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The Inter-Democratic Deficit of the European Union

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The European Union (EU) is a political entity that is profoundly controversial, especially regarding questions of democracy. There are people who do not consider the EU sufficiently democratic because it differs from its nation states, while others attribute its lack of democracy to the fact that it resembles the states too much. Some people think that it is not yet as democratic as its member states, and others believe that its lack of democraticness is caused by excessive state control. This is essentially the way that the discussion is divided between intergovernmentalists and federalists. However, if we presume that the thesis of the democratic deficit is correct, then we still need to determine whose deficit it is, who is responsible for it, and who suffers because of it. Is this, strictly speaking, an EU question? Or does it depend on the member states? The failure to clarify these questions leads to complaints that address the wrong audience and criticisms that point in the wrong direction, as if we were unaware of the nature of our problems and, as logically follows, do not know who should take responsibility for their lack of resolution.

I would like to examine the question from a less common point of view. This suggests that the democratic deficit can be primarily attributed to the EU's member states, which have not managed to fulfil the promises of integration. Many people have criticised the fact that the process of European integration has led to problems of democratic legitimacy within the nation states, but little has been made of the reality that integration was responding to specific problems of democratic legitimacy that already existed within the member states and largely continue to exist, sometimes even more extensively. The member states on their own were unable to guarantee certain common goods that the citizens of a democratic community have the right to expect. The failure or weakness of supranational institutions when

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confronting supranational problems may signify that we are not achieving some of the objectives that characterise us as democratic societies.

In contrast with those who believe that the EU is not sufficiently democratic because it has been unable to recreate on a European scale the democracy that supposedly functions in its member states, I invite you to consider that the democratic deficit arose because the states have not managed to democratise their interdependence. The configuration of transnational institutions is not the cause, but the more or less appropriate response to the deficits of the national democracies.

Democratic continuum

There are some responses to the euro crisis in which the solutions themselves have turned into problems. The imposition of technocratic governments is the most pointed example of a profound erosion of democratic legitimacy. I do not mean to assess here whether these proposals were appropriate but mean only to call attention to the fact that this criticism, which is generally pertinent, has created an unspoken undercurrent that establishes an unproductive contrast between the responsibilities of the EU and its nation states. Dominant discourse has resorted to a classical antinomy between opaque elites and democratic peoples, the system against the real world. This excessive simplification of the situation suggests that the people know exactly what should be done and how, while our politicians do not know how and are not able to provide solutions. It likewise suggests that what is missing at the European level functions perfectly well at the member state level.

This contrast is implicitly sustained in the conception of a Europe with member states that satisfy criteria of democraticness that remain unfulfilled at the European level. The cause of this failure would be the interference of European bureaucracy in the pacific democratic community of the member states. Let us suppose, although it is a lot to presume, that the nations are democratic, or that at the very least we know how democratic institutions are created and developed within the framework of the nation state. What happens then when we talk about institutions beyond nations, such as the European Union, or truly international institutions? In these arenas, is it possible and desirable for decisions to be made democratically, or must we throw up our hands in the face of the impossibility of such a task? Most importantly, what happens when these arenas beyond the nation state are making increasingly important decisions? Are these transnational institutions responsible for the fact that states have had to create them to achieve certain ends and have been unable to provide them with a democratic reality that corresponds to their nature?

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From a conceptual point of view, I believe that this contraposition between Europe and its member states is not very productive. When we insist upon it, we fail to comprehend that the quality of our democratic life is no longer judged within any one of these planes, but through their continuous inter-action. This regressive movement toward that which is known was solidified in the German Constitutional Court's decisions on the Maastricht Treaty (1993) and on the Treaty of Lisbon (2009), when it used national democracy as a model to assess the legitimacy of the European Union, as if it did not appreciate the institutional novelty of the Union. It demanded national control of European integration without taking into account the other side of the coin: achieving and safeguarding democracy now requires institutions that are capable of acting beyond the nation state.

Political practice has made use of this contrast between the EU and its member states to point fingers at a guilty party that is responsible for states not doing well or wanting to do something while preferring others take the responsibility. Here I am referring to the all too common blaming of Brussels, which functions as a very useful excuse in different ways. Domestic pressures are not always any more just than international conditioning, and sometimes national elites are the ones who make use of sovereignist language in order to avoid demands for justice, which are justified in broader contexts than those of their electorates. At the same time, many governments call for international commitments to escape parliamentary oversight and avoid having to justify themselves internally, thus increasing their political autonomy. On many occasions, there is this 'reverse agency' (Bohman 2007: 70), according to which national governments, instead of exercising the control they should, use transnational or international organisations to avoid domestic controls. A good deal of what has been loudly denounced as 'executive federalism' is due to the control that the bureaucracies of member states have hidden from parliaments by transferring decisions to the EU level, where they do not have to contend with political controls like the ones found in constitutional systems (Oeter 2010). Lastly, we could add to this brief aetiology of European discomfort the fact that some of the failures that we attribute to the EU have to do with the deficiencies of member states when it comes to using the powers that they have to control their governments' participation when making common decisions.

Because of this situation, no one should be surprised that identification with the European integration process has weakened, since the EU is accused of failing to meet the democratic demands which, it seems, its member states satisfy perfectly. Both on the right and on the left, there is a general regression towards a safe space, whether with regard to national identity or social protection. Depending on our ideological point of view, we will be more concerned about one or the other, but in any case, a return to the old references

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and a general rejection of any form of political experimentation seems to be imposed.

The logic of integration invites us to think in another way and set comfortable contrasts aside. I am proposing that we consider the existence of a democratic continuum, labelling Europe's situation as a 'contiguous democracy'. In the face of those who speak of a democratic deficit in common institutions, and in contrast to those who maintain that the states have a 'democratic disconnect' (Lindseth 2010), which, for them, would be the locus of democratic and constitutional legitimacy, we will instead talk about a 'continuum of legitimacy'. From this point of view, if the European Union has some deficit, then the states have it as well, and vice versa, even if it is to a different degree and with different results. The question of EU democratic legitimacy is now inseparable from the legitimacy of its member states; crises and transformations, successes and deficits are shared on both political planes.

It is not possible for national democracies to be flawless and, at the same time, for supranational institutions to be a space of domination. This has both an empirical sense—the confirmation that there are similar successes and problems on all planes, as I will attempt to remind us below—and a normative sense: it is of no use constructing a national democracy while harming the possibilities for democracy at a transnational level, and neither is it useful to elaborate a transnational community on the basis of undermining national democracies.

When one lives in an environment of deep interdependence and even more so if one is immersed in a process of political integration, 'democracy in a single country' ends up making democracy in that country non-viable. 'It is indeed unlikely in an interdependent world with various new forms of non-democratic authority that democracy can exist solely at one level, whether national, global or transnational' (Bohman 2007: 11). We are not facing a zero-sum game but instead the task of filling a chasm that has opened at our feet: 'The Union's policymaking abilities have not been strengthened in proportion to the amount member states abilities have been weakened' (Scharpf 1994: 219). That is why it is a mistake to view the strengthening of European or international institutions as a threat to democracy. It is a question of not losing sight of the objectives for which such institutions were put in play, pushing their development in agreement with the nature of the issues that need to be managed, and understanding the interaction between diverse institutional planes that are part of a complex order, no level of which is now able to function independently of the others.

The *boutade* that affirms that the EU would not be accepted into the EU because it does not fulfill the required democratic standards makes as little sense as affirming that the current member states should be considered unconstitutional for not fulfilling the conditions of organised sovereign

statehood. Let us recognise that both levels of government have a problem with democratic governance: the states no longer satisfy our expectations, and the Union does not yet satisfy them. We will clarify this question when identifying what each of them is in a position to offer. For that, we should allow democracy—its concept and its practices—to articulate greater complexity. If we do not do so, we will be handing more and more types of human interactions over to other political configurations where there is less respect for democratic values.

The inter-democratic deficit of member states

My thesis in this regard is that Europe's principal democratic deficit resides within its member states, which placed the process of integration in motion in order to rectify that situation, and that the euro crisis has been aggravated in a specific fashion, primarily because its management has been placed in the hands of intergovernmental logic. I would suggest that we invert our habitual point of view: in the European Union, democracy is difficult, while in the member states, considering the current circumstances of trans-nationalisation and interdependence, democracy is no longer fully realisable. There are some scholars of European integration who have already suggested something along these lines. According to this less common view, the EU is doing nothing but responding to and augmenting some of the democratic problems that are already in existence within its member states (Eriksen and Fossum 2000: 5; Nicolaïdis 2013). The central problem of legitimacy currently resides 'in the democratic constitutional state's inadequate adaptation to international social and economic interdependence. The so-called democratic deficit of the EU is thus, first of all, a problem of the nation state, not of the European Union' (Neyer 2011: 170). Therefore, rather than demanding the democratisation of the Union—applying known concepts and units of measure—the states would do well to consider Europe as an opportunity to compensate for the democratic deficits of the nation states (Joerges 2010: 294).

In the first place, are we not asking the EU for types of democratic legitimacy—transparency, participation, parliamentary control, and accountability—that the member states are in fact in no condition to provide? Accusations of bureaucratisation, distance, and elitism are levelled at the nation states as well. In the United States, the bureaucracy in Washington attracts no less hatred and anger than we see focused on the bureaucracy in Brussels. Perhaps we are searching the EU for things that not even nation states are in a position to provide: unequivocal identities, homogeneity, a particularly intense sense of solidarity, and unified public opinion, to name a few. If we are, to a large extent, lacking these credentials within the states and if our societies are fragmented, plural, and

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conflictive, then how can we be surprised that there is not a fully-fledged European *demos*?

Much of the EU's 'democratic deficit' develops out of the idealisation of national democracies, as if they enjoyed a compact and unquestionable *demos*, made ideal decisions, had no need for delegation or complexity, and enjoyed parliaments that monitored their executives effectively. All of the deficiencies that are attributed to EU democracy are also present to a greater or lesser extent within the democracies that make it up, even those that enjoy a significant historical reputation.

Let us examine one of those platitudes: criticism of the European Parliament (EP)'s lack of power compared with the 'de-parliamentarisation of decisions', which is now a general property of all European democracies, such as pre-sidentialisation or the strengthening of executive power to the detriment of legislative power (Poguntke and Webb 2005). The dominance of the executive over the legislative characterises all of these democracies; it is not a distinctive problem of the EU. Most legislative initiatives arise in the ministries, not in parliament. Generally, it is not the case that parliament controls the government; instead, the government makes use of their majority in parliament to push governmental activity. The idea that parliament holds a central role has become an exercise in nostalgia that has little to do with the ways in which contemporary democracies actually function.

In parliamentary systems, the division of powers between the legislative and executive branches is nothing more than a fiction. What truly happens is that a different dualism is established for each of them: on the one hand, between the government and the majority that supports it, and on the other hand, the opposition. 'What is remarkable about legislatures is not their power to say no to government but rather their reluctance to employ that power' (Norton 1998: 192). The expectation that the parliamentary majority that supports a government will refuse draft legislation is based on an idealised conception of parliamentarianism that is not consistent with the transformations these institutions have undergone in contemporary democratic societies. In current parliamentary systems, 'support for a government of one's own becomes the most important task of the governing parliamentary majority' (Patzelt 2000: 23).

I do not mean this to be an empty consolation that suggests that if the European Union is not very democratic, then we should focus on how the member states are much worse. The true European deficit is what I propose calling an 'inter-democratic' deficit, which consists of the fact that member states, trapped in a dense network of interdependencies, are not capable of providing their citizens some of the goods without which a democracy stops being one.

Issues that must be decided do not coincide with the scope of the instruments through which the legitimacy and democratic control of those

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decisions is carried out. A chasm has appeared between open flows and delimited democratic responsibilities. In any case, it is worth keeping sight of the fact that this gap is not exclusive to the European Union but is found in any political system that now experiences the maddening incongruence between political territoriality and the globality of other social systems—especially the economic-financial system. The EU is itself an instrument that can fight this disparity, and we would not gain anything if we, feigning ignorance of this special characteristic, insisted on giving the EU instruments of conventional statehood or judged its democratic legitimacy based on those categories.

Habermas (2011) defines the democratic deficit of the nation state in a specific and very plausible way. Nation states, so the argument goes, are no longer in a position to accomplish what their constituencies expect from democratic rule. The erosion of their power is due to both growing interdependence and the dynamics of globalisation. Both are compelling reasons to cooperate transnationally and to transfer competences to supranational institutions. As long as this transfer does not damage democratic procedures, it can rescue democratic constitutionalism. The Union represents this potential. The European project can be reconstructed as a rescue of democratic constitutionalism, which is respectful of the democratic credentials of its member states while, at the same time, institutionalising supranational rule. The peoples of Europe can understand this supranationalism as a democratic requirement because it enables them to accomplish what their nation states are unable to achieve. Once more, Habermas operates within the construct of co-originality in order to reconcile what is usually understood as a dichotomy or antagonism.

Growing interdependence means that member states suffer ever-greater democratic deficits since many of their decisions have extraterritorial effects. This deficit stems from a lack of sufficient reflection about those effects, given that the only frame of reference is their self-interest, not the interest of their neighbours. European law and the whole integration process should be understood as democratisations of this phenomenon and as compensatory procedures that guarantee that extraterritorial effects are taken into account when member states make decisions. The European process of constitutionalisation can be understood to be complementary to the constitutionalism of the nation states, with the goal of reducing or legitimising negative externalities that are derived from the operations of national political systems—in other words, integrating into their policy considerations that which in virtue of growing interdependence is a de facto reality.

The states are increasingly incapable of democratic action because they cannot include everyone affected by their decisions in the electoral process; on the flip side as well, citizens cannot influence the behaviour of those who

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are making decisions in their names (Joerges 2007: 317). This is the principal democratic deficit that the European Union should rectify. Extraterritorial effects and the burdens that one state imposes on others cannot be justified by recourse to domestic democratic procedures: they require another type of legitimacy. That is why we can affirm that the fact that national actors keep outside interests in mind may improve the representation of true domestic interests, since they are no longer circumscribed by the state arena either. In this sense, we might think that the EU helps strengthen the democratic authority of the member states to the extent that it can serve as a measure to manage externalities in an efficient fashion. It is no exaggeration to affirm from this perspective that the institution of democracy at the supranational level is the best way of assuring democracy at the national level (Mancini 1998; Morgan 2005) and that the European Union is a condition that allows its member states to continue being strictly democratic (Neyer 2012: 9).

Democratising interdependence

Treaties clearly establish that democracy is not only a principle that governs member states, but also a structural property of the EU itself. According to the Treaty of Lisbon, it is clear that the need for the democracy of integration is not entirely fulfilled by the member states. There is a generalised agreement that 'a supranational community in which autonomous power is exercised, that determines the life of citizens and the legislation that is valid for them, in a democratic era needs a democratic structure' (Böckenförde 1999: 91). We need to establish what sense of democracy is adequate for a polity like the European Union, which should, in my opinion, be determined in relation to the possibilities of democratising the interdependence between member states.

The causes for the democratic problem of Europe do not need to be sought in the conduct of Europeans alone or in the errors committed by their leaders—which have taken place, without a doubt. Instead, we should look to the difficulty of governing in a context that is partially unprecedented and which, given the transnational interaction among diverse social realms— particularly the economy, has exposed us to a series of effects whose causes lie beyond the decision-making realms of each one separately. States can only manage these situations by sharing their political resources. This volatility affects the member states, the EU, and other regions and states in the world. Inevitably, there are tasks that can only be carried out—and then only with extraordinary difficulty—by international organisations such as the International Monetary Fund, the World Bank, the World Trade Organization (WTO), NATO in the military realm, or the various international conferences

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and protocols. These institutions, by affecting people's standards of living and conditioning the states' range of possibilities, erode the principle of sovereignty and the concepts of democratic legitimacy or democratic justification that were associated with the nation state.

The first question regarding the democraticness of the EU should be presented comparatively. Any questions about whether the EU is sufficiently democratic, legitimate, or efficient should be answered in the first place with 'Compared to what?' (Dinan 2012: 33). What is surprising is that, given its complexity, the EU is the most democratic of international organisations, with a methodology that is more democratic than any diplomatic procedure (Neyer 2012). This is true in the first place because the European Union is made up of democratic states, which is not the case with some international organisations where certain autocratic regimens are represented. There is no supranational institution that can bear comparison.

The democratic credentials of the Union also reside within its very nature and function. I am not only referencing the way European integration has consolidated the transitions toward democracy in Germany, Italy, Greece, Portugal, and Spain or more recently in central and eastern European countries (Zielonka 2007). I am also addressing the extent to which European integration has improved the democracies of its member states (Schmidt 2006).

However, in the end, the question of the democraticness of the Union should not be presented in comparison with other political entities or in virtue of their internal functioning, but in relationship to the specific benefits that we can expect from it. It is probably true that the EU's political system is more transparent than the national systems of its member states (Moravcsik 2002) and that the democratic credentials of the states leave a lot to be desired (Mény 2003), but it makes no sense to affirm that the democratic deficit is justified because the EU is based on a confederate agreement whose democratic status depends on democratic member states (Majone 1999: 21). First off, those who present this hypothesis may do so with resignation or with satisfaction, but they do not offer theoretical ambition or a pragmatic timeline for implementation. The question of EU democracy depends on there being democratic contributions to the task that we have assigned it, which I have summarised here in the governance of interdependence. Democracy in Europe must be conceived, carried out, and judged based on this objective. Additionally, from this perspective, European norms should be envisaged as a concrete alternative to national regulations that are not sufficiently democratic—specifically, to all regulations that have transnational effects but in which only nations participate.

Europe requires and at the same time presupposes the possibility of carrying out an enormous democratic innovation. That is why, even though I understand the rhetoric that pushes the idea of Europe as an 'unfinished democracy' (Eriksen 2009), I believe that this way of speaking has a nostalgic

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bias, as if suggesting that all other democracies are finished or that they have already reached their prime. In the end, 'incomplete democracy' is a redundancy or, depending on intention, an expression that blames the EU and indirectly approves of national democracies beyond what seems reasonable. In any case, this way of speaking reveals the yardstick we are using and does not allow us to detach ourselves from it. If we want to make the European Union more democratic, then we will need to invent new paradigms, rules, and institutions, rather than trying to duplicate national prescriptions.

Extending democratically organised responsibility beyond the spaces that have been manageable until now will depend, in the first place, on adapting democratic ideals to new conditions, in the same way that our ancestors invented the idea of representation that allowed them to transform associative democracy from villages or city states into national democracies. Until the eighteenth century, the dominant idea was that there could only be democracy in local communities. The next democratic transformation—and the EU is a formidable experiment along these lines—consists of making it compatible with the reality of globalised spaces. In any case, it is a good idea to measure the intensity of our deceptions against the scope of the objectives and consider the value of our failures against the audacity of our ambitions.

If we conceive of the European Union as the project of legitimately governing interdependencies between post-sovereign states, then it makes sense to talk less about democratising the EU and more about 'Europeanising democracy' (Schmalz-Bruns 2002). Why not examine whether some aspects of European construction that we do not believe fulfill the criteria of a democratic state—heterogeneity of the *demos*, complex sovereignty, and indirect self-determination—could have a certain exemplariness for established democracies? At the same time, the European Union starts us down a very promising path towards understanding and developing the democratic legitimacy of transnational organisations and global governance institutions (Bogdandy 2011). If this is the case, then rather than looking at the EU as an institution that should be constituted as a state, we should see the states moving towards the EU. Instead of thinking that it is the states that make Europe, it is Europe that is remaking the states and situating them within the new global horizon.

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