent the Union"[53], that is: in questions belonging to the Union's competence. In organizations where the EU is participating as an observer or on similar grounds, it is represented by the EU Delegations.

Despite the entry into force of the Treaty of Lisbon, there has been a relatively long transitional period until the EEAS could be considered to be set up in its entirety. Until then, the diplomatic staff of the rotating Council Presidency has still been performing their traditional representational duties at the UN, with a telling example being EU representatives acting merely as co-chairs at EU coordination meetings.[54] This was the case during the Hungarian Presidency in the first half of 2011, but has significantly changed since then, with the tendency being a slant towards a greater role for EU Delegations, with them becoming better-staffed, more experienced, and up to tasks of coordination and liaison with third countries, which have, in turn, also become more accustomed to dealing with such an unusual quasi-diplomatic actor.[55]

In the transitional period, coordination and representation have been confronted with a number of obstacles. While dealing with significant questions relating, for example, to Iran during 2011, staff who would later become part of the EEAS were still scattered in different offices.[56] The implementation of the Treaty had to begin in such difficult logistic circumstances, in which the EEAS-in-the-making had to rely

---

51   While it is noted that these two meanings are more easily discerned in theory than in practice, what *is* truly important to emphasize is the difference of the *at* relationship from the *and*, and that what is referred to by the former is a more political aspect, entailing phenomena such as bargaining, negotiation, coordination, issue linkages, and last, and most importantly for the present study: voting.

52   *Treaty on European Union*, Article 34.

53   *Treaty on the Functioning of the European Union*, Article 221.

54   Interviews no. 1 and 3.

55   Interview no. 3.

56   Interview no. 2.

extensively on Member States.[57] This situation was further complicated by the significantly different experience, expertise and *esprit de corps* of the three sources of prospective EEAS staff: the Commission, the Council Secretariat and the foreign services of Member States. Considerable understaffing in the transitional period caused a number of problems, but also meant that the EEAS-in-the-making had to rely extensively on the Council Presidency in "integrated teams", as well as, also with other Member States, within the well-established system of "burden-sharing" agreements (division of tasks based on mutual agreement and willingness, making use of the advantages of being able to pool expertise of the EU and its Member States).[58]

Such arrangements were not running completely smoothly from the outset, with one diplomat describing the EEAS, and especially its staff with a career background in the Commission, as self-assertive, and as always referring to "Brussels" for advice, even when the Commission itself had no business in the dealings at hand.[59] Even since, the EEAS has been relatively slow and cumbersome at performing the routine tasks of diplomatic missions, with a telling example being the fact that, in Geneva, the formulation and issue of a *démarche* (a written formal articulation of a position), which is normally completed overnight by a regular diplomatic mission, took an average of four days for the EEAS in 2011/2012.[60]

As to the practicalities of external representation that have eventually been designed, it should be noted that each UN body, agency and forum differs in its responsibilities, as well as rules of procedure, therefore the elaboration of separate agreements for each entity is vital,[61] determining the answer to the *who coordinates,* and *who speaks for the EU, when and where* questions on a case-by-case basis. Starting with the Swedish Presidency of 2009, comprehensive guidelines and general arrangements have been continually elaborated in the Committee of Permanent Representatives (COREPER) in Brussels, to determine general modalities of the EU's external representation in international organizations.[62] Following from the provisions and spirit of Lisbon, these arrangements have called for increased coordination among EU Member States, while bearing in mind the importance of consensus and attention to "sensitive areas".[63] COREPER has also borne in mind that delegation of tasks and the change in modalities of coordination and representation cannot be used to reshape the system of competences as enunciated in the

---

57   Ibid.
58   Interview no. 3.
59   Ibid.
60   Ibid.
61   Interviews no. 1 and no. 4.
62   Interview no. 4.
63   Ibid.

Treaties;[64] in other words, agency loss has been given a red light, and Member State principals reserve the right to retain responsibilities they have not purposefully delegated in the Treaties.

Accordingly, a single European voice can take three main forms, in accordance with the system of competences elaborated in the Treaty of Lisbon: (1) in areas of EU competence, statements are issued "on behalf of the European Union"; (2) in areas of shared competence, where the EU and its Member States reach a common position, statements are issued "on behalf of the European Union and its Member States"; and (3) when Member States agree to speak with one voice in areas belonging to their national competence, statements are issued "on behalf of the Member States".[65] The practical and conceptual implications of the path mapped out by these arrangements, in line with ambitions of the Treaty of Lisbon as a "foreign policy treaty", cannot be overlooked. The envisioned way forward clearly appears to be speaking with one voice in multilateral organizations, traditionally ruled by states and states only, with the EU and its member states still to work out the exact legal possibilities of doing so.

At the UN entities in Vienna, the EU Delegation has basically inherited the status of the former European Communities in each of the organizations, and therefore, after the EEAS has become fully functional, it speaks on behalf of the Union, as previously the rotating Council Presidency did. However, further achievements are seen as necessary in order to properly implement the provisions of the Treaty of Lisbon, including: the right to put forward motions and raise points similarly to Member States, propose amendments, present documents and co-sponsor resolutions, as well as tend to special seating arrangements and see to it that the EU does not fall back in subscribing to the speakers' list.[66] In order to achieve these goals, formal steps (e.g. changing rules of procedure), semiformal steps (concluding agreements) and informal steps (gradually establishing practices and customs) have been pursued.[67] The goals set for this end are, in many ways, reminiscent of the language of the two draft resolutions introduced in the UNGA in 2010 and 2011.[68] It can reasonably be expected that, where this has not already happened, working papers and draft resolutions of a similar spirit will be introduced in all of the entities with rules of procedure independent of those of the UNGA in most UN headquarters locations, tailored to the specificities of each one of the entities.

In Geneva, where research was carried out a year later, significant signs of development towards integration were perceived, along the lines expected at

---

64   Ibid.
65   Ibid.
66   Interview no. 1.
67   Ibid.
68   See Introduction.

Vienna. In bodies where the EU Delegation cannot technically assume the floor (such as bodies with limited membership) the EU would go through one of its Member States to address the meeting. Otherwise, it would have to take the floor among other observers, possibly at a time up to one or two days later.[69] In nonplenary sessions, however, such as *interactive dialogues* (e.g. discussions with a Special Rapporteur), the EU Delegation can obtain a position on the speakers' list as any Member State, as there is no difference between members and observers at such meetings.[70]

Similarly to the way New York and measures elaborated for the UNGA can be regarded as the prototype for coordination and representation, in Geneva it is the Human Rights Council that entails the smoothest cooperation, as well as the most developed modalities of representation.[71] However, with an admirable record of coordination in the human rights realm already before Lisbon, the EU is still considerably far away from "effective multilateralism"; with its relative unity ("'internal effectiveness'") coupled with impaired "'external effectiveness'", i.e. an incapability to influence the agenda.[72] Reasons for this being the case are better left to be explored in a separate study, and it is not within the purpose of this article to articulate any speculations; it merely wishes to note that cooperation, while arguably being a necessary prerequisite of success, it is nowhere near a sufficient one. Especially notorious has been the Question of Palestine, which has caused significant splits in the EU vote not only in Geneva, but throughout the UN System.[73] To mention another case: on the question of convening a special session on peaceful protest, the EU was plagued with disunity, causing the failure of the entire idea.[74] Recent successes, however, are numerous, with the Union and Member States "running 25-30% of all resolutions and about 40-50% of country specific resolutions".[75] The case of Libya in 2011, which ultimately resulted in Security Council and UNGA resolutions, and in suspending Libya's UN membership,

---

69   Interview no. 2.
70   Interviews no. 2 and 3.
71   Interviews no. 2 and 4.
72   Rosemary Foot, S. Neil MacFarlane, and Michael Mastanduno, "Introduction – US Hegemony and International Organizations," in *The United States and Multilateral Institutions*, ed. Rosemary Foot, S. Neil MacFarlane and Michael Mastanduno (Oxford: Oxford University Press, 2003), 8, quoted in Karen E. Smith, "The European Union at the Human Rights Council," 225;
73   Interview no. 4.
74   István Lakatos, "Statement at the Fourth Budapest Human Rights Forum, First Panel on the Activities and Representation of the European Union in the Field of Human Rights" (Budapest, 26 October 2011) [manuscript received from the presenter], 2.
75   Ibid., 1.

had also originated in a special session of the UNHRC, initiated by the Hungarian Presidency and with EU-sponsorship.[76]

The most noteworthy changes relative to before Lisbon are connected to the fact that the coordination and representation tasks of the Council Presidency have been gradually transferred to EEAS Delegations, which now also encompass the tasks (and partly personnel) of former Commission Delegations. Bearing this fundamental change in mind, it is to be noted in conclusion that Member States, who provide primary input for what is to become common foreign policy, are still the first-movers *and* primary decision makers in areas belonging to national competence, and also, to some extent, shared competence. Furthermore, that whenever they see going a separate path to be more conducive to their national interests, some Member States (often the United Kingdom, France or Germany) decide to do so, and pre-empt a joint position, oftentimes exploiting the "EU" vs. "EU and its Member States" problem, on which guidelines and practices are far from clear-cut.[77] In other cases, some Member States will intervene in spite of their being a joint position, and add or emphasize fragments they consider to be of high importance. This, sporadically, can also be the case in areas of EU competence, for example at the WTO.[78]

In summary, the dominant trend has been an increasingly "cooperative"[79] or "positive"[80] approach, and a more smoothly-running coordination process among Member States and EU actors, as well as an improving atmosphere for internal, as well as external collaboration. It can be observed that pushing for an opportunity to speak with a single voice (where possible provided by the EEAS-in-the-making) is inherent in the will of Member State missions at the UN organizations in Vienna and Geneva in a similar way to what was revealed at the UNGA debacle of September 2010, and its resolution in April 2011. This informs the hypothesis of this study, making it especially meaningful to test how this "macro-experiment" (the UNGA episode) has been completed and followed up. The final question this article considers, then, is: has such a trend been reflected in voting on resolutions?

4. Voting in the General Assembly

Bearing in mind the cumbersomeness of setting up the proper institutional arrangements for various instances of representation (as well as the EEAS generally), it might be argued, perhaps surprisingly, that the UNGA is a flagship forum of EU coordination, where the prerequisites to speak with one voice have been met in less

---

76   Ibid., 1-2.; Interview no. 3.
77   Interview no. 3.
78   Interview no. 4.
79   Interview no. 2.
80   Interview no. 4.

than one and a half years (by April 2011, counting from December 2009). But this might be a misleading interpretation of events, as the conditions are, in fact, external (right to speak in the UNGA), and the question whether the High Representative and its staff fill it with meaning – and, most importantly, whether the Member States themselves are willing and able to make use of the opportunity and increase the harmony amongst themselves – is a most vexing puzzle which ultimately returns the present analysis to its point of departure.

Pre-Lisbon accounts of European voting behavior at the UN are numerous across policy domains and fora, with arguably the most comprehensive account being Part Two of a seminal book by Maximilian B. Rasch: *The European Union at the United Nations*.[81] In this part of the book, Rasch analyzes EC/EU group voting coherence from 1988 to 2005, a period covering several watersheds in diplomatic history, as well as two enlargements eventually transforming the EC 12 into EU 25. The present section adds the 2010-2012 period to this account, exploring any changes occurring since the entry into force of the Treaty of Lisbon.

It has to be noted that voting coherence among European Member States has steadily if not stably increased throughout the period analyzed by Rasch, with neither enlargements, nor other landmark phenomena turning the coherence trend into steadily negative. In fact, the trend only appears characterized by seasonal lows, due to particular events on which Europe persistently stands divided. The implication for the present analysis is that, should a continued growth be witnessed, this could not be attributed to the Lisbon Treaty as the sole explanatory variable. But is there such continued growth in the first place?

While diverse methods, both more and less sophisticated, can and have been employed by various authors to analyze voting in the UN (e.g. "Gutman scaling, factor analysis, complete analysis, cluster-bloc analysis or the employment of indices"),[82] the purpose of this study is to ascertain whether the Treaty of Lisbon has brought a meaningful step forward with regard to a single EU voice. Therefore, 100% cohesion is regarded as the benchmark, and the degree to which cohesion falls short of this benchmark can per se be regarded as a meaningful indicator.

While the percentage of EU consensus relative to all UNGA resolutions show remarkable stability around 95 percent from the mid-1990s onward, these figures can be misleading because they artificially magnify the degree of EU consensus by including resolutions passed without a vote (i.e. with consensus), which constitute the vast majority of all resolutions passed in the UNGA.[83] Therefore, it is more

---

81   Maximilian B. Rasch, *The European Union at the United Nations*.
82   Ibid., 207, see also for references to specific authors and earlier works.
83   Ibid., 211.

meaningful and informative to examine the proportion of EU consensus and EU disagreement among only those resolutions on which a vote was taken in the first place. Using these ratios, trends can be observed in the pre-Lisbon period, as visualized in Figure 2.

Figure 2: EC/EU Voting Cohesion before the Treaty of Lisbon
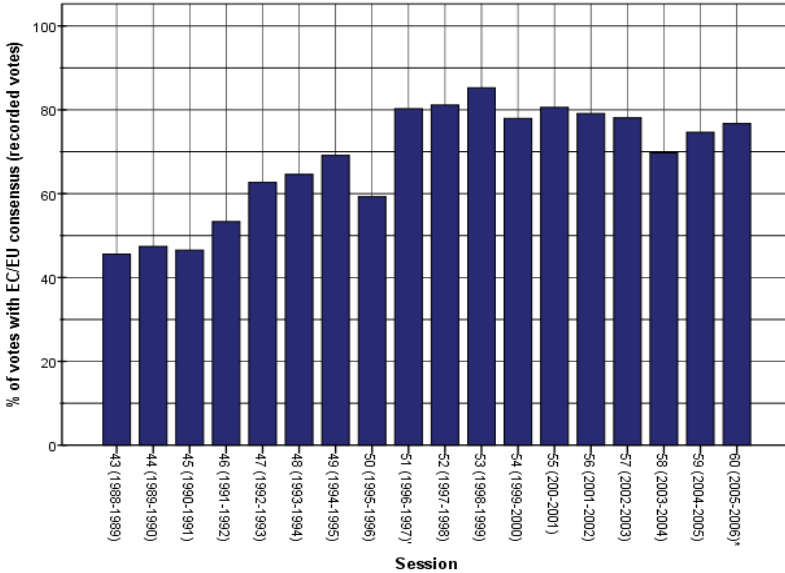
Notes: The graph does not include Greece for the session 51.
            Data for session 60 are available until 21 December 2005.
Source: Maximilian B. Rasch, *The European Union at the United Nations*, 221 (with author's own formatting modifications).

The data reveal that, after a trend of increasing unity throughout the late 1980s and early 1990s, voting cohesion became stable with the mid-1990s, the implementation of the Maastricht Treaty (1992/1993) and its CFSP. The outstanding low of the 50th session (1995-1996) is in no small part due to exceptionally low coherence (slightly above 10 percent) on the otherwise most dividing issue, *decolonization and self-determination*, on which the United Kingdom and France have tended to vote against the EU consensus.[84]

Voting cohesion in the post-Lisbon period can be addressed looking at the 65th and 66th sessions of the UNGA. This restrictive approach is in coherence with the goals set by the present article, and serves well the comparison of these post-Lisbon data

---

84   Ibid., 226, 247.

with longer-term pre-Lisbon trends.[85] While the draft of the UNGA resolution asking for an EU voice in the Assembly was being prepared at the very end of the 64th session, its impact, backed with a partly, then, for the 66th session, almost fully operational EEAS and the efforts of the High Representative, can only be expected to present itself in these two more recent sessions. Table 1 contains voting cohesion figures collected and recorded for these two sessions.[86]

Voting data from the two UNGA sessions directly after Lisbon reveal no visible improvement in cohesion among EU Member States' votes. The low percentage of consensus for the 65th session (69.86%), while not unprecedented in the years closely preceding Lisbon, is a figure typical of the early 1990s: under or directly after the birth of the CFSP. The figure for the 66th session (80.30%), on the other hand, fits well into the late-1990s/2000s trend, and is one of the higher figures for the period. The benchmark of 100% is not approached, for which a closer look at the most dividing issues seems to provide the explanation.

In spite of the "positive", "cooperative" and "smooth" nature of post-Lisbon EU coordination, some obstinate and rather ancient questions continue to divide the EU. Significant aspects of the question of Palestine, nuclear disarmament and self-determination typically leave some EU member states (close friends of Israel, nuclear powers or former colonial masters) at odds with the rest of Europe. While two-way splits are far more widespread than three-ways (i.e. cases with some EU Member States voting in favor, others against, and again others abstaining); the latter, as most obvious and most discouraging cases of EU disagreement, also continue to occur. While in the longer term the possibility that an emerging "de facto solidarity" could supersede such divisions among EU Member States cannot be excluded, the findings of the present analysis suggest that this is not a realistic possibility any time soon. While Lisbon has changed a great many things, this change is not reflected in how its Parties vote in the UNGA.

---

85   For any further studies aiming at analyzing an uninterrupted time series, data for the period between 2006 and 2008 have been recorded by Erik Voeten and Adis Merdzanovic in *United Nations General Assembly Voting Data*, (http://hdl.handle.net/1902.1/12379   UNF:3:Hpf6qOkDdzzvXF9m66yLTg==   V1   [Version] undata1_63descriptions.tab [fileDscr/fileName (DDI)] UNF:3:43gpFmtbWjyad2qox2VjbQ==; accessed May 1, 2012), and can easily be extracted to place a closer focus on this period. Data from 2008 through 2010 can then be extracted from the UN Bibliographic Information System (UNBISnet). All in all, the present article focuses on longer trends in general, and the possible impact of Lisbon in particular, and its limitations necessitate a restrictive look only at data strictly after Lisbon.
86   Upon request, the author is willing to provide all data sets through correspondence.

Table 1: EU Voting Cohesion with the Implementation of the Treaty of Lisbon

Session	Number of resolutions adopted	Number of recorded votes on resolutions	Number of votes with EU consensus	% of votes with EU consensus (recorded votes)	% of votes with EU consensus (all resolutions)
65 (2010-2011)	321	73	51	69.86	93.15
66 (2011-2012)*	261	66	53	80.30	95.02

* until 13 May 2012

Source: Author's own collection based on UN Bibliographic Information System (UNBISnet) data, http://unbisnet.un.org/ (accessed May 13, 2012).

5. Conclusions

This article has pursued the goal of making an empirical contribution to the literature on common European foreign policy, and EU Member States' action at the United Nations. Review of the literature has provided theoretical considerations for departing from the static view of diplomatic state-centrism, which, on the other hand, served as a basis for the null-hypothesis of the study. The fundamental assumption tested was that the implementation of the Treaty of Lisbon, which has brought significant change to foreign policy coordination within the EU, as well as to the structure of the EU's external representation, should have an impact on the occurrence and substance of the "European voice" at the UN. To this end, European voting cohesion in the UNGA has been analyzed pre-Lisbon and post-Lisbon. The article concludes that, in spite of considerations based on theoretical arguments and empirical insights collected during interviews with actors and observers, actual voting in the UNGA does not provide grounds for a departure from diplomatic state-centrism.

While this article has focused primarily on the post-Lisbon era and its comparison to the pre-Lisbon, further studies could explore possible future trajectories by "extrapolating" trends from the continuum of European foreign policy integration, pre- *and* post-Lisbon. To this end, after filling a remaining gap in existing research (2008-2010), a meta-analysis should rely on data by Voeten, based on Gartzke and Jo, (1988-1996); Wynne and Voeten (1997-2003); Rasch (2003-2005),[87] Voeten and Merdzanovic (2005-2008),[88] and the present study (2010-2012). A different analysis could make an account of fora where the EU already speaks with one voice but fails to exert satisfactory influence, and compare it to cases where it does not. The main question such a study should ask is the following: with unity held constant, what are the factors that explain the EU's varying degree of success in influencing the multilateral agenda?

---

87   Maximilian B. Rasch, *The European Union at the United Nations*.
88   Erik Voeten and Adis Merdzanovic, *United Nations General Assembly Voting Data*.

study's anonymous interviewees, has provided extremely valuable pieces of practical information.

Bibliography

Avery, Graham. "Towards a European Foreign Service: Conclusions and Recommendations." In *EPC Working Paper No. 28. The EU Foreign Service: How to Build a More Effective Common Policy*, 74-78. Brussels: European Policy Centre, 2007.
http://www.epc.eu/documents/uploads/555858396_EPC Working Paper 28 The EU Foreign Service.pdf (accessed March 6, 2011).

Balázs, Péter. "Az Európai Unió nemzetközi kapcsolatai" [The Foreign Relations of the European Union]. In *Európai Közjog és Politika [European Public Law and Policy]*, edited by Tamás Kende and Tamás Szűcs, 781-810. Budapest: Osiris Kiadó, 2002.

Bickerton, Christopher J. "Funcionality in EU Foreign Policy: Towards a New Research Agenda?" *European Integration* 32, no. 2 (2010): 213-227.

Bretherton, Charlotte and John Vogler. *The European Union as a Global Actor*. London & New York, Routledge, 2004.

Búrca, Gráinne de. "The Road Not Taken: The European Union as a Global Human Rights Actor." *The American Journal of International Law* 105, no. 4 (2011): 649-693.

Carta, Caterina. *The European Union Diplomatic Service: Ideas, Preferences and Identities*. London: Routledge, 2011.

Cram, Laura. "Integration Theory and the Study of the European Policy Process." In *European Union. Power and Policy-Making*, edited by Jeremy Richardson, 40-58. New York: Routledge, 1996.

Cremona, Marise. "Defining Competence in EU External Relations: Lessons from the Treaty Reform Process." In *Law and Practice of EU External Relations: Salient Features of a Changing Landscape*, edited by Alan Dashwood and Marc Maresceau, 34-69. Cambridge and New York: Cambridge University Press, 2008.

Delreux, Tom and Bart Kerremans. "How Agents Weaken their Principals' Incentives to Control: The Case of EU Negotiators and EU Member States in Multilateral Negotiations." *European Integration* 32, no. 4 (2010): 357-374.

Emerson, Michael and Jan Wouters. "The EU's Diplomatic Debacle at the UN – What else and What Next?" *CEPS Commentaries*. Centre for European Policy Studies, 2010. http://www.ceps.eu/book/eu's-diplomatic-debacle-un-what-else-and-what-next (accessed December 5, 2011).

Emerson, Michael, Rosa Balfour, Tim Corthaut, Jan Wouters, Piotr Maciej Kaczynski and Thomas Renard. *Upgrading the EU's Role as Global Actor: Institutions, Law and the Restructuring of European Diplomacy*. Brussels: Centre for European Policy Studies, 2011.

European Policy Centre. "The EU Foreign Service: How to Build a More Effective Common Policy." *EPC Working Paper No. 28*. Brussels: European Policy Centre, 2007. http://www.epc.eu/documents/uploads/555858396_EPC Working Paper 28 The EU Foreign Service.pdf. (accessed December 5, 2010).

European Union. "Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union." *Official Journal of the European Union* C 83 (2010): 1-390.

____. "Consolidated Version of the Treaty Establishing the European Community." *Official Journal of the European Communities* C 325 (2002): 33-184.

____. *A Secure Europe in a Better World. European Security Strategy*. Brussels, 2003. http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf (accessed January 3, 2012).

Farrell, Mary. "EU Representation and Coordination within the United Nations." In *The European Union at the United Nations : Intersecting Multilateralisms*, edited by Katie Verlin Laatikainen and Karen E. Smith, 27-46. New York: Palgrave Macmillan, 2006.

General Secretariat of the Council of the European Union. "The High Representative for Foreign Affairs and Security Policy / The European External Action Service." Press Releases. Council of the European Union. http://www.consilium.europa.eu/uedocs/ cms_data/docs/pressdata/en/ec/111301.pdf (accessed January 5, 2012).

Ginsberg, Roy H. "The EU's CFSP: the Politics of Procedure." In *Common Foreign and Security Policy – The Record and Reforms*, edited by Martin Holland, 12-33. London: Pinter, 1997.

Gömbös, Ervin. "Az ENSZ és az Európai Unió együttműködése a lisszaboni szerződés tükrében" [Cooperation Between the UN and the European Union in the Light of the Lisbon Treaty]. http://www.menszt.hu/content/download/1285/5096/file/Az ENSZ és az EU.pdf (accessed December 19, 2011).

Gowan, Richard and Franziska Brantner. "The EU and Human Rights at the UN: 2009 Review." *Policy Briefs*. European Council on Foreign Relations. http://ecfr.eu/page/-/documents/ecfr_un_2009_annual_review.pdf (accessed December 19, 2011).

____. "The EU and Human Rights at the UN: 2010 Review." *Policy Briefs*. European Council on Foreign Relations. http://ecfr.eu/page/-/documents/the-eu-and-human-rights-at-the-UN-2010-review.pdf. (accessed December 19, 2011).

_____. "The EU and Human Rights at the UN: 2011 Review." *Policy Briefs*. European Council on Foreign Relations. http://www.ecfr.eu/page/-/ECFR39_UN_UPDATE_2011_MEMO_AW.pdf (accessed January 2, 2012).

Gris, Emese. "Közös kül- és biztonságpolitika 2004-2009" [Common Foreign and Security Policy 2004-2009]. *Európai Tükör,* Special Edition (March 2009): 266-280.

Groom, A. J. R. "Multilateralism as a Way of Life in Europe." In *Multilateralism Under Challenge? Power, International Order, and Structural Change*, edited by Edward Newman, Ramesh Thakur and John Tirman, 460-480. Tokyo, New York and Paris: United Nations University Press, 2006.

Hafner, Gerhard. "The CFSP in the Light of the Newest Enlargement." In *The Future of the European Foreign, Security and Defence Policy After Enlargement*, edited by Gisela Müller-Brandeck-Bocquet, 9-23. Baden-Baden: Nomos Verlagsgesellschaft, 2006.

Hill, Christopher. "The Capability-expectations Gap, or Conceptualizing Europe's International Role." *Journal Of Common Market Studies* 31, no. 3 (1993): 305-328.

_____. "Closing the Capability–expectations gap". In *A Common Foreign Policy for Europe? Competing Visions of the CFSP*, edited by John Peterson and Helene Sjursen, 18–38. London: Routledge, 1998.

_____. "The European Powers in the Security Council: Differing Interests, Differing Arenas." In *The European Union at the United Nations: Intersecting Multilateralisms,* edited by Katie Verlin Laatikainen and Karen E. Smith, 49-69. New York : Palgrave Macmillan, 2006.

_____. "The Future of the European Union as a Global Actor." In *Managing a Multilevel Foreign Policy: the EU in International Affairs*, edited by Paolo Foradori, Paolo Rosa, and Riccardo Scartezzini, 3-21. Lanham, MD: Lexington Books, 2007.

Hill, Christopher and Karen E. Smith, eds. *European Foreign Policy: Key Documents*. London: Routledge, 2000.

Hill, Christopher and Michael Smith, eds. *International Relations and the European Union*. New York: Oxford University Press, 2011.

Hodson, Dermot. *Governing the Euro Area in Good Times and Bad*. Oxford: Oxford University Press, 2011.

Hooghe, Liesbet, Gary Marks and Kermit Blank. "European Integration from the 1980s: State-Centric v. Multi-Level Governance." *Journal of Common Market Studies* 34, no. 3 (1996): 341-376.

Jacoby, Wade and Sophie Meunier. "Europe and the Management of Globalization." *Journal of European Public Policy* 17, no. 3 (2010): 299-317. http://ebscohost.com/ (accessed February 6, 2011).

Jørgensen, Knud Erik. "Intersecting Multilateralisms: The European Union and Multilateral Institutions" In *The European Union at the United Nations :*

Intersecting Multilateralisms, edited by Katie Verlin Laatikainen and Karen E. Smith, 195-211. New York: Palgrave Macmillan, 2006.

Kassim, Hussein and Anand Menon. "The Principal-agent Approach and the Study of the European Union: Promise Unfulfilled?" *Journal of European Public Policy* 10, no. 1 (2003): 121-139.
http://dx.doi.org/10.1080/1350176032000046976 (accessed October 5, 2011).

Keukeleire, Stephan. "European Security and Defense Policy: From Taboo to a Spearhead of EU Foreign Policy." In *The Foreign Policy of the European Union: Assessing Europe's Role in the World*, edited by Federiga Bindi, 51-72. Washington, D.C.: Brookings Institution Press, 2010.

Keukeleire, Stephan and Jennifer MacNaughtan. *The Foreign Policy of the European Union.* New York: Palgrave Macmillan, 2008.

Koutrakos, Panos, ed. *European Foreign Policy: Legal and Political Perspectives.* Cheltenham, UK and Northampton, MA: Edward Elgar Publishing, 2011.

Laatikainen, Katie Verlin and Karen E. Smith. "Introduction – The European Union at the United Nations: Leader, Partner or Failure?" In *The European Union at the United Nations: Intersecting Multilateralisms,* edited by Katie Verlin Laatikainen and Karen E. Smith, 1-23. New York : Palgrave Macmillan, 2006.

Laatikainen, Katie Verlin. "Pushing Soft Power: Middle Power Diplomacy at the UN" In *The European Union at the United Nations: Intersecting Multilateralisms,* edited by Katie Verlin Laatikainen and Karen E. Smith, 70-91. New York: Palgrave Macmillan, 2006.

Lakatos, István. "Statement at the Fourth Budapest Human Rights Forum, First Panel on the Activities and Representation of the European Union in the Field of Human Rights" [manuscript received from the presenter]." Budapest, 26 October 2011.

Lenaerts, Koen and Nathan Cambien. "The Democratic Legitimacy of the EU after the Treaty of Lisbon." *European Constitutionalism Beyond Lisbon*, edited by Jan Wouters, Luc Verhey and Philipp Kiiver, 185-207. Antwerp, Portland, OR: Intersentia, 2009.

Long, David. "Multilateralism in the CFSP." In *Common Foreign and Security Policy – The Record and Reforms*, edited by Martin Holland, 184-199. London: Pinter, 1997.

Manners, Ian. "Normative Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 40, no. 2 (2002): 235-258.

Moravcsik, Andrew. "Liberalism and International Relations Theory." *Center for International Affairs Working Paper No. 92-6.* Harvard University, 1992.
http://www.princeton.edu/~amoravcs/library/liberalism_working.pdf
(accessed April 12, 2011).

_____. "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach." *Journal of Common Market Studies* 31, no. 4 (1993): 473-524.

Müller-Brandeck-Bocquet, Gisela. "The Big Member States' Influence on the Shaping of the European Union's Foreign, Security and Defence Policy."In *The Future of the European Foreign, Security and Defence Policy After Enlargement*, edited by Gisela Müller-Brandeck-Bocquet, 25-53. Baden-Baden: Nomos Verlagsgesellschaft, 2006.

Mutimer, David. "Theories of Political Integration." In *European Integration: Theories and Approaches*, edited by Hans J. Michelmann and Panayotis Soldatos, 13-42. Lanham: University Press of America, 1995.

Nász, Adrienn. "Az Európai Parlament Lisszabon után" [The European Parliament after Lisbon]. *Európai Tükör* XV/6 (June 2010): 15-27.

Nye, Joseph. "The Future of Power in the 21st Century." Lecture at Central European University, Budapest, September 19, 2011.

Orbie, Jan. "The European Union's Role in World Trade: Harnessing Globalisation?" In *Europe's Global Role: External Policies of the European Union*, edited by Jan Orbie, 35-66. Farnham: Ashgate, 2008.

Puetter, Uwe and Antje Wiener. "Accommodating Normative Divergence in European Foreign Policy Coordination: The Example of the Iraq Crisis." *Journal of Common Market Studies* 45, no. 5 (2007): 1065-1088. http://ebscohost.com/ (accessed December 22, 2011).

_____. "The Intergovernmental Dimension of EU Foreign and Security Policy: Enacting Normative Meaning-in-Use in Policy Deliberation." *CEUR Working Paper No. 2*. Budapest: Center for European Union Research, Central European University, 2011. https://ceur.ceu.hu/ceur-working-paper-no-2-september-2011 (accessed December 21, 2011).

Putnam, Robert D. "Diplomacy and Domestic Politics: The Logic of Two-level Games." *International Organization* 42, no. 3 (1988): 427-460. http://www.jstor.org/ (accessed March 4, 2011).

Rasch, Maximilian B. *The European Union at the United Nations: the Functioning and Coherence of EU External Representation in a State-centric Environment*. Leiden and Boston: Martinus Nijhoff Publishers, 2008.

Schneider, Gerald. "Getting Closer at Different Speeds: Strategic Interaction in Widening European Integration" In *Game Theory and International Relations*, edited by Pierre Allan and Christian Schmidt, 125-155. Aldershot, Hants, UK and Brookfield, Vermont: Edward Elgar Publishing, 1994.

Smith, Karen E. "The End of Civilian Power EU: A Welcome Demise or Cause for Concern?" *The International Spectator* 35, no. 2 (2002): 11-28. http://www.iai.it/pdf/articles/smith.pdf (accessed December 29, 2011).

_____. *European Union Foreign Policy in a Changing World*. Cambridge, U.K. and Malden, MA, Polity: 2008.

____. "The European Union at the Human Rights Council: Speaking with One Voice But Having Little Influence." *Journal of European Public Policy* 17, no. 2 (2010): 224-241.

____. "The European Union, Human Rights and the United Nations." In *The European Union at the United Nations: Intersecting Multilateralisms,* edited by Katie Verlin Laatikainen and Karen E. Smith, 154-174. New York : Palgrave Macmillan, 2006.

Taylor, Paul. "The EU in Geneva: Coordinating Policy in Economic and Social Arrangements of the United Nations System." In *The European Union at the United Nations : Intersecting Multilateralisms,* edited by Katie Verlin Laatikainen and Karen E. Smith, 133-153. New York : Palgrave Macmillan, 2006.

____. *International Organization in the Modern World. The Regional and Global Process.* London and New York: Pinter Publishers, 1993.

Toje, Asle. "The Consensus–Expectations Gap: Explaining Europe's Ineffective Foreign Policy." *Security Dialogue* 39, no. 1 (2008): 121-141. http://sdi.sagepub.com/ (accessed February 20, 2011).

Verola, Nicola. "The New EU Foreign Policy under the Treaty of Lisbon." In *The Foreign Policy of the European Union: Assessing Europe's Role in the World*, edited by Federiga Bindi, 41-50. Washington, D.C.: Brookings Institution Press, 2010.

Voeten, Erik. "Clashes in the Assembly." *International Organization* 54 (2000): 185-215. http://www.jstor.org/ (accessed January 15, 2011).

Voeten, Erik and Adis Merdzanovic. *United Nations General Assembly Voting Data*. 2009. http://hdl.handle.net/1902.1/12379 (accessed December 18, 2010).

Wessel, Ramses A. "The EU as a Party to International Agreements: Shared Competences, Mixed Responsibilities." In *Law and Practice of EU External Relations: Salient Features of a Changing Landscape*, edited by Alan Dashwood and Marc Maresceau, 152-187. Cambridge and New York: Cambridge University Press, 2008.

Whitman, Richard. "Promised You a Miracle? The EU's Global Role in the Afterglow of Lisbon." Lecture at Center for European Union Research Launch Conference, Central European University, Budapest, December 2, 2010.

Young, Alasdair R. "What game? By which rules? Adaptation and Flexibility in the EC's Foreign Economic Policy." In *Understanding the European Union's External Relations*, edited by Michèle Knodt and Sebastiaan Princen, 54-71. London: Routledge, 2003.

Appendix 1: List of Interviews

Interview #	Date(s)	Location	Interviewee
1	23/29 June 2011	Vienna	EU Member State Diplomat
2	8 May 2012	Geneva	EEAS Official
3	8 May 2012	Geneva	EU Member State Diplomat
4	9 May 2012	Geneva	EU Member State Diplomat

BOOK REVIEWS

Dylan Kissane, *Beyond Anarchy: The Complex and Chaotic Dynamics of International Politics* **(Stuttgart: Ibidem Verlag, 2011)**

Emilian Kavalski,
University of Western Sydney

It seems that despite the transformations in world politics in the last two decades, the realist paradigm still continues to provide the main framework for the understanding and explanation of international relations. Tracing its origins (at least) to the writings of Thucydides, realism has long been perceived as the cornerstone of the discipline. The stature of the realist tradition has allowed it to dominate not only the ivory towers of the academy, but also the bunkers and boardrooms of applied foreign policy making. Thus, despite the search for alternatives, realist theory continues to provide both a point of reference and a benchmark for such explorations. Dylan Kissane's study, however, emphasizes that the stature that realism has acquired is unfounded. He meticulously goes on to debunk the very foundations of realist thinking – the belief in an anarchic international system, in the awareness that this it merely offers a simplified representation of reality.

Thus, by drawing a detailed genealogy of the 'limitations of anarchy' (p. 151), Kissane proceeds to unravel the fallacies of the realist narrative of international affairs. For him, the flaw in the realist's assumptions is the failure to acknowledge that the parsimony offered by the concept of anarchy comes at 'too high a cost to analytical and theoretical utility' (p. 259). Most commentators would have been satisfied to stop here and draw a conclusion that realism is obsolete – and, in fact, many have done just that. Kissane however takes the road less travelled and constructs an alternative explanation of global politics which recognizes their full complexity. Complexity here is not an accidental word. On the contrary, it is a conscious choice which inscribes Kissane within the small, but resilient (and growing) cohort of analysts that employ the frameworks of complexity thinking to both theorize world affairs and inform policy-making.

A number of commentators have noted that the the pervasive randomness of global life has made the climate of post-Cold War interactions distinctly uncertain. Rather than a transitory stage, the persisting dynamism, unpredictability, and change of international politics has puzzled both popular and policy considerations. This has ultimately challenged the dominant frameworks for the study of world politics. It is in this setting that commentators have advocated the infusion of international relations theory with the conjectures of complexity thinking. Kissane's book provides a much needed framing of the complexity alternative to realist thinking.

His analysis presents in an accessible (yet critical) manner the conceptual and methodological innovations prompted by the application of complexity thinking to international relations. In fact, as the book indicates, Kissane's analysis probably provides probably one of the more coherent 'explication[s] of a theory of international relations based upon an assumption of complexity in the place of anarchy' (p. 23).

The complexity research program charted by Kissane intends to rectify conventional analyses of international relations by identifying 'the complexity and unpredictability of the international political system while leaving the possibility for emergent behaviors to be identified, correlated with system states and for the analyst to identify *probable* among the infinite number of *possible* futures' (p. 230). In this setting the study develops four distinct hypotheses to test the application of complexity thinking to the study of international politics. Firstly, complexity suggests the impossibility of prediction, especially of predicting long-term developments. Secondly, assumptions about world affairs resting on a sub-set of actors' motivations and actions does not offer a valid representation of the reality of international relations. Thirdly, just because sometimes relations between actors appear stable, should not occlude that more often than not interactions are contingent and non-linear. Fourthly, changes in the dynamics and behavior of global life can occur both gradually and abruptly.

Thus, it is in the process of testing these hypotheses that Kissane demonstrates the full potential of the complexity turn to simultaneously refocus the content and context of both the study and practice of global affairs. His analysis makes explicit that 'while international relations studies persist with the notion that the international system is anarchic when, it would seem, there is at least a chance that it may be something else' the disciplinary purview is unlikely to change. Thus, 'without a new paradigm, international relations will continue to misdiagnose the past, hampering its own ability to explain the present, and , one day, predict the storms which sweep the system as we know it today' (p. 266).

In this way, Kissane makes an important first step in insightfully outlining a complexity approach to the study of international relations. Significantly, his perceptive overview indicates that the application of complexity thinking has important implications for the understanding of agency and structure in world affairs. At the same time, the analysis does not shy away from the challenging conceptual, methodological and policy issues attending the complexification of the study and the practice of international relations. One wishes he had spent more time on detailing the complexity alternative; but it is hoped that his next book will do just that. It is expected that it will be eagerly awaited by both students and scholars of international relations. For the time being, however, Kissane has provided them with plenty of food for thought in his extremely erudite and

thoughtful study of the 'complexity' of the complexity paradigm in world politics 'beyond anarchy'.

Monika Nalepa, *Skeletons in the Closet: Transitional Justice in Post-Communist Europe* (New York: Cambridge University Press, 2010)

Mano Gabor Toth
University of Cambridge

In her first and very promising book Monika Nalepa presents an entirely new approach to the study of lustration policies in Eastern Europe. The starting point of her enquiry is a simple but intriguing thought: during negotiated transitions, promises of amnesty (i.e. not holding the former political elite accountable for their past actions) made by the opposition are not credible. On the basis of this observation, she identifies three puzzles which constitute the backbone of the book. "Why did opposition parties keep their promises of amnesty? Why and when were those promises broken? Why did the successors of former autocrats break them?" (p.4)

With respect to the first puzzle, she questions the viability of many other explanations referenced in the literature relying on game theoretic models. She demonstrates that a basic model of pacted transitions can only give insufficient answers to the questions above. The simple argument is that the peaceful nature of regime change rests upon the promise of the opposition which guarantees immunity from prosecution to former autocrats who, in exchange, allow free and fair elections to be held. However, as Nalepa explains, such promises are simply not credible because once the opposition ascends to power, nothing prevents it from adopting harsh transitional justice measures. Thus she outlines her own "skeletons in the closet" model as a more informative alternative. In her view, the long tenure of communist dictatorships in Eastern Europe has enabled autocrats in most countries to infiltrate the underground opposition with their own informers. As dissidents were mostly uncertain about the gravity of this problem, the asymmetric information at the roundtables about the identity of these informers and about their level of infiltration was an important bargaining chip in the hands of the well-informed autocrats. The informers are the skeletons in the closet of the opposition and their existence makes the adoption of lustration particularly harmful to the dissidents themselves, which in turn ensures the credibility of the promise of amnesty. She illustrates the different equilibria of this game by the cases of Czechoslovakia, Hungary, and Poland using evidence from archives, analytic narratives, and data aggregated from numerous elite interviews.

In order to answer the second question, she uses a statistical model based on survey data to show that demand from the electorate cannot explain the adoption of lustration policies. Furthermore, she asserts that these laws had more to do with strategic political choices and thus the reason for their implementation can be better explained by analyzing the development of party systems with special attention to pro-lustration parties. Nalepa approaches the third puzzle with an agenda-setter model and concludes that lustration initiated by former communists may be a pre-emptive strategy against the adoption of more stringent policies. Finally, she describes possible extensions of the "skeletons in the closet" model.

This work is unique in the transitional justice field in many ways. In the vast social scientific literature on lustration in Eastern Europe, it is hard to find studies which address these fundamental questions using such a sophisticated combination of qualitative and quantitative research methods. Case studies, analytic narratives, elite interviews, the statistical analysis of aggregate data and various other ways of interpreting empirical evidence all make her game theoretic models especially convincing. Most importantly, while paying attention to details, Nalepa keeps her focus on these essential questions and attempts to specify something close to a general theory about lustration policies following Eastern European transitions.

While Nalepa's argument is undoubtedly novel, well-founded, and convincing, there are some problems which are worth noting. First, the choice of cases is poorly explained and the degree of generalization of her argument is unclear throughout the book. The few paragraphs devoted to supporting the case selection are far from satisfactory. Additionally, Nalepa only examines three transitions closely but, as she constantly makes references to other countries, it is not at all clear to what degree she claims her theory to be applicable to other transitions. Some may now say that she does not consider the generalization of her argument important and that her only concern is to find good illustrations for the equilibria of her model. Truly, evaluating the acceptability of this defense would take this review to the slippery soil of the critiques and defenses of rational choice (to discussions about issues such as post-hoc model building and the acceptability of considering only cases that fit while disregarding "atypical" ones at the same time). But no witty riposte from the supporters of game theory can explain why Nalepa dismisses some alternative theories with counterexamples with which she does not confront her own model.[1]

Another class of serious problems concern the assumptions of her model which seem to be highly improbable in real life situations. Although these simplifications can be argued for as necessary for the parsimony of the model, what is nevertheless problematic is that these unrealistic assumptions rely on thin or no justification at all. Firstly, the assumption of unitary actors completely excludes the possibility that

---

1   This dubious practice is present in sections 4.7 and 6.5.

former communists with no informer pasts may stand to gain politically from the revelation of the secrets of incriminated co-members of the former ruling party (the same process may be true for the opposition). The use of unitary actors goes hand in hand with other questionable assumptions like extreme party discipline and the belief that the surfacing of incriminating evidence against one member means the equal loss of face in a political sense for all the other members of the party. Moreover, Nalepa assumes that former communists are hurt in the same way by informers in their ranks as the opposition, and that actors are risk neutral, which is hard to imagine in times as turbulent as transitions.

A few methodological problems[2] and factual inaccuracies[3] are also present in the book, but generally they are not of such importance so as to endanger the validity of the main argument. There is one crucial issue which I believe that Nalepa overlooked, namely the credibility of the autocrats at the roundtable negotiations. If they know the informers in the ranks of the dissidents, they can reveal this information any time to discredit the opposition even without a legal framework for lustration. In Nalepa's model, the autocrats have perfect information about the secret pasts of the dissidents, thus they should be able to exert considerable influence not only in the adoption of lustration legislation, but in all the other political moves of the opposition. Therefore, the communists would also need to make a credible promise that the secret information in their possession would not be released.

Despite these shortcomings, this book is definitely an important work with a theory of high promise in the field of transitional justice. Certainly, it should be read by all those interested in the empirical analysis of the institutions of transitional justice or in the history of Eastern Europe in general.

Roland Erne, *European Unions: Labor's Quest for a Transnational Democracy* **(Ithaca: Cornell University Press, 2008)**

Konstantin Kilibarda
York University

Roland Erne's *European Unions* examines the potential role of trade unions in democratizing the European Union (EU). Those interested in the evolution of a pan-European labor movement can gain much from this elegantly designed study that

---

2   For example, in the analysis of elite interviews, even though only one fifth of the respondents gave answers to a certain question, Nalepa makes use of this data without any reference to the possible bias involved.
3   For instance, the information about the governing party in Hungary in 2001 is incorrect (Table 1.1) and about the voting share of FiDeSz in 1990 (Appendix D).

draws on interviews with eighty-seven European labor activists, widespread travels across Europe and access to a multiplicity of union archives in a number of countries. Building on an existing literature that points to organized labor's historical role in democratizing the nation-state (Thompson 1980; Hobsbawm 1984; Rueschemeyer, Stephens and Stephens 1992; Florek 1994; Thompson 1994), Erne asks: "In what way and under what conditions do or can European trade unions contribute to a democratization of the EU?"

While noting the importance of uniting labor at the European level, Erne is also attentive to the substantial obstacles standing in the way of such a goal. These obstacles include: (1) "the neoliberal dynamic of the EU integration process," which effectively shields key policy areas from public pressure and reinforces the structural weakness of labor; and (2) the persistence of divergent national union traditions and regulatory environments when it comes to wage setting and welfare regimes. In fact, 'Euro-democratization' is only one of the many potential strategies available to labor in responding to the challenges of globalization, market integration and neoliberal restructuring.

Erne identifies three alternative strategies that are also available to organized labor in the EU, including: Euro-technocratization (favored by union elites with direct access to EU regulatory bodies); technocratic renationalization (embodied by competitive-corporatism); and, democratic renationalization (reaffirming the autonomy of the nation-state in an attempt to salvage the remnants of the social democratic pacts of the past). The bulk of Erne's book aims to analyze the comparative effectiveness of these strategies in influencing wage bargaining (Part II) and EU competition policy (Part III).

Erne's analysis of wage bargaining begins with the downward pressure on wages caused by the introduction of Economic and Monetary Union (EMU) and the subsequent rise of competitive corporatism in the 1990s (including the increasing acceptance of wage concessions by workers). By the late-1990s, the tendency of this model to stimulate a race to the bottom triggered a rethinking of labor strategy. One response was to establish minimal benchmarks for wage negotiations across Europe, including benchmarks set by the Doorn group in September 1998, the European Metalworkers' Federation (EMF) in December 1998 and the European Trade Union Confederation (ETUC) in December 2000.

Unfortunately, Erne shows how such complex benchmarking criteria simply tended to reproduce the technocratic logics of EU governance, marginalizing rank-and-file activists in the process and yielding low compliance rates as a result. More promising for EU-wide wage bargaining, according to Erne, has been the cross-border mobilization of unionists in support of a coordinated minimum wage and

innovative organizing by the European Federation of Building and Wood Workers' (EFBWW) to set standards in the increasingly transnationalized construction sector.

Erne also found that a Euro-democratization strategy was more effective than a Euro-technocratization strategy in politicizing EU competition policy. The broad mobilization of workers in the *ABB Alstom* merger and its politicization served to partially offset job losses in 2000-2001 and saved the company from bankruptcy in 2003. Conversely, the Euro-technocratization strategy adopted by the same unions in challenging the merger of Canada's *Alcan*, France's *Pechiney* and Switzerland's *Algroup* in the aluminum sector met only with short-term success and ultimately failed to curb ambitious restructuring plans.

Regardless of their preferred strategies, trade unions are increasingly being driven towards the Europeanization of organizing by the supranational reorganization of firms and the contradictions inherent in EU integration according to Erne. The existence of statutory EU-wide institutions, like the European Works' Councils (EWC), acts as a further catalyst to transnational action. The related mobility of labor activists in the EU also encourages greater cross-border mobilization and the forging of wider networks needed for sustained collective action.

Erne thus effectively problematizes accounts that take 'national differences' as an insurmountable obstacle to working class mobilization. 'National' frameworks are only important, he claims, in so far as there is "a congruence between nationality and [a worker's] economic and social interest" (p.196). As the congruence between the national and the economic unravels, activist networks, migrant workers, EWCs, European trade-union federations and cross-border mobilizations all serve to breakdown the appeal of narrow national frames. The prospects for a Euro-democratization strategy are thus "rather encouraging," though it requires that "EU-level politics be seen not just as a threat [by labor activists] but, rather, as a decisive battlefield in the fight for social justice and egalitarian democracy" (p.202).

While the book provides many crucial insights into the broad challenges confronting the emergence of a pan-European labor movement, it also leaves ample room for further study. Though Erne's argument is persuasive, it is possible that his study suffers from a case-selection bias that tends to favor the beneficial effects of democratic over technocratic and European over national labor strategies. Similarly, *European Unions* was published prior to the global financial crisis and the resulting recrudescence of right-wing populism and xenophobic rhetoric within the EU. Finally, the book tends to reproduce the frequent bracketing-out of the global by scholars of the EU, thus undercutting more internationalist, cosmopolitan, feminist and postcolonial alternative frames for imagining transnational labor solidarities. Nevertheless, Erne's contribution

highlights many of the on-going challenges confronting those wishing to close the EU's democratic deficit.

Josette Baer (ed.), *From Post-Communism toward the Third Millennium* **(Bern: Peter Lang, 2011)**

Klejd Këlliçi
European University of Tirana

From Post Communism toward the Third Millennium is a collection of contributions whose origins are different in style and content. The main aim of the book can be found concisely within the last part of the title 'toward the third millennium'. It offers a consumptive panorama after a period where most of the political transitions in the area were either resolved or had reached a conclusion defined by the membership in NATO or the EU, or had simply come to a standstill.

The book offers to this purpose a sort of requalification of the term Eastern Europe (p.7) in order to differentiate it from Central Europe, the fate of which is signed in fact by the integration in the above mentioned supra-national organizations. As the editor puts it, the whole post-communist Europe must be divided in three regions consisting of the Visegrad Region, the South Eastern region or the Balkans and the 'hegemonic or imperial region' of the post soviet countries (p.21). The back bone of the book are the contributions made by the editor, Josette Baer, who has signed the introduction and a chapter on transition in Belorussia, while other authors origins are mainly from the countries considered in the volume. The book offers a panorama of case studies concentrated mostly on three general lines: political transition or missing transition; ethnic identity and political developments; and economic transition and development. Apart from the theoretical prospective, the books is enriched by the case studies the authors have included. From this perspective, the book offers a valuable tool for understanding the political contexts and evolution in some of the countries of the chosen area. The book consists of a foreword and an introduction that give the reader a brief panorama and a theoretical prospective from which the text can be read. The long introduction by Baer defines the theoretical boundaries in which the cases are considered while trying to introduce the reader to the specificities of the region, especially in relation to the wave of colored revolution which affected the post soviet area in the mid 2000's (p. 13).

The book is so sub-divided across three broad lines with two or three chapters each. The first contains two chapters on Ukraine, authored by Walzenbach and Kuzyk, which offer, respectively, a comparison of the European governance system and transformations within the country, while the second one points mainly to the quest

on national or missing national identity as a potential facilitator on the political developments.

The second part of the book offers a heterogeneous panorama of three contributions which are difficult to be justified under the title of the second part 'Aspects of Nationhood –or its Absence'. This part contains is in fact a review of the theoretical aspects of political psychology by Nenad Markovic who tries to explain the relationship and the combination of nationalism with mentality (intended by the author in terms of ethnic stereotypes and the consideration of the other) . The analysis is highly theoretical focusing (p. 111) on the methods used to manipulate the stereotypes, as a way of not only defining the national identity, but also as a potential tool of triggering violence and hatred among different ethnic groups (p. 123).

The fourth chapter is a political and historical account of the study of religion in Bulgaria by Daniela Kalkandijeva . It tends to give an overall account of the role of religion, in the stereotyped vision of the Bulgarian Orthodox Church, as one of the main factors in the making of the Bulgarian national identity. Kalkandijeva offers not only an account of the way in which the study of religion is carried out but also puts forward some of the main trends in the development of such studies in today's Bulgaria (p. 143). The third chapter of the second part on Belarus (p 145) from Baer is probably the most valuable piece of the whole volume. It analyses the evolution of the Belarusian political system, pointing out the absence of transition in the country and its relation to the fate of what the author has previously defined as the 'hegemonic imperial region' of the former Soviet Union. In fact, the first part tries to put forward a crucial concept, which explains the peculiar evolution of Belarus since the end of the Soviet Union, namely the concept of a 'neo-soviet' style regime. This kind of regime (p. 151) is mainly based on a post authoritarian conception of power, with a 'guided transition toward capitalism' (p. 152). Belarus represents, in this way, one of the most complete examples of "post-sovietism" as long as it retains and bolsters most of the features of the past regime, like a centralized economy or as an absence and refusal of political and ideological freedom.

The third part of the book is dedicated to the economic reforms in Russia. Overall it tries to remain in line with the theoretical prepositions exposed in the introductory part, concentrating mainly on the relation between the individual and the state. Rybakov's contribution on health care (p. 181) analysis one of the paradoxes experienced in many east European countries where an apparently free health care system is accompanied by private arrangements between doctors and patients. Malinka's contribution instead concentrated on the paradox of state guided capitalism in Russia and the difficult consolidation of the small and medium enterprises, which according to the author, could redress the social balance in the country (p. 243).

As explained in the introductory note, the book is the seventh work out of a nine volume series published on the basis of annual conferences held by the University of Fribourg concentrating on topics relevant to the Eastern European region. As such, the book suffers somewhat from the difficulty of putting together a coherently edited work, considering, too, the fact that a considerable portion of materials were presumably gathered from the 'Interdisciplinary Studies on Central and Eastern Europe' project. Furthermore, the book suffers from a visible degree of heterogeneity in the choice of the arguments presented. This heterogeneity is manifested in two crucial moments: that of the delimitation of the area under scrutiny, namely Eastern Europe and the selection of the arguments as in the case of the contribution of Kalkandijeva in the chapter on the study of religion in Bulgaria or the one on Nationhood and Mentality which are "miss fitted" in the volume. The theoretical delimitation of the term Eastern Europe, that the editor proposes in the introduction, should have eliminated the chapter on Bulgaria. As the parts on Ukraine and Russia seem to fulfill the initial prepositions of the book, the central part of it on 'Aspect of Nationhood - or its Absence' is highly heterogeneous in terms of the cases presented.

Nevertheless, from a global perspective, the book represents a valuable tool for understanding and studying the area in question, with special value brought by the chapters on Belarus or Ukraine, which provide an adequate picture of the difficulties of transition not only in terms of the international position of the countries in question, but also in terms of their national identities and the passivity of the civil society.

David Altman, *Direct Democracy Worldwide* (Cambridge: Cambridge University Press, 2011)

Alexander B. Makulilo
University of Dar es Salaam

Democracy, both conceptually and practically, has remained a subject of debate for centuries. Though ancient Greece is regarded as the birth place of democracy, there is disagreement over the nature, meaning and practice of democracy worldwide. Etymologically, democracy referred to direct popular government by assembled citizens. This kind of democracy came to be known as "direct democracy". In practical terms, Greek democracy was simple. People would assemble, discuss and votes would pass on a simple majority. This was made possible owing to the small number of citizens in the polity as well as simplicity of issues at the time. Distinctively, Greek democracy emphasised community autonomy as opposed to individual autonomy. Yet, the issue of inclusiveness in this democracy was

problematic. Citizenship, which formed the sole criterion for participation, was inherently founded on exclusion. To be sure, citizens were mainly free male adults who owned property. Women and slaves were not regarded as citizens and hence excluded from political participation. This means that citizenship was restricted by sex, property and birth origin. It should be admitted that this was the first inborn omission of democracy which later democracies have yet to escape. One obvious explanation for such exclusion rests on the class stratification of Greek society. It was by and large a slave society dominated by a patriarchal culture. Arguably, democracy in a stratified society is an ideological weapon that serves the interests of the dominant class.

On the other hand, with larger populations as well as more complex issues, modern societies require a different way of doing democracy. This is called "indirect or representative democracy". Emphasizing individual autonomy, representative democracy (commonly used interchangeably with liberal democracy) was born in Western Europe. It is this fact which sometimes makes it known as Western democracy. Understandably, Western societies are ideologically founded on capitalism. Yet, capitalism does not always precede the practice of liberal democracy. It should be emphasised here that, in comparative terms, representative democracy has been under severe attack, unlike its predecessor Greek democracy. Some of the most frequently asked questions include, for example: how can the interests of the majority be represented? How accountable can the leaders be? Is this kind of democracy universal?

Direct Democracy Worldwide links both direct and indirect democracy. It focuses on revealing the relationships between the two forms of democracy. Rather than viewing direct and representative democracy as necessarily opposing each other, the author notes that the assumptions and practices of direct and representative democracy interact under different institutional settings. In discussion and analysis, the author unveils specific moments that allow the two forms of democracy to coexist in a mutually reinforcing manner. The book argues that while some mechanisms of direct democracy (MDD) are positive in so far as they attempt to democratise politics, others are backward looking as they tend to boost the power of politicians instead of that of the people. In grand terms, the book deals with the distribution and exercise of power in relation to making decisions that affect lives in their respective societies. Towards that end, it examines mechanisms of direct democracy such as referendums, plebiscites, recalls, and popular initiatives.

In studying direct democracy and its related mechanisms, the author provides a simple but an innovative typology. The typology focuses on three issues: (a) who initiates the MDD, either citizens (through signature gathering), the political establishment (executives, legislators, or both), or the legal or constitutional regulations in a country? (b) what is the purpose of the MDD - maintaining status

quo or altering it? and (c) whether the MDD is the final word on an issue or otherwise (binding law or nonbinding outcome). This typology is then applied throughout the volume. Overall, the volume contains an in-depth and rigorous analysis with clear cut arguments and concrete evidence. It therefore breaks new ground by providing thoughtful provoking insights with regard to direct and indirect democracy. The author accomplishes his objectives in eight chapters.

Yet, the book has a number of shortcomings. Firstly, the title of the book obscures its scope. As can be noted, the book presents significantly one region, that is, Latin America, with specific focus on Uruguay. Europe, Asia and Africa are virtually absent. Since the author appreciates the leading role of Switzerland in practicing MDD globally, it would have been an omission not to devote a section for this unique case (p.8). Instead, Uruguay has been taken as an exemplary case of direct democracy within democracies (p. 140-61). Secondly, the author posits that the book addresses the relationship between direct and representative democracy. Accordingly, such a relationship is based on mutual coexistence and reinforcement (p. 1). Contrary to this promise, my close reading of the volume indicates that the author dealt with how direct democracy complements representative democracy. His definition of MDD is self explanatory to this point. He states "MDDs are composed of those mechanisms through which, after the representatives and the government are elected, the citizenry continues to be – voluntarily or involuntarily, explicitly or implicitly – a veto actor or a proactive player in the political process (p. 7)." Throughout the volume there is nowhere representative democracy appears to feed direct democracy. Hence, the mutual coexistence and reinforcement of direct and representative democracy is fallacious. Thirdly, the volume includes deficiencies in terms of its methodology. It appears to me that the author made use of interviews to understand citizen-initiated mechanisms of direct democracy (CI-MDD) in Uruguay. He interviewed three former presidents of Uruguay. Questions and responses are in detail covered by the author (p. 180-6). Similarly, the author interviewed Uruguayan legislators. He did this without even mentioning how he sampled his respondents. Question and answers appear as appendix 2 (p. 209-12). What I find strange is that the author does not provide any discussion and analysis of the responses from interviews. Further, it is more problematic for a study on CI-MDD to omit citizens as key respondents. As it stands, the book presents opinion from the establishments through a top-down model. Fourthly, the book falls short when it assumes liberal positions unquestionably. For example, throughout the book, citizenship, individual and equality are taken as given based on the *Rousseauean* social contract (p. 7).

A critical examination of the social contract theory, which is an embodiment of liberal democracy shows that these concepts conceal exclusionary tendencies. It was John Locke who argued that the state of nature forced individuals to fear death and therefore entered into a social contract, a contract that is based on consent,

and the one that would protect all against all. Interestingly, Locke's state of nature argument shows that prior to this consent, men were already dominant in their families. He argued that a wife's subjection to her husband had a foundation in nature. This implies that women were excluded from the status of being "individual" which is basic to consent theory. Arguably, if a wife's subjection to her husband has a "natural" foundation, she cannot at the same time be "naturally" free and equal individual. This means that citizenship is a natural property of man. It is not surprising to see that, prior to 1918 and 1920, women were not allowed to vote in Britain and USA, respectively. Despite the aforementioned gaps and omissions, this book is instructive to understand the workings of democracy. It may be useful to political scientists, activists and policy makers.

Lisa Blaydes, *Elections and Distributive Politics in Mubarak's Egypt* (Cambridge: Cambridge University Press, 2011)

Consolata Raphael Sulley
University of Leipzig

Elections and authoritarianism have been subjects of debate since the third wave of democracy began. There are those who argue that elections are a curse to authoritarianism due to the fact that citizens can remove an authoritarian regime through elections. Arguments have also been advanced that elections legitimize authoritarianism. *Elections and Distributive Politics in Mubarak's Egypt* is indeed a relevant piece on elections and authoritarianism. The book addresses an important aspect of competitive elections in an authoritarian context. This is a distributive function of elections, thereby joining those who see elections as a blessing in an authoritarian regime. The book sets itself to interrogate several issues about elections in Egypt: One, in what ways does an authoritarian regime benefit from holding elections? Two, why do candidates spend scarce resources to run for a seat in a parliament that does not make policy? Three, why do citizens engage in the costly act of voting in such a context? Four, do we observe patterns of economic change surrounding autocratic elections that resemble the trends observed in democracies?

The central argument of the book is that the authoritarian regime in Egypt has endured not despite competitive elections but to some degree because of these elections. The author holds that competitive elections help resolve conflict over distribution of rewards to regime's supporters particularly the rent seeking elites. Other important functions of elections in the Egyptian regime include institutionalization of dominance through formal channels as well as providing important information for the regime regarding the performance of party leaders. This is especially useful because elections reveal information about the competence

and loyalty of bureaucratic officials and party cadres, providing the authoritarian leadership with what is perceived as an even-handed way for the autocrat to decide who should receive party appointments (p. 5). Information also provides the regime an opportunity to punish those who are indifferent to it. Although the book acknowledges the possible dangers related with elections, such as increasing tension in the state- society relationship and specifically the relationship between the state and supporters of Muslim Brotherhood, it nonetheless sees their advantages outweigh their disadvantages. However, the author cautions that although the authoritarian regime is stabilised by elections, the by-products associated with authoritarianism like institutionalised corruption and budget-cycle induced inefficiencies have the possibility to destabilize the regime.

With regards to the second question posed above, the author posits that holding a seat in the parliament gives parliamentarians informal access to power and preferential treatment. One of the important preferences is a high guarantee of parliamentary immunity which protects them from arrest, detention, or charges of criminal activity such as corruption. Citizens engage in a costly act of voting for a variety of reasons. One is the direct benefit poor citizens get from selling their votes to powerful politicians in order to meet their needs. A second is that some Egyptians believe that democracy is a relatively good means of governing themselves, in which case democracy and elections are related. Yet there are those who are ideologically driven, too, especially the supporters of the Muslim Brotherhood. Participating in elections is therefore an important avenue for them to support their candidates.

Methodologically, the book uses a quantitative methodology whereby data was collected across time and space. The quantitative analysis is complimented by a great deal of interviews with variety of actors such as politicians, activists, journalists, academics, and government officials. The book has also relied on "highly informative Egyptian press" (p. 22).

The author has to a large extent managed to achieve what was intended. The book explains the distributional function of elections in authoritarian regime in Egypt that goes beyond the conventional wisdom of elections being only a means of legitimacy. The book is well organised, readable and with a clear argument. The author indeed makes a significant contribution to both the theory and practice of elections in the authoritarian regime in Egypt and beyond. What made this book a success in its objectives is the use of empirical data both from existing body of literature and information collected in her field work through interviews.

However, this volume is not without shortcomings. First, in her argument the author states in risk of repetition "authoritarian regime in Egypt has endured not despite *competitive* elections but to some degree because of these elections". My problem in this argument is what is meant by competitive elections. In her discussion about

elections and the Muslin brotherhood, the author points the regime's strategies to deal with such a group during elections. These are among others, constant manipulation of the rules of the game, intimidation and electoral irregularities, and repression (pp.161-167). Under such a context it is inconceivable to refer to competitive elections.

A second shortcoming is in the methodological rigor of the book. The author claims to have used "informative Egyptian press" (p. 22). The quoted phrase over-celebrates the press in Egypt. It can be asked: What constitutes a highly informative press? As far as authoritarian regimes are concerned, the authenticity and impartiality of the press and media in general is highly questionable. This is because, in most cases, the regime controls what is or not to be said by both the state media as well as the private media. Third, in the selection of cases, the author chose Egypt because of, among other reasons, its institutional arrangements closely resembling the model of authoritarian regime that exist in the world and that Egypt is described as the perfect model of semi-authoritarianism. This is to my opinion a hasty generalisation.

Taking a single case to be a perfect model in the world is a sweeping analysis. By suggesting Egypt as the perfect model, the author fails to acknowledge specificities that exist in different kinds of such regimes like culture. For example the author reviews existing explanations on the source of stability of the authoritarian regime in Egypt. She cites the role of Islamic culture especially the need for Muslims to obey their rulers. The author proceeds by identifying submissiveness and tolerance to authoritarianism as broad characteristics of Egyptian political culture that is ingrained in the Egyptian consciousness as a result of Egypt's Islamic legacy (p.13). Although this explanation goes unquestioned by the author, it does suffice to demonstrate the uniqueness of authoritarianism in Egypt thereby making it doubtful to be described as symbolic to authoritarian regimes in the world.

The fourth gap is related to the discussion on the relationship between authoritarian regime in Egypt and the world, such as the United States of America and International Financial Institutions (IFIs) namely the World Bank and the International Monetary Fund. Although the author acknowledges their agenda to be democracy promotion, they also at times support authoritarianism due to their other interests, e.g. the need for oil in Arab countries and gaining markets for their manufactured products. This tendency suggests that these actors pretend to promote democracy thereby having no genuine intention of democratic promotion as they principally claim to advance. The author remains silent on this point.

Despite the aforementioned gaps, the book remains informative as far as Egyptian politics is concerned. It is especially useful to politicians, academics and students of

politics, activists and authoritarian leaders, especially on the adverse dangers of authoritarianism.

Tatiana Zhurzhenko, *Borderlands into Bordered Lands. Geopolitics of Identity in Post-Soviet Ukraine* **(Stuttgart: Ibidem Verlag, 2010)**

Viktoria Potapkina
Pompeu Fabra University

The border between Russia and Ukraine became a political reality in 1991 with the breakup of the Soviet Union and the creation of two independent states. Since then, Ukraine's Eastern border has turned itself into a perfect laboratory for studying processes of border construction. "Political parties, state bodies and civil societies in both countries; regional elites and politicians in Moscow and Kyiv; experts, local communities and ordinary citizens have been contributing to these processes in various ways" (p. 155), while the "geopolitical status of the border, a proper regime of border crossing and forms of border controls have been constantly contested and re-negotiated on international, national, and regional levels" (ibid.). It is this border that presents itself as a challenge to both Ukraine and Russia, and perhaps even the European Union, which have varying perspectives on its status, as well as symbolic and political meaning.

It is this issue of Ukraine's eastern borders, as well as the process of border construction, that Tatiana Zhurzhenko's book *Borderlands into Bordered Lands. Geopolitics of Identity in Post-Soviet Ukraine* focuses on. It was published as volume 98 of the Soviet and Post-Soviet Politics and Society series, edited by Dr. Andreas Umland. The book is based on the results of the author's research project *The Ukrainian-Russian Border in National Imagination, State Building and Social Experience*, carried out in the years 2002-2004. Although parts of the book have appeared in various languages and in numerous publications in the form of articles or conference papers, the book contains rewritten, reedited and updated information as of 2009. The author herself rightfully points out that the book is not a monograph, but a "collection of texts united by a common subject" (pg. 37). As a result, the chapters can even be read selectively, rather than as a single volume, each finding its own reader as the book manages to combine several methodologies and disciplines. Furthermore, each chapter contains references to the others, helping selective readers navigate through the book. Nevertheless, it is not a book for the general public. A reader with no knowledge of Ukrainian history and/or politics, or at least of Eastern Europe, will have a hard time understanding the author's references to regional specifics.

With her work the author intended to fill a "research gap and apply new approaches and concepts developed in the relatively young field of border studies to the Ukrainian-Russian case" (p. 23), since there exists a general lack of academic interest in Ukraine's eastern border, as opposed to the western one, which continues to attract the attention of economists, political scientists, historians and anthropologists, to name a few. Yet it is this border that both countries seem to have the most trouble with, as it practically cuts through "backyards", leaving family and friends on different sides of the division; it is a border that did not exist before, and has yet to be demarcated; it is a border that causes tension as well as is a border the regulation and standardization of which could play an important role in Ukraine's negotiations with the European Union.

To explain these aspects, Tatiana Zhurzhenko divides the seven chapters of her book into three parts, according to three levels of analysis. Part One focuses on symbolic geography and geopolitics of the post-Soviet space, giving special attention to theoretical interpretations of the concept of "Eurasia", its impact and development from the historic perspective both in Russia and Ukraine. It also discusses the concepts of "Sister Republics" and "East Slavic Unity" in Ukraine, Russia and Belarus. As not much academic literature exists on the topic of the post-Soviet relations of Ukraine and Belarus, this chapter is an interesting addition to the study as it suitably covers a not so popular topic. Part Two presents the Ukrainian-Russian border in bilateral relations as well as in regional politics, while Part Three considers an often overlooked but nevertheless considerable role of border construction and the border's impact on everyday life. This part contains numerous interviews and group conversations with people living in the border regions conducted by the author herself.

A very pleasant aspect of the book is the inclusion of photographs taken by the author herself of some places and people she discusses. Helping to visualize certain aspects, the photographs also serve as an important indicator that the author includes her personal research into the work, not merely conclusions drawn from other publications. Furthermore, the book combines this personal insight and research (which is most visible in the third part of the book) with a large number and, most importantly, variety of other sources – speeches, books, academic articles, online sources and print media. Moreover, the sources used are in an array of languages. This consequently leads to a feeling of a well-rounded and well-researched piece of work, information and conclusions of which can be seen as credible and trustworthy.

Tatiana Zhurzhenko tackles an interesting yet challenging topic in her book. She successfully examines Ukraine's eastern borders, closely linking them with political developments in Ukraine. Nevertheless, Ukrainian politics are always a challenge to write about, since what is true today may not be so tomorrow; it is an ever-changing,

perhaps even unstable area, still developing and evolving. This fact makes some conclusions of Zhurzhenko's work no longer applicable. For example, the author repeatedly stresses the importance of the Orange Revolution in bringing change to the country as well as the region, however, fails to acknowledge the failures of Ukraine's Orange government to consolidate change and go beyond elaborate rhetoric to decisive action. In retrospect the achievements of the Revolution are questionable at best, as they did not lead to a large political turnover or replace the political make up of the country, as was initially intended by the population of Ukraine, leading to a general disenchantment of the people with the events of 2004, and Ukrainian politicians in general. However, the repeated use of the Orange Revolution as a central event does not undermine the conclusions the author presents or the other well researched and little-known aspects of the borderlands of Ukraine. The more recent developments in Ukrainian politics that were not covered in Zhurzhenko's work cannot be seen as a flaw in the book; on the contrary, it should be viewed as an opportunity for further research on the topic of Eastern borders. It was the author's initial goal to fill a gap with her work. She managed to begin this process, yet there remains much space left for new and further analysis.

Overall it is hard not to agree with the author that "democratic consolidation and a decisive progress towards integration into the EU remain crucial preconditions for Ukraine to become a strong and independent player in the post-Soviet space. Unfortunately, a confrontation with Moscow in this matter is difficult to avoid, and Ukraine's position in the EU-Russia-Ukraine triangle is still the weakest one. This means that the dichotomy of 'Europe/the West' vs. 'Eurasia/Russia' will remain an important symbolic axis of Ukrainian politics for years to come." (p. 74).

Kerem Öktem, *Angry Nation: Turkey since 1989* (London and New York: Zed Books, 2011)

Ömer Aslan
Bilkent University

Turkey's transformation evidenced best by its more active and assertive foreign policy and economic growth for the last decade has deservedly attracted a great deal of attention. More and more students of Turkish politics have tried to explain underlying domestic, regional, and international dynamics of these monumental changes. As Turkish landscapes alter, a powerful current of scholarship with a revisionist approach to nationalist historiography and the Alevi, Kurdish demands as well as Armenian genocide claims have also surfaced. Kerem Öktem's *Angry Nation: Turkey since 1989* is better taken in this overall context; it is one of the most recent

efforts to make sense of Turkey's metamorphosis through the lenses of revisionist views of the history of the Turkish Republic.

In this timely book Öktem seeks to explain the causes of what he perceives Turkey to be today, an angry nation that has finally started facing its deep structural and other problems. Feeling obliged to stray from the general framework of the 'Global History of the Present' series, of which this book is a part, Öktem commences Turkey's journey from the late Ottoman Empire to end it with Turkey in the first decade of the 21st century by taking the reader through the Cold War years and the derelict first post-Cold War decade with weak coalition governments, the 'Kurdish war', and a post-modern coup d'état in 1997. Digging in the history of the Turkish Republic for Turkey's ills today the author pins the blame on the founding ideology of the Republic, namely in the nationalist modernization forms of Unionism (Ittihatcilik) and later Kemalism. Three key areas that Kemalism resolved in a very problematic fashion stand out in author's analysis: the definition of citizenship, the (mis)practice of secularism, and the absence of clear separation of roles between the judiciary, military, and governments. An actor that figures constantly and elicits the most blame from the author is 'the guardian state' which, according to Öktem, has disguised itself in many forms throughout the Republic. And three structural, one domestic and two international, turning points are singled out to have impacted Turkey's transformation most: 1980 coup d'état with deep scars it has created as well as the ensuing economic liberalization programme under Prime Minister and then President Turgut Ozal, the end of the Cold War and Turkey's reengagement more actively with the outside world, and most recently the 9/11 attacks, which have put Turkey on the frontline of the declared 'global war on terror'.

However, one problem that tarnishes the value of this book are the free-floating concepts scattered all around. Not wanting to define the PKK [Partiya Karkaren Kurdistan] as a terrorist organization, Öktem uses "fighters of the PKK" (p. 89), "guerillas" (p.89) and "PKK combat units" (p.185) all interchangeably in an unscholarly manner although he acknowledges in passing at one point that the PKK used terrorist strategies (p.66). He also offers an analogy between stone-throwing kids in Southeast Anatolia and Palestinians (p.143) but he simply takes for granted the aptness of such an analogy as he does not feel any need to justify it. Another freely used term is 'genocide'. It is not only that the author rushes to label what happened during the Republican period in Dersim in 1937/1938 a genocide (pp. 35-37) and extermination of Dersim Alevis (p. 7), something historians would hesitate to do, but also that elsewhere he refers to the same events as "Dersim massacres" (p.145). The reader is left wondering whether there is a distinction between massacre and genocide.

Further, the author casts the onus mostly on the secret dealings and behind the scenes operation of the 'guardian state.' However, the suspicion against the 'guardian state' reaches levels of paranoia at certain points in the book. For example, Öktem goes as far as to claim that guardian state was behind even the idea to film the 'Valley of Wolves in Iraq' [sic] in order to create a hotbed for chauvinism and militarism, which would then help preempt the newly emerging scholarship with revisionist re-reading of Turkish history (p.147).

Concerning the increased receptivity inside Turkey of Armenian genocide claims as illustrated by an 'apology campaign' recently organized (p.178), Öktem, in an act of exaggeration, argues that "the memory of 1915, and of many more instances of state violence such as the Dersim massacres of 1937/1938, the Wealth Tax and Istanbul pogroms of 1955 had not been excised from the *collective memory* as thoroughly as republican nation-builders would have hoped" (my emphasis) (p. 145). Here it remains obscure whose collective memory Öktem is alluding to because he also acknowledges that "outside the Armenian community and those families that had witnessed or taken part in the deportation of Armenians, or had escaped extermination by conversion, *few Turks* questioned the official orthodoxy and made no connection with the recollections of their grandparents*"* (p.145)? If it is only a few Turks who are today willing to accept the Armenian genocide claims, how does that allow for the authors' conclusion about Turks' collective memory?

Finally, the Armenian genocide receives a relevant role in the book. The author claims that the Committee of Union and Progress (CUP) intended to exterminate or annihilate Armenians in the events of 1915. Yet, his assertion that "this [official] narrative [which denies there was genocide] was flying in the face of international scholarship, *where there was little disagreement*" (italics added) (p.145) could not be further from the truth unless such renowned historians as Malcolm Yapp, late Stanford Shaw, Norman Stone, and Bernard Lewis, who hesitated to pass judgment on these events on account of absence of historical evidence to convict the CUP of conspiring to exterminate the Armenians, are dismissed from this collection of international scholars. The problem of the overall absence of in-text referencing in the book gets even more acute in this section because the reader is given no chance to know which sources the author relies on while making certain assertions. Among the referenced books that one finds in the list of sources at the end, Vahakn Dadrian's book, for example, has been claimed by Malcolm Yapp to have harbored no new evidence for the CUP's deliberate extermination plans.[4] Yet, the author seems so convinced about the truth of the Armenian genocide that he does not even feel the need to open a thorough discussion on the subject by defending his

---

[4] Malcolm E. Yapp, review of *The History of the Armenian Genocide: Ethnic Conflict from the Balkans to Anatolia to the Caucasus*, by Vahakn N. Dadrian, *Middle Eastern Studies* 32 (4) (Oct 1996): 395-397.

sources without discounting a whole body of opposing voices from the gambit of international scholarship.

Overall, *Angry Nation: Turkey since 1989* is written in nice prose and can be easily read in one sitting. The fact that Öktem minces his words at no place throughout the book serves as added value in certain sections. However, it is hard to claim that the book, which is written more with freely-floating concepts and unfounded assertions than one expects to come across in a scholarly publication, is a great service to scholarship on Turkey.

Robert Bowker, *Egypt and the Politics of Change in the Arab Middle East* **(Cheltenham: Edward Elgar Publishing, 2010)**

Kawu Bala
Bauchi State Judiciary

The last two years have seen a transformation in the Arab world that stunned several regimes after the eruption of protest in Tunisia. When the first signs of the protest began to unfold in the Arab world's major cities, the world no doubt was skeptical as even some keen observers were caught saying the protesters would be dispersed with the "usual iron fist" by the Arab regimes' internal security apparatus. Though each country in the Arab world is unique, the Egyptian protest could be said to be the most dramatic. Robert Bowker's *Egypt and the Politics of Change in the Arab Middle East,* sounds like a futuristic study whose seeds germinated recently as it came to the reading stand a few months before the inevitable reforms that will have to take place despite the problems of "accommodation, reaction and resistance" under way (p. 1) in the corridors of power in the Middle East.

According to Bowker, any curious observation of the Middle East should start with Egypt. The Middle East is a restless region as a chunk of its population will, in a short time, reside in the cities and we know what this entails in social parlance: urbanization. Other "dynamics" that have characterized the region for many years and which continue to make headlines daily include "foreign occupation, rise of nationalist, secular leftist and Islamist reform movements," (p. 3); all of these suggest uncertainties on a large scale. These are factors that cannot exist devoid of the types of power structures in the Middle East which create "disconnection" between the Arab population and their leaders. If it is not a leadership change from father to son, it will surely then be what critics may call a "camouflaged democracy," a kind of democracy with no elections or with elections consistently dismissed as flawed. This, to Bowker, has created an absence of "political transparency or accountability" (p. 5). When rulers do as they wish, then you should expect trouble

sooner or later to rear its head because, for generations, a culture of "non-accountability" has been entrenched.

Readers do not need to go further to appreciate the Arabs political landscape: Egypt and Syria have been under the "state of emergency" (p. 19) for decades and, ironically, the September 11, 2001 terrorist attack and its aftermath has given the Arab rulers an opportunity to crack down on popular dissent. What do you expect from regional political rulers that are hell bent in exercising their authorities at all cost? There are, however, some regimes that came into being as "nationalist" which removed monarchies but there systems are more "authoritarian" (p. 77). In this context, the trouble with Arabs, to put it colloquially, is like a case of people moving from the frying pan to the fire.

Bowker reveals that while all this was happening the Arab rulers have not paid attention to the fact that a substantial proportion of the population in the Middle East are under "14 years of age" and they could be "volatile", indeed as the world is now witnessing (p. 83).

In some of the succinct discussion in the pages of the book, Bowker provides an understanding as to what led to the present protests in Egypt and many other countries where the voices of the people are being heard for the first time, even if the book was written at a time before the "Arab Awakening". Changes have been witnessed in many countries of the Middle East in areas like literacy and mass communication (p. 167) so the era of "limiting the political space" against popular governance that should carry on board all and sundry is not going to be possible because this touches on the Arab's leaders' "credibility" as well as their legitimacy as some of the regimes are now battling to curtail the people's anger upon them (p. 184).

There are certain fundamental reasons why this book deserves to be read. To begin with, when people have risen from years of "misrule" governments have no choice but to listen and make amends instead of politicizing reforms critically needed in the Middle East. Like other analyses Bowker's book is useful at a time for the Arab rulers to heed warnings clearly written on their walls. Cosmetic changes have their limit and only genuine reform will save the situation. Youths are still demonstrating at the Tahrir Square and changes dearly needed are said not to have been coming, at least the way people wanted to see.

Secondly, the nature of the book brings to light the power struggle in the Middle East. Various actors are in the interplay currently as "key indicators" of the line of politics the Arab Middle East will be engulfed in (p. 187). This conveys to the world the need to widen its scope so that it benefits from the uncertainties in Egypt and other countries not just in the Middle East but beyond. The implication is enormous.

China, we read in the news, is studying the situation as it discovered its people were planning to take to the streets and, interestingly, it is followed by Africa, where some leaders do what they can to stay in power, yet now they seem jittery.

Much of the criticism of the Arab rulers have also been extended to Western countries, with America always taking the largest share of blame for dilly-dallying with the need for genuine democracy. Bowker is clear on this as he states that United States has no "coherent policy approaches and concrete steps" (p. 184). It is not, therefore, hard to find the reason. Mubarak, for example, was a darling and an ally until he was kicked from power by the people. The politics in the Middle East should be well studied as the region is the hot spot for now and indeed many years to come. This is the valuable insight the book should have addressed and tabled to the global policy makers and powerful nations so that the world should be cautious and do the right thing in supporting genuine change from Egypt. It is understandable, to some extent, as Bowker is a diplomat but this is the reality and there is no middle way.

Neil Rollings, *British Business in the Formative Years of European integration* **(New York: Cambridge University Press, 2007)**

Simone Selva
German Historical Institute Washington DC

Neil Rollings' book targets the historical dynamics of Great Britain's entry into the European community (EC) from the early steps of the European economic integration process at the turn of the 1940s through to the country's final access to the EC in 1973. It provides us with a reconstruction of this history from the vantage point of the British business community's economic initiatives and attitudes, dealt with in part one and part two of the book respectively, toward the country's move towards entry into the common market during these decades. Both the subject and the time period covered, as widely known, have been much discussed and reconstructed in the literature. The author ventures towards adding a new kind of reconstruction on this topic in two ways. On the one side he attempts to draw up a truly interdisciplinary history cross-cutting economic and political history of European integration; on the other, he investigates the role of British business in this history through the initiatives and policies of the micro and meta-level business organizations and of single groups of companies and enterprises, rather than the peak–level business associations' role, mostly researched by historians so far.

Accordingly, Rollings founds his reconstruction on a mixture of macroeconomic quantitative sources and data, used in part one to offer a snapshot of British foreign trade and foreign direct investments (FDI) trends and dynamics throughout these

decades, and an archive-based narrative history of whether, how and to what extent the business community followed up the political history of Great Britain's move to step in the EC during this period, with particular attention to their approach to the issue during the country's three applications to access the EC in 1963, 1967 and 1973. He draws upon this research approach in part two, dedicated to a detailed reconstruction of British business changing perceptions and policies over time, and in part three. Here, the author chooses three subjects(competition policies, taxation and company law) to account for how the British business community featured an early and wide perception of European economic integration as a process of Europeanization going way beyond the mere adoption of tariff removals or the undertaking of common external tariffs.

The book makes the case for two main theses and, on the whole, it is coherently structured and quite convincing in that. Notwithstanding, as we will note at the end, there are some missing points whose consideration might help the author further these thesis.

The first and most important objective is to discuss and bring into question the so called 'missed opportunity' argument. According to this interpretation, the country's self-exclusion from joining the six founding countries of the EC from its early rejection of the Schuman Plan and the European Coal and Steel Community, through to the decision to keep trading with the Commonwealth countries as its main post-war trade pattern accounts for a British manufacturing system lagging behind the other West European economies in terms of industrial modernization and price competitiveness on foreign markets.   According to this interpretation, Britain's post WWII decision not to dismantle the system of Imperial Preference set up with the 1932 Ottawa Agreement "whereby imports from the Empire were given preference in Britain in return for preferential treatment of British export in empire markets" (pp. 8-9), kept the British exporters tied to low-income markets. This trade pattern prevented them from a demand induced and trade liberalization based capital intensive modernization and race for competition as it would be the case for the fast growing American and European consumer markets. In this framework -so the 'missed opportunity' argument maintains - the 1973 move into the EC came to be a cold shower of competition for the British export sectors.

Rollings convincingly disproves this argument both in part one and in part two. In chapter one first he demonstrates that the shift in the trade relationships of British exports from the Commonwealth countries to the EC economies did not occur suddenly upon the country's entry into the EC but was the long term result of a changing trade pattern stretching throughout the 1950s and 1960s, with a significant acceleration in this trend at the turn of the 1950s. Secondly, he brings into focus the commodity composition of British foreign trade during these decades to maintain that, contrary to the 'missed opportunity' argument, the high added

value sectors, led by the mechanical engineering firms, grew their share of British foreign trade, whereas the backward sectors, such as the textile firms, declined. A further third argument is that this rise in the high capital intensive industries' share of British export did not only follow the changing trade relationships of Great Britain from the Commonwealth to the EC market, but it also led the British engineering firms to experience the most significant upward movements in the most competitive European market of France, Germany and Sweden. Similarly, the British FDI followed the same pattern. Although in the postwar years the Commonwealth economies were the main recipients, since the late 1950s the EC capital markets had grown their share of British total FDI, and those most dynamic West European economies became the main recipients.

Rollings continues with this interpretation in part three through a detailed reconstruction of British business attitudes and initiatives toward the EC. Through an analysis of how the business organizations and the British government interacted with each other to prepare for British application and accession to the EC, he stresses how the business community's early skepticism toward the EC made way, since the late 1950s, for increasing approval of the same. In this respect, he maintains that what accounts for this move were both, as it was the case for other national business communities of the EC[5], the opportunity of enlarging British export markets, and the popular attraction of removing tariff barriers, as well as the achievement of economies of scale, as so forth production rationalization and competition to cope with the inflow of American consumer goods (pp. 144-158). In turn, mechanical engineering and chemical mid- and large-sized industries took the lead in this move, whereas the smaller firms and the least capital intensive sectors, opposed entry into the EC.

The second thesis is that the attitude of British business to the EC was at variance with the changing policy of British politics, that the latter repeatedly impeded the business community's eagerness to join the EC, and that there were clashing views within the government between the political sections interested in achieving economic integration as a way to speed up political integration, and the economic units worrying about the economic consequences of integration. The author provides evidence of this thesis in most chapters.

The book is well structured around these two theses and timely, too, both because the role of business communities and organizations in the making of the EC has risen

---

[5] One of the most remarkable example is that of Italy's business community. See Francesca Fauri, *What Italian Business disliked about a European Common Market*, "Jahrbuch für Wirtschaftsgeschichte", 2 (2008), pp. 39-52.

as one of the most vibrant research subjects[6], and because the historiography on the EC has increasingly kept its eyes on the 1970s, by far considered a decade in the history of the European integration marked by acceleration through the UK entry, and stalemate thereafter.

Notwithstanding, some attention to either the broader place of Great Britain in the international economic system after WWII, or an account of any of the macroeconomic conditions featuring the British economy during the time period considered might help Rollings push forward his arguments. In particular, he describes and then provides evidence on the reshaping of the British economy's trade and financial patterns from the Commonwealth to the EC. In this narrative framework some reference to London's attempt to oppose the decline of Sterling as the leading currency for international trade and payments until the 1950s, or a sense that the early 1950s British business opposition to the removal of trade barriers found its ground in the internal inflation threatening a national manufacturing system exposed to foreign firms, could strengthen this reconstruction and interpretation further.

---

[6] The most recent example, although stressing business opposition to the EC, is Niklas Jensen-Eriksen, *Industrial Diplomacy and Economic Integration: the Origins of All-European Paper Cartels 1959-1972*, "Journal of Contemporary History", Vol. 46, 1, 2011, 179-201.

NOTES ON CONTRIBUTORS

Ömer Aslan finished his masters at the London School of Economics and Political Science. He is a Ph.D. student in political science department at Bilkent University, Ankara. aslaomer@gmail.com.

Kawu Bala studied law at the Bayero University Kano before proceeding to the Nigerian Law School, Abuja. He is a senior magistrate with the Bauchi State Judiciary. E-mail: kabaaz@gmail.com.

Nicolae Bîea holds a MA in Political Science from Central European University and currently pursues an MSc in Economics at Albert-Ludwigs-Universität Freiburg. His research interests are in political economy and comparative politics. E-mail: nicolae.biea@gmail.com.

Emilian Kavalski is lecturer in Politics and International Relations at the School of Humanities and Languages, University of Western Sydney. E-mail: E.Kavalski@uws.edu.au.

Klejd Këlliçi is a lecturer of Political Science and Comparative Politics in the European University of Tirana,Albania .He has recieved his doctorate in Institutions and Comparative Politics from the University of Bari. E-mail: k.kellici@gmail.com.

Konstantin Kilibarda is a PhD candidate in the Political Science Department at York University. His research focuses on the political economy of the Western Balkans and the overlaps between post-socialist and postcolonial transformations. E-mail: koliya.k@gmail.com.

Alexander B. Makulilo is a lecturer at the Department of Political Science and Public Administration, University of Dar es Salaam. E-mail: makulilo76@yahoo.co.uk.

Attila Molnar holds an MA in Political Science from Central European University, Budapest. He works as International Economic Affairs Officer at the Ministry for National Economy of Hungary. E-mail: mr.attila.molnar@gmail.com.

Viktoria Potapkina is a PhD student at the University of Pompeu Fabra. Her research focuses on nationbuilding in unrecognized states. E-mail: viktoria.potapkina@gmail.com.

Consolata Raphael Sulley is a PhD candidate at the University of Leipzig and the author of *Party Institutionalization in Tanzania: A State Project?* E-mail: consraph@yahoo.com.

Simone Selva holds a PhD in Contemporary European History from the University of Milan and a postdoctoral fellowship from the University of Bologna. He is currently visiting research Fellow at the German Historical Institute in Washington DC. E-mail: selva@ghi-dc.org.

Jan Smolenski is a PhD student at the Politics Department of the New School for Social Research. His research focuses on political theory and political philosophy. E-mail: smolj132@newschool.edu.

Mano Gabor Toth is a first-year PhD student at the Department of Politics and International Studies, University of Cambridge. His main interests are transitional justice, moral philosophy, and memory studies. E-mail: mgt36@cam.ac.uk.

CALL FOR PAPERS

Vol. 8, No. 1
February 2013
General Issue

CEU PSJ accepts now submissions for its February 2013 issue. Authors should ensure that their submissions are original contributions and should not be under consideration for any other publication at the same time. Full guidelines for the presentation of the papers are available at the guidelines for submission section.

Authors should send their articles to ceu_polsci@yahoo.com by 1 December 2012.

Peer Review Process
All submitted articles are subject to a rigorous peer review process, based on initial editor screening and double-blind refereeing by a minimum of two reviewers.

The journal includes also a book review section.

Books Available for Review:
1. Pieter Verstraete, *In the Shadow of Disability. Reconnecting History, Identity and Politics*
2. Franz-Xaver Kaufmann, *European Foundations of the Welfare State*
3. Olivera Simic, *Regulation of Sexual Conduct in UN Peacekeeping Operations*
4. Joaquim Silvestre, *Public Microeconomics. Efficiency and Equity in Public Policy*
5. Spencer J. Pack, *Aristotle, Adam Smith and Karl Marx. On Some Fundamental Issues in 21st Century Political Economy*
6. Paul M. Sniderman and Benjamin Highton (eds.), *Facing the Challenge of Democracy: Explorations in the Analysis of Public Opinion and Political Participation*
7. Kostas A. Lavdas, *A Republic Of Europeans. Civic Potential in a Liberal Milieu*
8. Dorothy E. McBride and Amy G. Mazur, *The Politics of State Feminism. Innovation in Comparative Research*
9. Elena Esposito, *The Future of Futures. The Time of Money in Financing and Society*
10. Josette Baer, *Revolution, Modus Vivendi or Sovereignty? The Political Thought of the Slovak National Movement from 1861 to 1914*
11. Peter A.G. van Bergeijk, *On the Brink of Deglobalization. An Alternative Perspective on the Causes of the World Trade Collapse*

If you are interested in reviewing any of these titles or becoming a book reviewer for CEU PSJ, send along a short resume (maximum 2 pages) including your areas of expertise to: ceu_polsci@yahoo.com.