

The Legitimacy Credit Crunch of the European Union*

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I On Two Genres and Three Types of Legitimacy

Legitimacy is a notoriously elusive term, over used and under specified. So the first thing I will do is to explain the sense in which I plan to use Legitimacy in this essay. Do not, please, argue with me and say: ‘That is not legitimacy! It means something else!’¹ It is how I plan to use it, and I hope to convince you that it is a useful way for articulating something terribly important about the present crisis and the current state of European integration.

There are two basic genres – languages, vocabularies – of Legitimacy: Normative and Social. The vocabulary of normative legitimacy is moral, ethical and it is informed by political theory. It is an objective measure even though there will be

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¹ I found the following most useful, also as a demonstration of the breadth of the concept: Cathryn Johnson, Timothy J. Dowd, and Cecilia L. Ridgeway, “Legitimacy as a Social Process”, *Annual Review of Sociology*, Vol. 32: 53 -78 (Volume publication date August 2006); Barry B. Levine, “Legitimacy and the process by which it is pursued” Prepared for *Encyclopedia of Economic Sociology*; editors: Jens Beckert and Milan Zafirovski (London: Routledge, 2005); Sadurski, Wojciech, “Constitutional Courts in Transition Processes: Legitimacy and Democratization” (August 30, 2011). Sydney Law School Research Paper No. 11/53. Available at SSRN: <http://ssrn.com/abstract=1919363>; Peter, Fabienne, "Political Legitimacy", *The Stanford Encyclopedia of Philosophy (Summer 2010 Edition)*, Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/sum2010/entries/legitimacy/>>.

obvious ideological differences as to what should be considered as legitimate governance.

Social legitimacy is empirical, assessed or measured with the tools of social science. It is a subjective measure, reflecting social attitudes. It is not a measurement of popularity, but of a deeper form of acceptance of the political regime.

The two types of legitimacy often inform each other and may even conflate, but not necessarily so.

A series of examples will clarify. By our liberal pluralist normative yardstick, German national socialism of the 30s and 40s was a horrible aberration, the negation of legitimate governance. Yet, socially and empirically, for most Germans almost until the defeat in 1945 it was not only popular but considered deeply legitimate leadership. By contrast, Weimer Democracy would pass our normative test of legitimate government, yet for a very large number of Germans it was not merely unpopular, but considered illegitimate leadership, a betrayal of Germany.

However, in less extreme situations we do expect some measure of conflation between the two. One hopes that if a regime is normatively legitimate, because, say, it practices constitutional democracy, it will enjoy widespread social legitimacy, and that the opposite will be true too: In a regime which fails the normative tests, one hopes that the social legitimacy will be low too. One can imagine complicated permutations of these parameters.

Legitimacy, normative or social, should not be conflated with legality. Forbidding blacks to sit in the front of the bus was perfectly legal, but would fail many a test of normative legitimacy, and with time lost its social legitimacy as well. There are illegal measures which are considered, normatively and/or socially as legitimate, and legal measures which are considered illegitimate.

For the purpose of this essay, it is worth exploring briefly the relationship between popularity and legitimacy. If I am a life long adherent of the Labor party in the UK, I might be appalled by the election of the Tories and abhor every single measure adopted by the Government of the Tory Prime Minister. But it would never enter my mind to consider such measures as “illegitimate.” In fact, and this is critical for

one of the principal propositions of this essay, the deeper the legitimacy resources of a regime, the better able it is to adopt *unpopular* measures critical in the time of crisis where exactly such measures may be necessary.

There is something peculiar about the current crisis. Even if there are big differences between the Austerity and Immediate Growth camps, everyone knows that a solution has to be European, within a European framework. And yet, it has become self evident, that crafting a European solution has become so difficult, that the Institutions and the Union decision making process do not seem to be engaging satisfactorily and effectively with the crisis, even when employing the intergovernmental methodology, and that it is governments, national leaders, of a small club, who seem to be calling the shots. The problem is European, but Europe as such is finding it difficult to craft the remedies.

I would like to argue that in the present circumstance, the legitimacy resources of the European Union – referring here mostly to social legitimacy -- are depleted, and that is why the Union has had to turn to the Member States for salvation. Solutions will still have to be Europe wide, but they will not be ideated, designed and crafted using the classical “Community Method” but will be negotiated among and validated by the Member States. They will require the legitimacy resources of the Member States – in many countries close to depletion too – in order to gain valid acceptance in Europe.

Alan Milward famously and convincingly wrote on the European Rescue of the Nation State.² The pendulum has swung and in the present crisis it will be the Nation State rescue of the European Union.

Moving from the genres of legitimacy to a typology I would like to suggest the three most important types or forms of legitimacy which have been central to the discussion of European integration. The most ubiquitous have been various variations on the theme of input and output legitimacy.³

² A. Milward, *The European Rescue of the Member State* (Routledge, 2000 2nd Ed.)

³ I have found helpful M. Boedeltje and J. Cornips. *Input and output legitimacy in interactive governance*. Technical report, October 2004. Karl-Oskar Lindgren, Thomas Persson, “Input and output legitimacy: synergy or trade-off? Empirical evidence from an EU survey”, *Journal of European Public Policy* Vol. 17, Iss. 4, 2010

- Process (or input) Legitimacy – which in the current circumstance can be, with some simplification, be synonymized with democracy. It is easier put in the negative: To the extent that the European mode of governance departs from the habits and practices of democracy as understood in the Member States, its legitimacy, in this case both normative and social will be compromised.
- Result (or output) Legitimacy – which, again simplifying somewhat, would be all modern versions of Bread and Circus. As long as the Union delivers “the goods” – prosperity, stability, security – it will enjoy a legitimacy that derives from a subtle combination of success *per se*, of success in realizing its objectives and of contentment with those results. There is no better way to legitimate a war than win it. This variant of legitimacy is part of the very ethos of the Commission.
- Telos Legitimacy or Political Messianism whereby legitimacy is gained neither by process nor output but by promise, the promise of an attractive Promised Land. I will elaborate on this below.

I will now try and illustrate the collapse of all three forms of legitimacy in the current European circumstance.

II Europe, the Current Circumstances

This is an interesting time to be reflecting on the European construct. Europe is at a nadir which one cannot remember for many decades and which, various brave or pompous or self-serving statements notwithstanding⁴, the Treaty of Lisbon has not been able to redress. The surface manifestations of crisis are with us every day on

⁴ See for example, « Plenary session of the European Parliament, Strasbourg, 20 February 2008 : Treaty of Lisbon », which includes various statements from the members of the European Parliament, Janez Lenarcic, President of the Council and Margot Wallström, Vice-President of the European Commission, as well as European Parliament resolution of 20 February 2008 on the Treaty of Lisbon (2007/2286(INI)); “Brussels European Council 14 December 2007”, Brussels, 14 February 2008, 16616/1/07 REV 1, including the EU declaration on globalisation; European Commission, “Your Guide to the Lisbon Treaty”, <http://ec.europa.eu/publications/booklets/others/84/en.pdf>, President Buzek News of the European Parliament, 1 December 2009, <http://www.europarl.europa.eu/president/ressource/static/newsletter/newsletter-3/newsletter.html?ts=1277465318672>; José Manuel Durao Barroso, President of the European Commission, “The European Union after the Lisbon Treaty”, 4th Joint Parliamentary meeting on the Future of Europe, Brussels, 4th December 2007, SPEECH/07/793, 7 December 2007.

the front pages: The Euro crisis⁵ being the most current. Beneath this surface, at the structural level, lurk more profound and long term signs of enduring challenge and even dysfunction and malaise. Let us refract them through the lens of legitimacy.⁶

First, as regards process legitimacy, there is the persistent, chronic, troubling Democracy Deficit, which cannot be talked away.

The manifestations of the so-called democracy deficit are persistent and no endless repetition of the powers of the European Parliament will remove them. In essence it is the inability of the Union to develop structures and processes which adequately replicate or, ‘translate,’⁷ at the Union level even the imperfect habits of governmental control, parliamentary accountability and administrative responsibility that are practiced with different modalities in the various Member States. Make no mistake: It is perfectly understood that the Union is not a State. But it is in the business of governance and has taken over extensive areas previously in the hands of the Member States. In some critical areas, such as the interface of the Union with the international trading system, the competences of the Union are exclusive. In others they are dominant. Democracy is not about States. Democracy is about the exercise of public power – and the Union exercises a huge amount of public power. We live by the credo that any exercise of public power has to be legitimated democratically and it is exactly here that process legitimacy fails.

⁵ D. Dinan, “Governance and Institutions: Implementing the Lisbon Treaty in the Shadow of the Euro Crisis”, *Journal of Common Market Studies*, vol. 49, n° S1, 2011, p. 103.

⁶ The literature is rich. Here is a partial sample of some truly helpful studies: Jacques Thomassen (ed.) (2009). *The Legitimacy of the European Union after Enlargement*. Oxford: Oxford University Press; Thomassen, Jacques/Schmitt, Hermann 1999: Introduction: Political Legitimacy and Representation in the European Union. In: Schmitt, Hermann/Thomassen, Jacques (Hrsg.): *Political Representation and Legitimacy in the European Union*. New York/Oxford: Oxford University Press, S. 3-21; Beetham, David/Lord, Christopher, 1998: *Legitimacy and the European Union*. London/New York: Longman; Haller, M. (2009), Is the European Union legitimate? To what extent?. *International Social Science Journal*, 60: 223–234; Moravcsik, A. (2002), Reassessing Legitimacy in the European Union. *JCMS: Journal of Common Market Studies*, 40: 603–624; Guastaferrò, B. and Moschella, M. (2012), The EU, the IMF, and the Representative Turn: Addressing the Challenge of Legitimacy. *Swiss Political Science Review*, 18: 199–219.

⁷ N. Walker, “Postnational Constitutionalism and the Problem of Translation” in J.H.H. Weiler, M. Wind (eds.), *European Constitutionalism Beyond the State* (Cambridge: Cambridge University Press, 2003), p. 29.

In essence, the two primordial features of any functioning democracy are missing – the grand principles of accountability and representation^{8,9}

As regards accountability¹⁰, even the basic condition of representative democracy that at election time the citizens “...can throw the scoundrels out”¹¹ – that is replace the Government – does not operate in Europe.¹² The form of European governance,¹³ governance without Government, is, and will remain for considerable time, perhaps forever such that there is no “Government” to throw out. Dismissing the Commission by Parliament (or approving the appointment of the Commission President) is not quite the same, not even remotely so.

Startlingly, but not surprisingly, political accountability of Europe is remarkably weak. There have been some spectacular political failures of European governance. The embarrassing Copenhagen climate fiasco¹⁴; the weak (at best) realization of the much touted Lisbon Agenda (aka Lisbon Strategy or Lisbon Process),¹⁵ the very story of the defunct “Constitution”¹⁶ to mention but three. It is hard to point in these instances to any measure of political accountability, of

⁸ A. Przeworski, S.C. Stokes, B. Manin (eds.), *Democracy, accountability and representation* (Cambridge: Cambridge University Press, 1999); P.C. Schmitter and T.L. Karl, “What democracy is... and is not”, *Journal of Democracy*, (Summer 1991) p. 67.

⁹ P. Mair, “Popular Democracy and the European Union Policy”, *European Governance Papers* (EUROGOV), n° C-05-03, p. 4.

¹⁰ C. Harlow, *Accountability in the European Union* (Oxford: Oxford University Press, 2003)

¹¹ I. Shapiro, *Democracy's place* (Ithaca: Cornell University Press) 1996, p. 96; J.H.H. Weiler, “To be a European citizen: Eros and civilization” in *The Constitution of Europe 'Do the New Clothes Have an Emperor?' and Other Essays on European Integration* (Massachusetts: Harvard University:1999), *op. cit.*, p. 329.

¹² R. Dehousse, “Constitutional Reform in the EC” in J. Hayward (ed.), *The crisis of Representation in Europe*, (Abingdon: Frank Cass, 1995), p.118, at 123.

¹³ P. Allott, “European Governance and the re-branding of democracy”, *European Law Review*, n° 1, vol. 27, 2002, p. 60.

¹⁴ See European Parliament resolution of 10 February 2010 on the outcome of the Copenhagen Conference on Climate Change (COP 15), P78TA(2010)0019, Wednesday, 10 February 2010, especially points 5-6.

¹⁵ I. Begg, “Is there a Convincing Rationale for the Lisbon Strategy”, *Journal of Common Market Studies*, vol. 46, n° 2, 2008, p. 427; “Facing the challenge. The Lisbon strategy for growth and employment” – Report from the High Level Group chaired by Wim Kok, November 2004,.

¹⁶ I. Ward, “Bill and the Fall of the Constitutional Treaty”, *European Public Law*, vol. 13, n° 3, 2007, p. 461; Editorial Comments, “What should replace the Constitutional Treaty?”, *Common Market Law Review*, vol. 44, 2007, p. 561.

someone paying a political price as would be the case in national politics. In fact it is difficult to point to a single instance of accountability for political failure as distinct from personal accountability for misconduct in the annals of European integration. This is not, decidedly not, a story of corruption or malfeasance.¹⁷ My argument is that this failure is rooted in the very structure of European governance. It is not designed for political accountability. In similar vein, it is impossible to link in any meaningful way the results of elections to the European Parliament to the performance of the Political Groups within the preceding parliamentary session, in the way that is part of the mainstay of political accountability within the Member States.¹⁸ Structurally, dissatisfaction with “Europe” when it exists has no channel to affect, at the European level, the agents of European governance.

Likewise, at the most primitive level of democracy, there is simply no moment in the civic calendar of Europe where the citizen can influence directly the outcome of any policy choice facing the Community and Union in the way that citizens can when choosing between parties which offer sharply distinct programs at the national level.¹⁹ The political colour of the European Parliament only very weakly gets translated into the legislative and administrative output of the Union.²⁰

The Political Deficit, to use the felicitous phrase of Renaud Dehousse²¹ is at the core of the Democracy Deficit. The Commission, by its self-understanding linked to its very ontology, cannot be ‘partisan’ in a right-left sense, neither can the Council, by virtue of the haphazard political nature of its composition. Democracy

¹⁷ On this aspect, see V. Mehde, “Responsibility and Accountability in the European Commission”, *Common Market Law Review*, vol. 40, 2003, p. 423.

¹⁸ J. Priestley, “European political parties : the missing link”, *Notre Europe*, Policy Paper 41, 2010; F. Roa Bastos, “Des partis politiques au niveau européen? Etat des lieux à la veille des élections européennes de juin 2009”, *Etudes et Recherches* 71, 2009 ; O. Audeoud, “Les partis politiques au niveau européen. Fédérations de partis nationaux”, *Les cahiers du GERSE*, Nancy, 3 février 1999

¹⁹ R. Dehousse, “Constitutional Reform in the EC” in J. Hayward (ed.), *The crisis of Representation in Europe*, *op. cit.*, at 123 *et seq.*; A. Follesdal, S. Hix, “Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik”, *Journal of Common Market Studies*, vol. 44, n° 3, 2006, p. 533, at p. 536.

²⁰ V. Bogdanor, “Legitimacy, Accountability and Democracy in the European Union”, *A Federal Trust Report* (2007) pp. 7-8; A. Follesdal, S. Hix, “Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik”, *op. cit.*, p. 545.

²¹ R. Dehousse, “Constitutional Reform in the EC” in J. Hayward (ed.), *The crisis of Representation in Europe*, *op. cit.*, at p. 124. See also, J.-M. Ferry, P. Thibaud, *Discussion sur l’Europe* (Paris: Calmann-Lévy, 1992).

normally must have some meaningful mechanism for expression of voter preference predicated on choice among options, typically informed by stronger or weaker ideological orientation.²² That is an indispensable component of politics. Democracy without Politics is an oxymoron.²³ And yet that is not only Europe, but it is a feature of Europe – the “non-partisan” nature of the Commission – which is celebrated. The stock phrase found in endless student text books and the like, that the Supranational Commission vindicates the European Interest, whereas the intergovernmental Council is a clearing house for Member State interest, is, at best, naïve. Does the “European Interest” not necessarily involve political and ideological choices? At times explicit, but always implicit?

Thus the two most primordial norms of democracy, the principle of accountability and the principle of representation are compromised in the very structure and process of the Union.

The second manifestation of the current European circumstance evident in a continued slide in the legitimacy and mobilizing force of the European construct and its institutions. I pass over some of the uglier manifestations of European ‘solidarity’ both at governmental and popular level as regards the Euro-crisis or the near abandonment of Italy to deal with the influx of migrants from North Africa as if this was an Italian problem and not a problem for Europe as a whole. I look instead at two deeper and longer-term trends. The first is the extraordinary decline in voter participation in elections for the European Parliament. In Europe as a whole the rate of participation is below 45 per cent, with several countries, notably in the East, with a rate below 30 per cent. The correct comparison is, of course, with political elections to national parliaments where the numbers are considerably higher.²⁴ What is striking about these figures is that the decline coincides with a continuous shift in powers to the European Parliament, which today is a veritable co-legislator with the Council. The more powers the European Parliament, supposedly the *Vox Populi*, has gained, the greater popular indifference to it seems

²² S. Hix, “Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik”, *op. cit.*, p. 545.

²³ See. P. Manent, *La raison des nations, réflexions sur la démocratie en Europe* (Paris: Gallimard, 2006), p. 59.

²⁴ A. Menon and J. Peet, “Beyond the European Parliament: Rethinking the EU’s democratic legitimacy”, *Center for European Reform Essays*, 2010; P. Magette, “European Governance and Civic Participation: Can the European Union be politicised”, *Jean Monnet Working Paper* 6/01.

to have developed.²⁵ It is sobering but not surprising to note the absence of the European Parliament as a major player in the current crisis. But the Institutional crisis runs deeper. The Commission has excelled as a creative secretariat and implementor and monitor, but neither as the sources of ideas or veritable political leadership. It has been faithful and effective as His Master's Voice. But most striking has been the disappearing act of the Council. No longer the proud leader of Europe according to the Giscardian design, but an elaborate rubber stamp to the Union's two Presidents -- Merkel and Sarkozy. A double failure of institutional legitimacy, of Parliament and Council. Of Supranationalism and Intergovernmentalism. The resort to to an extra-Union Treaty as a centerpiece of the reconstruction, is but the poignant legal manifestation of this political reality.

The critique of the democracy deficit of the Union has itself been subjected to two types of critique itself. The first has simply contested the reality of the democracy deficit by essentially claiming that wrong criteria have been applied to the Union.²⁶ The lines of debate are well known.²⁷ For what it is worth, I have staked my position above. But I am more interested in the second type of critique which implicitly is an invocation of Result or output legitimacy. Since the Union, not being a State, cannot replicate or adequately translate the habits and practices of Statal democratic governance, its legitimacy may be found elsewhere.²⁸

In analyzing the legitimacy (and mobilizing force) of the European Union, in particular against the background of its persistent democracy deficit, political and social science has indeed long used the distinction I between process legitimacy

²⁵ J. Buzek, « State of the Union : Three Cheers for the Lisbon Treaty and Two Warnings for Political Parties », *Journal of Common Market Studies*, 2011, vol. 49, p. 7, at p. 15; see also, J.H.H. Weiler, *The Constitution of Europe 'Do the New Clothes Have an Emperor?' and Other Essays on European Integration*, *op. cit.*, p. 266.

²⁶ J.H.H. Weiler, "Does Europe Need a Constitution? Demos, Telos and the German Maastricht Decision", *European Law Journal*, vol. 1, n° 3, 1995, p. 219, especially p. 225 *et seq.*

²⁷ P. Craig, 'The Nature of the Community: Integration, Democracy, and Legitimacy' in P. Craig & G. de Búrca (eds.), *The Evolution of EU Law* (Oxford: Oxford University Press, 1999) p. 25.

²⁸ N. MacCormick, "Democracy, Subsidiarity, and Citizenship in the 'European Commonwealth'", *Law and Philosophy*, 16: 331-356, 1997.

and outcome legitimacy (aka input/output, process/result etc).²⁹ The legitimacy of the Union more generally and the Commission more specifically, even if suffering from deficiencies in the state democratic sense, are said to rest on the results achieved – in the economic, social and, ultimately, political realms.³⁰ The idea harkens back to the most classic functionalist and neo-functionalist theories.³¹

I do not want to take issue with the implied normativity of this position – a latter day *Panem et circenses* approach to democracy, which at some level at least could be considered quite troubling. It is with its empirical reality that I want to take some issue. I do not think that outcome legitimacy explains all or perhaps even most of the mobilizing force of the European construct. But whatever role it played it is dependent on the Panem. Rightly or wrongly, the economic woes of Europe, which are manifest in the Euro crisis are attributed to the European construct. So when there suddenly is no Bread, and certainly no cake, we are treated to a different kind of circus whereby the citizens' growing indifference is turning to hostility and the ability of Europe to act as a political mobilizing force seems not only spent, but even reversed. The worst way to legitimate a war is to lose it, and Europe is suddenly seen not as an icon of success but as an emblem of austerity, thus in terms of its promise of prosperity, failure. If success breeds legitimacy, failure, even if wrongly allocated, leads to the opposite.

Thus, not surprisingly there is a seemingly contagious spread of 'Anti-Europeanism' in national politics.³² What was once in the province of fringe parties

²⁹ See for example, C. R. Beitz, *Political equality: an essay in democratic theory*, chapters 2 and 4; R.A. Dahl, *Democracy and its critics*, (New Haven: Yale University Press, 1991) p. 163. See also more specifically, G. Majone(ed.), *Regulating Europe* (London: Routledge, 1996); F.W. Scharpf, *Governing in Europe: Effective and Democratic?*, (Oxford: Oxford University Press) 1999, p. 7 *et seq.*

³⁰ K. Featherstone, "Jean Monnet and the Democratic Deficit in the European Union", *Journal of Common Market Studies*, vol. 32, n° 2, 1994, p. 149, at p. 150.

³¹ *Ibid.*, p. 155; C. Pentland, "Political Theorie of European Integration: Between Science and Ideology", in D. Lasok and P. Soldatos (eds.), *The European Communities in Action*, (Brussels: Bruylant, 1981), p. 545, at p. 550 *et seq.*; B. Rosamond, *Theories of European Integration* (New York: Palgrave Macmillan, 2000), p. 20 *et seq.*; D. Mitrany, *A Working Peace System* (Chicago: Quadrangle Books, 1966); E.B. Haas, *The Uniting of Europe*, (Stanford: Stanford University Press, 1958); E.B. Haas, "Trubulent Fields and the Theory of Regional Integration", *International Organization*, vol. 30, Spring 1976, p. 173; L.N. Lindberg, *The Political Dynamics of European Economic Integration* (Stanford: Stanford University Press, 1963); L.N. Lindberg and S.A. Scheingold (eds.), *Regional Integration: Theory and Research*, (Cambridge: Cambridge University Press, 1971).

³² C. Leconte, *Understanding Euroscepticism*, (Palgrave Macmillan, 2010).

on the far right and left has inched its way to more central political forces. The “Question of Europe” as a central issue in political discourse was for long regarded as an ‘English disease.’ There is a growing contagion in Member States in North and South, East and West, where political capital is to be made among non-fringe parties by anti-European advocacy.³³ The spill-over effect of this phenomenon is the shift of mainstream parties in this direction as a way of countering the gains at their flanks. If we are surprised by this it is only because we seem to have air brushed out of our historical consciousness the rejection of the so-called European Constitution, an understandable amnesia since it represented a defeat of the collective political class in Europe by the *vox populi*³⁴, albeit not speaking through, but instead giving a slap in the face to, the European Institutions.³⁵

III Europe as Political ‘Messianism’

At some level the same could have been said ten and even twenty years ago.³⁶ The Democracy Deficit is not new – it is enduring. And how did Europe legitimate itself before it scored its great successes of the first decades?

As I hinted above, at the conceptual level there is a third type of legitimation which, in my view, played for a long time a much larger role than is currently acknowledged. In fact, in my view, it has been decisive to the legitimacy of Europe and to the positive response of both the political class and citizens at large. I will also argue that it is a key to a crucial element in the Union’s political culture. It is a legitimacy rooted in the ‘*politically messianic*’.

³³ R. Harmsen and M. Spiering (eds), *Euroscepticism: Party Politics, National Identity and European Integration*, (Amsterdam: Rodopi, 2005), p. 13; A. Szczerbiak, P.A. Taggart, *Opposing Europe?*, (Oxford: Oxford University Press: 2008) vol. I & II.

³⁴ N. Fligstein, *Euroclash. The EU, European Identity, and the Future of Europe*, (Oxford: Oxford University Press, 2008).

³⁵ For former examples, see J.H.H. Weiler, U.R. Haltern, F.C. Mayer, “European Democracy and Its Critique” in J. Hayward (ed.), *The crisis of Representation in Europe*, (Abingdon: Frank Cass, 1995), p. 4.

³⁶ See for example, European Commission, “European Governance: A White Paper”, COM(2001) 428 final, Brussels; V. Bogdanor and G. Woodcock, “The European Community and Sovereignty”, *Parliamentary Affairs*, vol. 44, n° 4, 1991, p. 492: “*The shortcomings of the Community lie in the feelings of remoteness and lack of influence and involvement on the part of many of its citizens*”; D. Grimm, “Does Europe Need a Constitution?”, *European Law Journal*, vol. 1, n° 3, 1995, p. 282, at p. 291 *et seq.*; C. Hill, “European Foreign Policy: Power Bloc, Civilian Power – or Flop?” in R. Rummel (ed.), *The Evolution of an International Actor – Western Europe’s New Assertiveness* (Boulder: Westview), 1990, p. 35.

In political ‘messianism’, the justification for action and its mobilizing force, derive not from process, as in classical democracy, or from result and success, but from the ideal pursued, the destiny to be achieved, the ‘Promised Land’ waiting at the end of the road. Indeed, in messianic visions the end always trumps the means.

Mark Mazower, in his brilliant and original history and historiography of 20th-century Europe,³⁷ insightfully shows how the Europe of monarchs and emperors which entered World War I was often rooted in a political messianic narrative in various states (in Germany, and Italy, and Russia and even Britain and France). It then oscillated after the War towards new democratic orders, that is to process legitimacy, which then oscillated back into new forms of political messianism in fascism and communism. At the tale is usually told, after World War II Europe of the West, was said to oscillate back to democracy and process legitimacy. It is here that I want to point to an interesting quirk, not often noted.

On the one hand, the Western states, which were later to become the member states of the European Union, became resolutely democratic, their patriotism rooted in their new constitutional values, narratives of glory abandoned and even ridiculed, and messianic notions of the State losing all appeal. Famously, former empires, once defended with repression and blood, were now abandoned with zeal.³⁸

And yet, their common venture, European integration, was in my reading a political messianic venture *par excellence*, the messianic becoming a central features of its original and enduring political culture. The mobilizing force and principle legitimating feature was the vision offered, the dream dreamt, the promise of a better future. It is this feature which explains not only the persistent mobilizing force (especially among elites and youth) but also key structural and institutional choices made. It will also give more depth to explanations of the current circumstance of Europe.

Since, unlike the democracy deficit which has been discussed and debated *ad nauseam* and *ad tedium*, Political Messianism is a feature of European legitimacy

³⁷ M. Mazower, *Dark Continent –Europe’s Twentieth Century* (London: Allen Lane, 1998).

³⁸ J. Lacroix, “For a European Constitutional Patriotism”, *Political Studies*, 2002, vol. 50, p. 944, at p. 949 *et seq.*

which has received less attention, I think it may be justified if I pay to it some more attention.

IV. The Schuman Declaration as a Manifesto of Political Messianism

The Schuman declaration is somewhat akin to Europe's "Declaration of Independence" in its combination of vision and blueprint. Notably, much of its text found its way into the preamble of the Treaty of Paris, the substance of which was informed by its ideas. It is interesting to re-read the declaration through the conceptual prism of political messianism. The hallmarks are easily detected as we would expect in its constitutive, magisterial document. It is manifest in what is in the Declaration and, no less importantly, in what is not therein. *Nota bene*: European integration is nothing like its European messianic predecessors – that of monarchies and empire and later fascism and communism. It is liberal and noble, but politically messianic it is nonetheless.

The messianic feature is notable in both its rhetoric and substance. Note, first, the language used – ceremonial and "sermonial" with plenty of pathos (and bathos).

World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it....

The contribution which an organised and living Europe can bring to civilization is indispensable ...

...a first step in the federation of Europe [which] will change the destinies of those regions which have long been devoted to the manufacture of munitions of war...

[A]ny war between France and Germany becomes not merely unthinkable, but materially impossible.

This production will be offered to the world as a whole without distinction or exception...

[I]t may be the leaven from which may grow a wider and deeper community between countries long opposed to one another by sanguinary divisions.

It is grand, inspiring, Churchillian one might even say with a tad of irony. Some old habits, such as the White Man's Burden and the missionary tradition, die hard:

With increased resources Europe will be able to pursue the achievement of one of its essential tasks, namely, the development of the African continent.

But it is not just the rhetoric. The substance itself is messianic: A compelling vision which has animated now at least three generations of European idealists where the 'ever closer union among the people of Europe', with peace and prosperity an icing on the cake, constituting the beckoning promised land.³⁹

It is worth exploring further the mobilizing force of this new plan for Europe. At the level of the surface language it is its straight forward pragmatic objective of consolidating peace and reconstructing European prosperity. But there is much more within the deep structure of the Plan.

Peace, at all times an attractive desideratum, would have had its appeal in purely utilitarian terms. But it is readily apparent that in the historical context in which the Schumann Plan was put forward the notion of peace as an ideal probes a far deeper stratum than simple Swords into Ploughshares, Sitting under ones' Vines and Fig Trees, Lambs and Wolves -- the classic Biblical metaphor for peace. The dilemma posed was an acute example of the alleged tension between Grace and Justice which has taxed philosophers and theologians through the ages -- from William of Ockham (pre-modern), Friedrich Nietzsche (modernist) and the repugnant but profound Martin Heidegger (post-modern).

These were, after all, the early 50s with the horrors of War still fresh in the mind and, in particular, the memory of the unspeakable savagery of German occupation. It would take many years for the hatred in countries such as The Netherlands, Denmark or France to subside fully. The idea, then, in 1950, of a Community of Equals as providing the structural underpinning for long term peace among yesterday's enemies, represented more than the wise counsel of experienced

³⁹ F. Piodi, "From the Schuman Declaration to the Birth of the ECSC: the Role of Jean Monnet", European Parliament, Directorate-General for the Presidency, Archive and Documentation Centre, *CARDOC Journals*, n° 6, May 2010; T. Hoerber, "The Nature of the Beast: the past and future purpose of European integration", *L'Europe en formation*, n° 1, 2006., p. 17; J.H.H. Weiler, *The Constitution of Europe 'Do the New Clothes Have an Emperor?' and Other Essays on European Integration*, *op. cit.*, "Introduction: We will do, and hearken", p. 8.

statesmen.

It was, first, a “peace of the brave” requiring courage and audacity. At a deeper level it managed to tap into the two civilizational pillars of Europe: The Enlightenment and the heritage of the French Revolution and the European Christian tradition.⁴⁰

Liberty was already achieved with the defeat of Nazi Germany – and Germans (like their Austrian bretheren-in-crime) embraced with zeal the notion that they, too, were liberated from National Socialism. But here was a Project, encapsulated in the Schuman Declaration, which added to the transnational level both Equality and Fraternity. The Post WWI Versailles version of Peace was to take yesterday’s enemy, diminish him and keep his neck firmly under one’s heel, with, of course, disastrous results. Here, instead was a vision in which yesteryear’s enemy was regarded as an equal – Germany was to be treated as a full and equal partner in the venture – and engaged in a fraternal inter-dependent lock that, indeed, the thought of resolving future disputes would become unthinkable.⁴¹ This was, in fact, the project of the enlightenment taken to the international level as the Kant himself had dreamt. To embrace the Schuman Plan was to tap into one of the most powerful idealistic seams in Europe’s civilizational mines.

The Schuman Plan was also a call for forgiveness, a challenge to overcome an understandable hatred. In that particular historical context the Schumannian notion of Peace resonated with, was evocative of, the distinct teaching, imagery and values of the Christian call for forgiving one’s enemies, for Love, for Grace – values so recently consecrated in their wholesale breach. The Schuman plan was in this sense, evocative of both Confession and Expiation, and redolent with the Christian belief in the power of repentance and renewal and the ultimate goodness of humankind. This evocation is not particularly astonishing given the personal

⁴⁰ See for example, J. Habermas and J. Derrida, « February 15, or, What Binds Europeans Together : Plea for a Common Foreign Policy Beginning in Core Europe » in D. Levy et al., *Old Europe, New Europe, Core Europe : Transatlantic Relations after the Iraq War* (London : Verso, 2005) 5, 10-12; A. Finkelkraut, *La défaite de la pensée* (Paris : Gallimard, 1987); J.H.H. Weiler, *L’Europe chrétienne: Une excursion*, (Paris: Editions du Cerf, 2007); J.M. Ferry, *La république crépusculaire. Comprendre le projet européen in sensu cosmopolitico* (Paris: Editions du Cerf, 2010) ; R. Schuman, *Pour l’Europe*, p. 55 et seq.

⁴¹ A. Munoz, « L’engagement européen de Robert Schuman », in S. Schirmann (ed.), *Robert Schuman et les pères de l’Europe: cultures politiques et années de formation*, (Brussels: Peter Lang, 2008) p. 39, at p. 44.

backgrounds of the Founding Fathers -- Adenauer, De Gaspari, Schumann, Monnet himself – all seriously committed Catholics.⁴²

The mobilizing force, especially among elites, the Political Classes who felt more directly responsible for the calamities of which Europe was just exiting, is not surprising given the remarkable subterranean appeal to the two most potent visions of the idyllic “Kingdom” -- the humanist and religious combined in one Project.⁴³ This also explains how, for the most part, both Right and Left, conservative and progressive, could embrace the project.

It is the messianic model which explains (in part) why for so long the Union could operate without a veritable commitment to the principles it demanded of its aspiring members – democracy and human rights. Aspirant States had to become members of the European Convention of Human Rights, but the Union itself did not. They had to prove their democratic credentials, but the Union itself did not – two anomalies which hardly raised eyebrows.

⁴² A. Fimister, “Integral Humanism and the Re-unification of Europe”, in S. Schirmann (ed.), *Robert Schuman et les pères de l’Europe: cultures politiques et années de formation*, (Brussels: Peter Lang, 2008), p. 25 ; “Schuman was an ardent Roman Catholic, and his views about the desirability of political unity in Western Europe owed much to the idea that it was above all the continent’s Christian heritage which gave consistence and meaning to the identity of European civilization. And the Europe he knew and loved best was the Carolingian Europe that accorded with his religious faith and his experience of French and German cultures”; M. Sutton, “Chapter 1: Before the Schuman Plan”, *France and the Construction of Europe, 1944-2007: The Geopolitical Imperative*, (New York and Oxford: Berghan Books, 2007), p. 34; “It is with deep faith in our cause that I speak to you, and I am confident that through the will of our free peoples, with your support and with God’s help, a new era for Europe will soon begin”. Extracts from a speech by Alcide De Gasperi at the Consultative Assembly of the Council of Europe in Strasbourg on 16 September 1952 – Volume 3, 1952 of the *Official Reports of Debates of the Consultative Assembly of the Council of Europe*.

⁴³ One should add that the transnational reach of the Schuman plan served, as one would expect, a powerful internal interest the discussion of which even today meets with resistance. The challenge of “fraternity” and the need for forgiveness, love and grace was even more pressing internally than internationally. For each one of the original Member States was seriously compromised internally. In post war Germany, to put it bluntly, neither State nor society could function if all those complicit in National Socialism were to be excluded. In the other five, though ostensibly and in a real sense victims of German aggression, important social forces became complicit and were morally compromised. This was obviously true of Fascist Italy and Vichy France. But even the little Luxembourg contributed one of the most criminally notorious units to the German army and Belgium distinguished itself as the country with the highest number of indigenous volunteers to the occupying German forces. The betrayal of Anna Frank and her family by their good Dutch neighbors was not an exception but emblematic of Dutch society and government who tidily handed over their entire Jewish citizenry for deportation and death. All these societies had a serious interest in “moving on” and putting that compromised past behind them. If one were to forgive and embrace the external enemy, to turn one’s back to the past and put one’s faith in a better future, how much more so, how much easier, to do the same within one’s own nation, society even family.

Note however, that its messianic features are reflected not only in the flowery rhetoric. In its original and unedited version the declaration is quite elaborate in operational detail. But you will find neither the word democracy, nor human rights, a thunderous silence. It's a 'Lets-Just-Do-It' type of programme animated by great idealism (and a goodly measure of good old state interest, as a whole generation of historians such as Alan Milward⁴⁴ and Charles Maier⁴⁵ among others have demonstrated).

The European double helix has from its inception been Commission and Council: an international (supposedly) a-political transnational administration/executive (the Commission) collaborating not, as we habitually say, with the member states (Council) but with the governments, the executive branch of the member states, which for years and years had a forum that escaped in day-to-day matters the scrutiny of any parliament, European or national. Democracy is simply not part of the original vision of European integration.⁴⁶

This observation is hardly shocking or even radical. Is it altogether fanciful to tell the narrative of Europe as one in which 'doers and believers' (notably the most original of its institutions, the Commission, coupled with an empowered executive branch of the member states in the guise of the Council and COREPER), an elitist (if well-paid) vanguard, were the self-appointed leaders from whom grudgingly, over decades, power had to be arrested by the European Parliament? And even the European Parliament has been a strange *vox populi*. For hasn't it been, for most of its life, a champion of European integration, so that to the extent that, inevitably, when the Union and European integration inspired fear and caution among citizens, (only natural in such a radical transformation of European politics) the European Parliament did not feel the place citizens would go to express those fears and concerns?

The political messianic was offered not only for the sake of conceptual clarification but also as an explanation of the formidable past success of European integration in

⁴⁴ A. Milward, *The European Rescue of the Nation State*, (London and New York: Routledge, 2nd ed., 2000).

⁴⁵ C. S. Maier and G. Bischof (eds.), *The Marshall Plan and Germany: West German Development within the Framework of the European Recovery Program* (Providence: Berg Press, 1991).

⁴⁶ K. Featherstone, *op. cit.*, p. 150; J. Delors, *Independent*, 26 July 1993.

mobilizing support . They produced a culture of praxis, achievement, ever expanding agendas. Given the noble dimensions of European integration one ought to see and acknowledge their virtuous facets.

But that is only part of the story. They also explain some of the story of decline in European legitimacy and mobilizing pull which is so obvious in the current circumstance. *Part of the very phenomenology of political messianism is that it always collapses as a mechanism for mobilization and legitimation.* It obviously collapses when the messianic project fails. When the revolution does not come. But interestingly, and more germane to the narrative of European Integration, even when successful it sows its seeds of collapse. At one level the collapse is inevitable, part of the very phenomenology of messianic project. Reality is always more complicated, challenging, banal and ultimately less satisfying than the dream which preceded it. The result is not only absence of mobilization and legitimation, but actual rancor.

The original Promised Land, Canaan, was a very different proposition, challenging and hostile, to the dream which preceded it. Independent India, or Kenya, or even the USA were very different to the dreams which preceded them and their like. Individually this is the story of many a courtship and love affair. The honeymoon is always better than the reality of marriage. Just as paradise becomes such, only when lost, The land itself, always falls short of the promise. It is part of the ontology of the messianic.

The emblematic manifestation of this in the context of European integration is the difference between the 868 inspiring words of the Schumann dream and the 154,183 very real words of the (defunct) European Constitution now reinvented in the Treaty of Lisbon.

But in the case of Europe, there are additional contingent factors which the collapse of the messianic narrative as a mobilizing and legitimizing factor. At one level Europe is a victim of its own success. The passage of time coupled with the consolidation of peace, the internalization of the alternative inter-state discourse which Europe presented, has been so successful that to new generations of Europeans, both the pragmatic and idealist appeal of the Schuman vision seem simply incomprehensible. The reality against which their appeal was so powerful

– the age old enmity between France and Germany and all that -- is no longer a living memory, a live civilizational wire, a wonderful state of affairs in some considerable measure also owed to the European constructs.

At another level, much has changed in societal mores. Europe in large part has become a post-Christian society, and the profound commitment to the individual and his or her rights, relentlessly (and in many respects laudably) placing the individual in the center of political attention, has contributed to the emergence of the self-centered individuals. Social mobilization in Europe is at strongest when the direct interest of the individual are at stake and at their weakest when it requires tending to the needs of the other, as the recent Euro crisis, immigrant crisis and other such instances will readily attest. So part of the explanation of the loss of mobilizing force of the Schuman Vision is in the fact that what it offers either seems irrelevant or does not appeal to the very different idealistic sensibility of contemporary European society.

The result is that if political messianism is not rapidly anchored in the legitimation that comes from popular ownership, it rapidly becomes alienating and, like the Golem, turns on its creators.

Democracy was not part of the original DNA of European Integration. It still feels like a foreign implant. With the collapse of its original political messianism, the alienation we are now witnessing is only to be expected. And thus, when failure hits as in the Euro crisis, when the Panem is gone, all sources of legitimacy suddenly, simultaneously collapse.

This collapse comes at an inopportune moment, at the very moment when Europe of the Union would need all its legitimacy resources. The problem are European and the solution has to be at the European level. But for that solution to be perceived as legitimate, for the next phase in European integration not to be driven by resentful fear, the architects will not be able to rely, sadly, on the decisional process of the Union itself. They will have to dip heavily into the political structure and decisional process of the Member States. It will be national parliaments, national judiciaries, national media and, yes, national governments who will have to lend their legitimacy to a solution which inevitably will involve yet a higher degree of integration. It will be an entirely European phenomenon that at what will

have to be a decisive moment in the evolution of the European construct, the importance, even primacy of the national communities as the deepest source of legitimacy of the integration project will be affirmed yet again.