A two-tier conception of European Union peoplehood: A realist study of European citizens’ bonds of collectivity

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Abstract
The European Union (EU) struggles to legitimize its rule. This realist study develops a conception of peoplehood in the EU polity, because, in contemporary Europe, ‘the people’ remains the sole source of political legitimacy. From a realist perspective, a conception of peoplehood should yield a coherent story why EU citizens should accept, or at least acquiesce, to EU rule. This study explores the possibility of a pluralistic conception being either multi-layered, multi-faceted or both. Taking a practice-dependent approach, I first analyse the institutional systems that structure relationships between EU citizens. I secondly propose conceptions of EU citizens’ bonds of collectivity. Thirdly, I develop a novel two-tier conception of EU peoplehood in which individuals remain bound together as national peoples, while these peoples are in turn united by commercial and liberal bonds. I submit that this conception can lay the foundation for a convincing story to legitimate EU rule.

1 INTRODUCTION

In February 2015, German Chancellor Merkel and French president Hollande arranged a compromise with Ukrainian president Poroshenko and his Russian counterpart Putin to contribute towards ending the war between those countries. External conflicts, such as the above, are not solved by patiently finding Pareto-optimal outcomes. They require taking political decisions that will entail compromising on both interests and values. Moreover, external forces, such as speculators on financial markets, have forced the European Union (EU) to take decisive and swift action. EU politics has thus extended from the domain of regulation into the world of realpolitik. This type of politics entails decision-making on often salient issues.

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1 L. Van Middelaar, De Nieuwe Politiek Van Europa (Historische Uitgeverij, 2017), 15–16.
2 Ibid.
The EU’s increasingly political nature has arguably been a catalyst for conflict and polarization on its authority. Euroscepticism has become a mainstream and politically successful phenomenon. Yet, in part in response to the success of these movements, pro-EU citizens have taken to the streets, for instance in London and Berlin, to show their support for the Union. Despite such popular support, Europe’s political class continues to search for a coherent story legitimizing its authority on politically charged issues, such as the Euro-crisis, migration policy, democratic backsliding in Poland and Hungary, and Article 50 negotiations with the United Kingdom. In these times of crisis and polarization, neither EU citizens nor the Union require another Messianic vision, but a theory of legitimacy to justify the EU’s current powers.

This study seeks to contribute to the academic literature on this topic in two ways. Firstly, I explore the possibility of a multi-layered and multi-faceted conception of EU peoplehood. In contemporary Europe, ‘the people’ remains the sole fountain of political authority; therefore, this concept is a promising foundation for a convincing theory of legitimacy. Three political philosophies have become prevalent in the normative literature on EU legitimacy: national communitarians, technocrats and democratic constitutionalists. In their search for EU legitimacy, each relies on a monistic conception of peoplehood. Recently, normative studies have started to explore the possibility of multi-layered conceptions of norms. Some international political philosophers, for instance, question the necessity of a single demos when theorizing EU democratic legitimacy. They argue that multiple peoples can democratically authorize internationals regimes. In addition to multiple peoples, peoplehood has historically taken on a multi-faceted form. Denizens of a state’s territory became simultaneously subjects, citizens and co-nationals. As a result, the modern state authority could rely upon multiple sources of legitimacy. This study explores both types of pluralism in developing a conception of EU peoplehood.

Secondly, this exploration relies on an underexplored, yet promising philosophical approach for theorizing EU legitimacy: political realism. Many realists argue in favour of an internalist account of legitimacy, which relies on normative resources inherent in existing political practices. In this study, I draw specifically upon Bernard Williams’ realist theory of legitimacy, because he emphasized the importance of context for realist accounts of substantive legitimacy. On Williams’ realist account, politics is about coercive structures enforcing order despite persistent

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2C. Leconte, ‘From Pathology to Mainstream Phenomenon: Reviewing the Euroscepticism Debate in Research and Theory,’ (2015) 36 International Political Science Review/Revue internationale de science politique, 250.

3Van Middelaar, above, n. 1, 25.

4Ibid.

5J.H.H. Weiler, ‘In the Face of Crisis: Input Legitimacy, Output Legitimacy and the Political Messianism of European Integration,’ (2012) 34 Journal of European Integration, 825.

6J.P. Beetz and E. Rossi, ‘The EU’s Democratic Deficit in a Realist Key: Multilateral Governance, Popular Sovereignty, and Critical Responsiveness,’ (2017) 8 Transnational Legal Theory, 22.

7For example, H. Friese and P. Wagner, ‘Survey Article: The Nascent Political Philosophy of the European Polity,’ (2002) 10 The Journal of Political Philosophy, 342; J. White, ‘Europe and the Common,’ (2010) 58 Political Studies, 104.

8J. White, Political Allegiance after European Integration (Palgrave Macmillan, 2011).

9For example, M. Patberg, ‘Constituent Power beyond the State: An Emerging Debate in International Political Theory,’ (2013) 42 Millennium, 224.

10For example, J.P. Beetz, Popular Sovereignty in Europe (University of Exeter, 2015), available upon request; R. Bellamy, ‘Introduction: Modern Citizenship,’ in R. Bellamy, D. Castiglione and E. Santoro (eds.), Lineages of European Citizenship: Rights, Belonging and Participation in Eleven Nation-States (Palgrave Macmillan, 2004), at 1.

12See however J.P. Beetz, ‘From Practice to Principle and Back: An Application of a New Realist Method to the European Union’s Democratic Deficit,’ Political Studies (2017), https://doi.org/10.1177/0033227217722355; Beetz and Rossi, above, n. 7.

13In this article, political realism refers to a specific school of Anglo-Saxon philosophers. See for example, E. Rossi and M. Sleat, ‘Realism in Normative Political Theory,’ (2014) 9 Philosophical Compass, 689.

14B. Williams, ‘Realism and Moralism in Political Theory,’ in In the Beginning Was the Deed (Princeton University Press, 2005). 1. A detailed account of Williams’ political realism would take us to far afield. See Beetz above, n. 12; E. Hall, ‘Bernard Williams and the Basic Legitimation Demand: A Defence,’ (2015) 63 Political Studies, 466.
disagreements. Williams’ argument is that subjects require a legitimation story why they should accept, or at least acquiesce, to coercion by a political order. Without a normative justification, politics gives way to a situation of domination. On Williams’ analytical theory, legitimacy is the product of meeting the Basic Legitimation Demand (BLD) in its historical circumstances. The BLD is an account of why coercive structures are an acceptable way to deal with disagreements. For Williams, substantive realist theories should be tailored to the context that they intend to govern. The philosopher can play Kant at the Court of King Arthur, but such exercises should be set aside as ‘useless’, so argued Williams.16 Instead, his realism points towards substantive theories of legitimacy that gain their normative substance from political practices in their context. This internalist orientation is particularly well-suited to theorize an answer to Europe’s contemporary crisis, so I submit.

To develop a realist and possibly pluralistic conception of peoplehood, I adopt a practice-dependent method of theory formation. On Williams’ realist theory, practices are not a limitation but a precondition of political philosophy.17 As I argue elsewhere, the relevant practices will depend upon the particulars of the study. This study analyses to what extent EU citizens have become part of institutional systems that structure relationships between them, because, as I will elaborate later on, these systems provide the real-world foundation for a conception of EU peoplehood. Based on this analysis, I suggest individuals remain bound together as national peoples; yet, these peoples are in turn united by commercial and liberal bonds. These bonds can constitute a coherent conception of EU peoplehood, which lays the foundation for a convincing answer to EU citizens’ BLD. I conclude that this realist theory holds the potential to generate legitimacy for the Union.

This paper unfolds in four sections. In Section 2, I develop a realist approach to theorizing a (possibly) pluralistic conception of peoplehood. In Section 3, I systematically analyse institutional systems structuring relationships in the EU polity. Based on this analysis, I develop a coherent conception of peoplehood that provides an answer to EU citizens’ BLD in Section 4. The final section concludes with a reflection on its potential to tap into the public imagination.

2 | THE PEOPLE, BONDS OF COLLECTIVITY AND INSTITUTIONAL SYSTEMS

An interpretative study requires a concept to guide the inquiry into practices. Especially in the sui generis EU context, we cannot identify, let alone simply assume, ‘a shared object of interpretation’. We have to ‘fix the basic contours of the practices we seek to interpret.’ The concept of ‘the people’, however, is controversial in modern political and legal thought. For a realist study, it is essential that a conception is, as much as possible, devoid of assumptions or biases. Therefore, a realist cannot argue for a particular conception before turning to the practice-dependent stage. Nevertheless, within a particular context, a general concept has gained widespread acceptance, even when philosophers disagree about the most attractive conception or even desirability of the concept.

Bond of collectivity, I propose, is a widely accepted and not value-laden conceptualization of ‘the people’ to theorize political legitimacy. Pioneered by Jonathan White, he argues that ‘[w]hy it is logical for “us” to share a certain political arrangement depends crucially on how that “we” is elaborated’. The kind of political regime that is acceptable

15Williams, above, n. 14.
16Ibid., 10.
17B. Williams, ‘A Mistrustful Animal’, in A. Voorhoeve (ed.), Conversations in Ethics (Oxford University Press, 2009).
18Ibid., above, n. 12.
19A. Sangiovanni, ‘Justice and the Priority of Politics to Morality’, (2008) 16 Journal of Political Philosophy, 137, 148.
20Ibid.
21A. Scherz, ‘The Legitimacy of the Demos: Who Should Be Included in the Demos and on What Grounds?’, (2013) 4 Living Review, 1.
22For an example of such an approach, see A. Sangiovanni, ‘Solidarity in the European Union’, (2013) 33 Oxford Journal of Legal Studies, 213.
23White, above, n. 8; White, above, n. 9.
24White, above, n. 9, 6.
relies on the kind of unity—bond of collectivity—between its subjects. Distinct conceptions suggest different reasons why citizens should accept decision-making when it runs counter to their perceptions of self-interest. Those opposed to the concept, such as some postmodern philosophers, argue that the existence of pluralism undermines the concept of the people. In other words, the concept of the people cannot legitimate political rule, because denizens do not share any collective bond. Thus, in this very negation, this fundamental critique itself follows the logic of bonds of collectivity.

In addition to being widely accepted, bonds of collectivity can easily accommodate such theoretical innovations, like multi-layered and multi-faceted conceptions of peoplehood. First, as mentioned, some international political philosophers suggest multiple peoples can legitimize an overarching regime. They resist the equation of popular sovereignty with de facto state sovereignty. Therefore, these studies suggest that the existence of multiple peoples does not make democratically legitimate rule impossible. A bond of collectivity might bind groups, for instance peoples, and hence it can accommodate this innovation. Second, the concept brings to the fore the possibility of multiple bonds. Although White tends toward an exclusive conception in analysing EU legitimacy, no a priori reason exists to assume subjects of rule share a single bond. As mentioned, multiple ties are not only a logical possibility but also a historical reality. Bonds of collectivity facilitate pluralistic conceptions of peoplehood. These bonds are the constituent parts of a conception of peoplehood. This concept of the people enables firstly separate bonds to be theorized, which are then integrated into a coherent conception of peoplehood.

A coherent conception of peoplehood is important, because it should provide a plausible guidance to act in the real world. Williams implied that concepts have a heuristic function when he argued that a legitimation story should ‘make sense’ of coercive structures as a legitimate political order. A story relying on a conception of peoplehood with internal contradictions cannot plausibly fulfil its heuristic function, because subjects would come up with incoherent evaluations of the regime’s legitimacy. Applied to this study, a realist concept of EU peoplehood should inform a coherent story why EU citizens should deem EU rule legitimate even when it runs counter to their perceptions of self-interest.

Because a realist conception of peoplehood has to perform this heuristic function of making sense, it also should bear ‘some resemblance to fact’. If a conception has no empirical plausibility then it is unable to govern practices. As a result, it does not meet realism’s heuristic criterion. In this regard, the concept of the people poses a particular problem: it defies demonstration. The concept can be described as a political myth. This quality is certainly not meant as a disqualification, but it rather touches upon part of its heuristic function namely reducing complexity and contingency. Thus, even if the unity of the people is ‘mythical’, that does not make it less crucial for real-world politics, and, therefore, a realist political theory. Nevertheless, a conception should still resemble reality to function plausibly in practice. The subsequent question is: which practices are relevant for theorizing EU peoplehood?

The practices analysed are the institutional systems that structure relationships in the EU polity. These systems are the object of analysis, because the relationships that they create provide a real-world foundation

25Ibid.
26C. Mouffe, ‘Deliberative Democracy or Agonistic Pluralism?’, (1999) 66 Social Research, 745.
27For example, Beetz and Rossi, above, n. 7; J. Habermas, The Crisis of the European Union: A Response (Polity, 2012); D. Innerarity, ‘Transnational Self-Determination: Resetting Self-Government in the Age of Interdependence’, (2015) 53 Journal of Common Market Studies, 1061.
28White, above, n. 9, 217.
29White, above, n. 8.
30Beetz, above, n. 12, 4; M. Sleat, ‘Making Sense of our Political Lives—On the Political Thought of Bernard Williams’, (2007) 10 Critical Review of International Social and Political Philosophy, 389.
31E.S. Morgan, Inventing the People: The Rise of Popular Sovereignty in England and America (W.W. Norton & Co., 1988), 14.
32Ibid., 13–15.
33M. Sleat, ‘Realism, Liberalism and Non-ideal Theory Or, Are there Two Ways to Do Realistic Political Theory?’, (2016) 64 Political Studies, 27.
34In the following, I draw upon Stefano Bartolini’s conceptual framework, who builds upon the work of Hirschman, Rokkan and Weber. See S. Bartolini, Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union (Oxford University Press, 2005), ch 1.
for a conception. These relationships can be infused with symbolic significance resulting in a normative identity for its participants; for instance, individuals became producers and consumers in a market economy. For the purpose of my analysis, these systems structure relationships in two important ways. Firstly, institutional systems create a boundary between insiders and outsiders. A system can have more or less permeable boundaries. For instance, language communities are harder to enter and exit by (potential) participants than voluntary associations.

Secondly, these systems structure relationships between participants in the polity. For this study of EU peoplehood, one distinction is particularly relevant. European systems can create a direct relationship between all EU citizens completely replacing and bypassing national systems. Alternatively, a European system can create a transnational relationship between national systems. In effect, such a European system does not replace or break down existing boundaries. Rather it creates institutional linkages between national systems; thus, it is in effect built on top of them. They create a new external boundary, but no direct relationships between individual citizens. In these ways, institutional systems provide a real-world foundation for a conception of peoplehood. The relevant system depends upon the posited nature of the bond.

AN ASSESSMENT OF THREE INSTITUTIONAL SYSTEMS IN THE EU POLITY

Rather than seek a de novo conception of EU citizens’ bonds, I build upon the extensive academic debate. Three positions are prevalent in the EU debate that each relies on a distinct source of legitimacy. First, communitarian theorists agree with the Eurosceptic analysis. A shared culture generates a political identity, which is a prerequisite for a functioning democracy. National identities persist without a European counterpart; therefore, the locus of legitimate democratic rule is constrained to the nation-state. Others scholars, however, critique this position. Technocrats, for one, argue that EU governance is legitimate, because it secures otherwise unattainable outputs for EU citizens. These beneficial outputs should generate support for the EU’s regulatory state. In a different vein, democratic constitutionalists argue that shared liberal-democratic norms can democratically legitimate EU rule. As long as EU decision-making conforms to democratic standards, the EU is democratically legitimate. Each position aims to tap into a proven source of legitimacy: identity, output and democratic norms, respectively. The proven ability to legitimize collective rule is particularly attractive for this realist endeavour, because the derived conception of EU peoplehood can plausibly tap into these sources in practice. Each subsection starts with a brief description of the substantive position to then turn to the empirical analysis of the (implied) institutional systems based on secondary literature.

National cultural relationships without a European counterpart

With few exceptions, communitarian theorists argue that EU citizens lack a shared culture to legitimate democratic EU rule: the so-called no-demos thesis. The starting premise is that viable democratic self-rule requires a shared culture. Their subsequent analysis oscillates between empirical and normative arguments. National communitarians argue that recognition of a shared culture generates ‘affective sentiments’, such as trust. These sentiments are a

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35Ibid.; E. Lagerspetz, ‘Hegel and Hobbes on Institutions and Collective Actions’, (2004) 17 Ratio Juris, 227.

36For example, D. Grimm, ‘Defending Sovereign Statehood against Transforming the European Union into a State’, (2009) 5 European Constitutional Law Review, 353; D. Miller, On Nationality (Oxford University Press, 1999), 257.

37For example, G. Majone, Dilemmas of European Integration: The Ambiguities and Pitfalls of Integration by Stealth (Oxford University Press, 2005); F.W. Scharpf, Governing in Europe: Effective and Democratic (Oxford University Press, 1999), ch 1.

38For example, F. Cheneval and F. Schimmelfennig, ‘The Case for Demoicracy in the European Union’, (2013) 51 Journal of Common Market Studies, 334; Habermas, above, n. 27.

39For example, G. Delanty, Inventing Europe: Idea, Identity, Reality (Macmillan, 1995).

40For example, Grimm, above, n. 36; Miller, above, n. 36, 257.
functional precondition, so they claim, to generate active participation in modern democracies. A shared culture is thus a requirement of legitimate democratic rule. When turning to the EU, these theorists argue a legitimate European democracy is unsustainable due to the lack of a European identity. Moreover, the institutional conditions are missing for its attainment.

On the latter, communitarians argue that citizens are integrated into a shared national culture on a daily basis. In this analysis, I leave aside the existence of the subjective sense of a shared culture; although I touch upon this dimension in the conclusion. Instead, the analysis focuses on essential institutional systems that provide the objective preconditions for a shared culture. The objective conditions consist of, on the one hand, the building blocks of a culture, such as shared language, history, ethnicity and religion; and, on the other hand, institutional systems of cultural (re-)production that socialize citizens into this shared culture. The educational system integrates citizens into a shared culture from a young age. Further, citizens remain integrated through their everyday participation in a shared public sphere. The analysis focuses on these two important systems.

Europe’s historical-cultural variations provide building blocks for national cultures, while the EU lacks similar resources. Nationhood is not constructed from nothing but rather nation-builders select particular traits from reality. These builders were actively involved in the ‘nationalization’ of achievements and traits. Distinct historical trajectories provided further resources for their particularity. The result was that European states have distinct, yet internally homogeneous cultures. Europe’s multinational countries challenge these claims. The clash between Catalan and Spanish governments about the (democratic) right to succession, however, demonstrates—for better or worse—the relevance of a shared culture for real-world democracies. Moreover, such examples do not undermine the analysis that the building blocks for a European identity are elusive at best. EU elites have been particularly unsuccessful in their attempts to create a cultural European identity based in a common history. One particular practical-historical challenge is the contestation of symbolic resources among Member States; is Napoleon a national hero or foreign invader?

The institutional systems of cultural reproduction bolster many communitarian claims. Educational systems remain the purview of Member States without any EU counterpart. Although EU policy exists on education, especially higher education, Member States remain in control of the provision of primary and secondary education. They determine curricula and, more generally, the educational system within the state territory. Further, individual EU citizens remain deeply embedded in national public spheres. In the media, for instance, national frames continue to shape reporting including on European issues. Europe’s vernacular diversity constitutes a firm sociological boundary between these systems. The kind of linguistic cleansing that historically created monolingual cultures seems neither

41 For example, Miller, above, n. 36; Y. Tamir, Liberal Nationalism (Princeton University Press, 1993).
42 These theorists do not necessarily oppose a European superstate, because an EU culture might emerge in the long run. See N. Malcolm, Sense on Sovereignty (Centre for Policy Studies, 1991).
43 P. Costa, ‘From National to European Citizenship: A Historical Comparison’, in R. Bellamy, D. Castiglione and E. Santoro (eds.), Lineages of European Citizenship: Rights, Belonging and Participation in Eleven Nation-States (Palgrave Macmillan, 2004), at 207.
44 C. Laborde, ‘Republican Citizenship and the Crisis of Integration in France’, in R. Bellamy, D. Castiglione and E. Santoro (eds.), Lineages of European Citizenship: Rights, Belonging and Participation in Eleven Nation-States (Palgrave Macmillan, 2004), at 46.
45 Costa, above, n. 43.
46 R. Axtmann, ‘The State of the State: The Model of the Modern State and its Contemporary Transformation’, (2004) 25 International Political Science Review/Revue internationale de science politique, 259, 260.
47 L. Van Middelaar, De Passage naar Europe: Het Begin van een Geschiedenis (Historische Uitgeverij, 2009), 313–335.
48 R. Bellamy and D. Castiglione, ‘Three Models of Democracy, Political Community and Representation in the EU’, (2013) 20 Journal of European Public Policy, 206–233, 212.
49 For example, Cheneval and Schimmelfennig, above, n. 38; R. Bellamy, “‘An Ever Closer Union Among the Peoples of Europe’: Republican Intergovernmentalism and Democratic Representation within the EU’, (2013) 35 Journal of European Integration, 499.
50 Leconte, above, n. 3; T. Risse, ‘No Demos? Identities and Public Spheres in the Euro Crisis’, (2014) 52 Journal of Common Market Studies, 1207, 1211–1212.
51 Bartolini, above, n. 34, 213.
feasible nor desirable in contemporary Europe. In sum, cultural relationships in the EU polity remain structured by national systems of cultural reproduction with firm boundaries between them. Thus, EU citizens are neither socialized nor participate in a mass European culture. Instead, they continue to partake in their particular national cultures.

While this analysis vindicates much of the communitarian argument, this position overlooks significant relationships between EU citizens. In the EU polity, crucial systems of cultural (re-)production exist exclusively on the national level with firm sociological boundaries between them. The EU lacks both the building blocks as well as the sociological preconditions to establish a European culture and the means to reproduce it. Yet, a retreat to fully sovereign nation-states is a transformative project, because many EU systems have consolidated over the past 50 years. The communitarian position disregards significant economic and democratic systems in the EU polity that have come to structure relationships between EU citizens.

3.2 | European and national legal-economic relationships

Technocrats often concur with the communitarians that EU citizens lack a shared culture; however, they argue that citizens share interests. These theorists emphasize that the Union’s problem-solving abilities legitimate its continued rule. Europe’s single market, so technocrats argue, requires expert regulators to remain competitive on the global marketplace. For that purpose, Europe’s regulatory institutions, and the experts that staff them, provide effective problem-solving capacities in an age of globalization and thus serve a European common good. In these accounts, democratic legitimacy is held to derive from the consent of intergovernmental agents in the initial act of delegation. Legal enforcement mechanisms ensure compliance of Member States and protect citizens’ rights. The empirical foundation of this position is Europe’s regulatory order, because this institutional system creates legal-economic relationships within the EU polity.

The European project has gone further than any other project of regional integration in its institutionalization of a single market. Following a functionalist logic, European economic integration combines efforts in negative and positive integration to take away boundaries between national systems and erect EU-wide market with an external border. Internally, Europe’s regulatory regime governs the Union. An illustrative example of a direct effect on EU citizens is the standardization of phone tariffs. In a different vein, the four freedoms have taken away institutional boundaries between Member States. The primacy of EU law aims to ensure the implementation of policies, thus creating a single market in the EU polity. Externally, Europe’s customs union institutionalizes a single boundary around Europe’s market. Further, the Commissioner of Trade acts on behalf of the entire Union, because trade treaties are an exclusive competence of the European Commission. Economic integration has thus resulted in a legal-economic system that (re-)structures relationships between EU citizens.

The financial crisis has increased the prominence of the European Monetary Union (EMU). This area divides the EU polity rather than unites it, because it includes some EU citizens while excluding others. As such, this monetary system does not structure relationships between all EU citizens or even all Member States, hence it is beyond the scope of this study. Some might argue that the consequences of the Euro-crisis are also felt in EU countries outside the Eurozone; however, the same holds for neighbouring states, such as Norway and Switzerland. Moreover, the outcomes of the EMU institutions have been diverse within the Eurozone. This final observation touches upon the persistence, and importance, of national legal-economic systems.

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52M. Mann, The Dark Side of Democracy: Explaining Ethnic Cleansing (Cambridge University Press, 2005), at 55.

53Majone, above, n. 37; Scharpf, above, n. 37.

54Scharpf, above, n. 37.

55Majone, above, n. 37.

56S. Fabbrini, Which European Union? Europe after the Euro Crisis (Cambridge University Press, 2015).

57Bartolini, above, n. 34, 185.

58P.C. Schmitter and Z. Lefkofridi, ‘Neo-functionalism as a Theory of Disintegration’, (2016) 1 Chinese Political Science Review, 1.

59For example, A. Johnston and A. Regan, ‘European Monetary Integration and the Incompatible National Varieties of Capitalism’, (2016) 54 Journal of Common Market Studies, 318.
Europe's heterogeneous national systems continue to structure and inflect legal-economic relationships in the EU polity. Despite an opening up of borders and the construction of common market institutions, heterogeneous socio-economic and productive structures divide the EU polity into separate national economies. The EU's policies—whether good or bad—are funnelled through Europe's heterogeneous welfare systems. Unsurprisingly, EU policies are often adjusted to accommodate national circumstances. Further, the EU relies on a 'network of infranational bureaucracies' for its implementation capacity. Moreover, the EU regime does not provide public goods and redistribution, such as healthcare, on a par with national systems. Turning to the external dimension, the EU has created a system of external representation; national representatives determine their scope for negotiations. For instance, although the European Commission has the exclusive competence to undertake trade negotiations, the Commissioner receives instructions from the Council of Ministers before most negotiations. In sum, despite the primacy of EU law, legal-economic institutions at the national level are both a precondition for the delivery of EU policy to citizens, and, more importantly, the particularities of national arrangements shape EU policies. Moreover, national systems sustain boundaries between the Member States. As such, many legal-economic relationships continue to be structured in heterogeneous ways.

My institutional analysis corroborates that economic integration has resulted in institutional relationships between EU citizens; however, these relationships are often transnational ones. The single market creates an external boundary within which EU law governs many economic relations as well as other policy areas. In principle, EU law has primacy, yet the delivery of EU (economic) policies and rights protection relies on national enforcement systems. These institutional systems implement and shape European regulations, creating boundaries between EU citizens. The technocratic analysis rightfully asserts that EU citizens have become part of a pan-EU legal-economic order; however, the EU system does not fully replace national systems. The latter continue to effectively structure relationships. In a different vein, technocratic arguments often rely on the depoliticization of Europe's administrative institutions in which initial authorization by intergovernmental agents and protection of basic rights suffices to secure democratic legitimacy. Yet, democratic EU institutions already structure relationships between EU citizens.

3.3 | European and national democratic relationships

EU citizens have become connected through Europe's democratic institutions, and even if they were not, they should be, so argue democratic constitutionalists. These theorists argue that EU citizens share a commitment to democratic norms, which are increasingly reflected in democratic procedures at the EU level. EU treaties, for instance, explicitly appeal to shared democratic values that inform democratic norms that the EU and its Member States must meet. The transfer of an increasing number of powers to EU institutions means that indirect legitimacy has become an insufficient foundation for this order, so many democratic constitutionalists argue. EU decision-makers require democratic authorization by EU citizens. The democratic debate consists of many competing visions, such as proponents of a European superstate.

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60For example, ibid.; Bartolini, above, n. 34, 198.
61For example, G. Esping-Andersen, The Three Worlds of Welfare Capitalism (Polity, 1990); M. Ferrara, A. Hemerijck and M. Rhodes, The Future of Social Europe: Recasting Work and Welfare in the New Economy (Celta Editora, 2000).
62T. Duttle, K. Holzinger, T. Malang, T. Schübl, F. Schimmelfennig and T. Winzen, ‘Opting Out from European Union Legislation: The Differentiation of Secondary Law’, (2016) Journal of European Public Policy, 406.
63Bartolini, above, n. 34, ch 3; Sangiovanni, above, n. 22, 229.
64Bellamy and Castiglione, above, n. 48, 217–218.
65S. Meunier, ‘What Single Voice? European Institutions and EU–U.S. Trade Negotiations’, (2000) 54 International Organization, 103.
66For example, Majone, above, n. 37; A. Moravcsik, 'In Defence of the "Democratic Deficit": Reassessing Legitimacy in the European Union', (2002) 40 Journal of Common Market Studies, 603.
67For example, A. Føllesdal and S. Hix, 'Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik', (2006) 44 Journal of Common Market Studies, 533; G. Morgan, The Idea of a European Superstate: Public Justification and European Integration (Princeton University Press, 2005).
pouvoir constituant mixte⁶⁸ and demoicracy.⁶⁹ These positions rely on democratic logic albeit applied in distinct ways. Instead of taking a position in this debate, I analyse three institutional systems that (implicitly) feature in these democratic logics: citizenship, electoral representation and public deliberation. Each of these democratic systems can structure relationships between EU citizens. For my realist purposes, I primarily analyse existing democratic arrangements.

EU citizenship suggests that European citizens stand in an unmediated relationship with one another in a pan-EU democratic system. In democracies, citizenship is an often constitutionally enshrined status that should ensure basic rights and equal participation of citizens.⁷⁰ The existence of EU citizenship strongly suggests that Europeans stand in a direct relationship to one another and the EU regime. It entails basic liberties as well as political rights for those within the EU order. This institutional system creates relationships between its members. EU citizenship also creates an external boundary. Non-communitarians, such as refugees and third-country natives, are excluded from full participation in Europe’s democratic life.⁷¹

On closer inspection, however, EU citizenship structures relationships between European citizenries, because it is built on top of national citizenship. First, EU citizenship constitutes a Europeanization of national citizenship. That is to say, EU citizenship depends upon having national citizenship, which Member States remain the sole authority to allocate.⁷² Second, the basic liberties are not enshrined in a pan-European constitution. Majorities in France and the Netherlands rejected an attempt at creating a European constitution in referendums.⁷³ These liberties did become part of an intergovernmental treaty—the EU charter of fundamental rights activated by the Lisbon Treaty. Third, the enforcement of these legal rights ultimately relies on the coercive institutions of the Member States. The EU, moreover, has been facing serious enforcement issues when Member States, such as Hungary and Poland, diverge from liberal democratic norms.⁷⁴ Thus, somewhat paradoxically, EU citizenship primarily structures relationships between EU citizenries rather than between individual EU citizens.

The second institution is the democratic election of political officeholders, which has been institutionalized in the EU. Citizens authorize politicians to represent them in democratic decision-making procedures. The heart of most representative systems is a parliament. The transformation of the assembly into a directly-elected parliament symbolizes the institutionalization of a pan-European democracy.⁷⁵ The EU citizens gained the right to directly elect their representatives. As such, this institution creates an unmediated relationship between EU citizens. Citizens do not directly elect Europe’s executives; whether we take this to be the European Commission or European Council, their Presidents, or the ‘Senate-like’ Council of the EU. In Europe’s parliamentary democracies, citizens also do not directly authorize their executives. The Spitzenkandidat procedure is arguably an instance of the incremental parliamentarization of the EU executive in which indirect executive authorization takes place.⁷⁶ Finally, these electoral procedures create a boundary, because non-Member State citizens cannot elect representatives even when they are directly impacted by EU rule. For instance, Norway is a rule-taker (and financial contributor) without becoming a rule-maker. At first glance, the appointment of political offices through democratic elections thus broadly resembles national electoral systems.⁷⁷
However, the EU institutional system primarily creates transnational relationships between national electorates rather than EU citizens. A first observation is that the European Parliament (EP) is not elected in one election according to a single set of rules and procedures. Instead, each Member State organizes EP elections in accordance with their particular democratic traditions. For instance, the UK is divided into electoral regions, while the Netherlands adopts a single constituency system. The picture becomes complicated further when looking at national elections. Unlike regional elections, EU citizens in other Member States cannot automatically partake in national elections. As such, these first-order democratic elections remain the exclusive purview of national citizens. Further, one of the most powerful decision-makers in the EU polity (indirectly) emerges from these elections: the European Council. Officially, these national heads of state and government appoint the EU's executives: European Commissioners. Ministers in the Council of the EU also derive their mandate from national elections. National electoral systems continue to structure relationships between individual citizens without any institutionalized EU dimension, while democratic representatives in EU institutions rely for their appointment on these systems. Despite the symbolic value of the EP, its elections also continue to structure EU citizens into national electorates.

Finally, the boundaries of democratic deliberation run between national systems without EU citizens being integrated into a deliberative relationship with one another. Except for very thin conceptions of democracy, democratic theorists argue that public deliberation is an essential feature of modern democracies. The existence of a public sphere is an institutional precondition for public deliberation in mass societies. Turning to the EU polity, as mentioned earlier, public spheres remain bounded within national states. The Europeanization of national politics and the emergence of EU topics across EU media illustrate the impact of European politics and policies on national citizenries; however, institutional integration has not taken place. Europe's mass media remains institutionalized in national polities, while a widely watched European broadcaster has not been established as of yet. While both citizenship and democratic representation have actual EU-level extensions in the form of EU citizenship and the EP, respectively, when it comes to political deliberation, EU citizens thus lack even a symbolic deliberative relationship.

The institutional analysis of democratic systems in the EU yields that EU citizens have been connected through their national systems. Democratic constitutionalists—even if most critique the EU’s current institutional set-up—point toward democratic relationships in the EU polity grounded in shared norms. My analysis bolsters their critique of communitarians’ and technocrats’ out-of-hand dismissal of democratic EU governance. Even if imperfectly, EU citizenship and European elections have created democratic relationships in the EU polity. Further, many EU decisions are the product of (imperfect) democratic procedures from which non-members are excluded, hence the existing system institutionalizes a democratic boundary. However, both citizenship and elections rely on the rules and regulations of national citizenships and democratic procedures, while national systems remain in place. Further, public deliberation remains bounded in the national public spheres, which reinforces persistent institutional boundaries between Member State democracies. These features give the current democratic order a strong transnational character.

3.4 | Summary

My analysis yields that each of the prevalent philosophical positions captures some of the institutionalized relationships in the EU polity. Each position emphasizes an important set of relationships in Europe, yet they often understate the importance of others. The communitarian position draws attention to the persistent institutional fragmentation of...
the EU polity, which, as the analysis bears out, is relevant for cultural and economic and democratic relationships. However, European integration has resulted in supranational relationships in the EU polity. Europe's technocrats do justice to the legal-economic institutions; even when they tend to overplay their directness of the impact. EU policies continue to rely on and are inflected by national systems. Finally, democratic constitutionalists draw attention to the EU's democratic institutions. Citizenship and electoral representation structure relationships between EU citizens without breaking down national boundaries. Yet, the absence of a pan-EU public sphere means that EU citizens lack the institutional infrastructure to directly deliberate with one another.

4 | A TWO-TIER CONCEPTION OF EU PEOPLEHOOD

A realist requirement is that a conception of EU peoplehood should make sense of these relationships when theorising the legitimacy of Europe's political order. In this section, I first propose conceptions of Europe's bonds of collectivity based on existing institutional relations. I then integrate them into a two-tier conception of EU peoplehood. On this conception, EU citizens remain bound together as national peoples, yet, simultaneously, commercial and liberal bonds unite these peoples in a transnational union. I submit that this conception of EU peoplehood can generate a coherent answer to EU citizens' BLD.

4.1 | From institutional relationships to bonds of collectivity

EU citizens as individuals are primarily related to another through national institutional systems; therefore, a multi-faceted conception of a national bond of collectivity captures individual relationships in the EU polity. The institutional analysis bears out that cultural and deliberative relationships exist almost exclusively at the national level. In addition, Europe's heterogeneous legal-economic and democratic arrangements continue to structure individual relationships at the national level. These national systems continue to integrate EU citizens into national collectives. Moreover, many boundaries between these systems remain largely in place. New boundaries have been erected at the EU level; however, these have not necessarily replaced or undermined the national ones. Cultural, legal-economic and democratic boundaries between national polities actually persist in the EU polity. When EU citizens make sense of these relationships, a multi-faceted conception of a national bond of collectivity remains a realistic heuristic.

The mediated structure of legal-economic relationships suggests a transnational bond of collectivity. This transnational conception does justice to the fact that Europe's economic-legal systems remain diverse. No uniform system has been imposed to fully integrate Europe's economic processes. A European market has been created but not a single economy. Despite certain direct effects, Europe's economic systems primarily create connections between national systems. Most economic outcomes and rules are funnelled through national arrangements. The system has created an external boundary, but it also relies heavily on national orders. Thus, the legal-economic system mostly connects rather than fully integrates national systems in the EU polity.

In addition, democratic EU institutions also create relationships between national systems; hence, a transnational bond of collectivity is a cogent conceptualization. Despite alleged democratic deficits and recent moves towards less than democratic arrangements, the democratic EU institutions that exist bind together national citizenries. These institutions create borders between citizens of Member States and those of non-Member States. Still, many democratic EU systems rely on the existence of national democratic arrangements. Moreover, deliberative relationships remain institutionalized exclusively in national polities. In sum, I submit that these three bonds of collectivity—(1) a multi-faceted national bond, (2) a transnational legal-economic bond, and (3) a transnational democratic bond—parsimoniously conceptualize existing institutional relationships in the EU polity.

83I. Sánchez-Cuenca, ‘From a Deficit of Democracy to a Technocratic Order: The Postcrisis Debate on Europe’, (2017) 20 Annual Review of Political Science, 351.
4.2 From separate bonds to a realist conception of EU peoplehood

The next question is how to integrate these bonds of collectivity into a realist conception of EU peoplehood. For a realist theory of EU legitimacy, these bonds should be compatible at the substantive level. A conception of peoplehood cannot contain deep inherent contradictions, or else it cannot perform its heuristic function. Hence, I aim to demonstrate that these bonds can be made compatible in a conception of EU peoplehood.

A fruitful starting point is the Hobbesian distinction between concords and unions. In a concord, citizens are part of a community of friends based on a pre-existing consensus. By contrast, a union consists of separate entities, in which, however, survival and self-interest require effective unity of purpose and reciprocal assistance among them. Taking this theoretical distinction, national bonds of collectivity can best be interpreted as binding EU citizens into national concords. Departing from the Hobbesian conception, these bonds are not necessarily pure friendship, but neither are they merely an aggregate of individuals. A historical consensus underpins national peoplehood. In turn, the transnational bonds between these national peoples underpin the EU as a Hobbesian union, because in it these concords cooperate with an eye towards their needs and self-interest. Still, national peoples do remain separate entities. They form the foundation for the transnational union; in other words, the transnational bonds presuppose the national bond. The question becomes how to substantively integrate these bonds.

A commercial interpretation provides a compelling characterization of the economic bond between Europe’s national peoples. In an age of globalization, national concords have to compete for commerce in a highly competitive political economy. In good times, European integration might result in prosperity. Still, it does not always result in Pareto-optimal outcomes. More thus has and can be said about this commercial bond. In the modern world, commerce has also come to ensure safety. For instance, economic resources fund military capabilities against common enemies or fund measures to meet the challenge posed by climate change. Picking up on this thread, a commercial bond also includes a security dimension. This transnational bond reflects the need to cooperate for national survival in an age of globalization. Europe’s concords require one another to maintain capabilities to protect themselves against external threats. This objective outweighs most other considerations; therefore, this commercial bond persists through times of economic hardship. In addition to economic interests, security needs bind Europe’s national peoples.

The liberal model of democracy provides a fitting characterization of Europe’s democratic bond. Broadly, three models of democracy exist in democratic theory: communitarian, republican and liberal. Each relies on a distinct conception of the necessary bonds between citizens. The lack of mass pan-European forums was an important reason for a transnational conception of Europe’s democratic bond. This reality severely restrains the possibilities to constructively deliberate on the common good. Both communitarian and republican models of democracy rely upon the existence of such a deliberative infrastructure. In contrast to these models, the liberal model remains—rightfully or wrongly—sceptical of the ideal of a common good. Instead, it primarily understands the common good in terms of certain basic needs and rights. This ‘thinner’ model focuses on protecting the interests of individual agents. In the case of the EU, the ‘individual agents’ are the separate democratic peoples—the concords—rather than individuals—EU citizens. This interest-based model of democracy is clearly not the most ambitious or arguably most desirable one, but this liberal conception is consistent with the proposed interpretation of separate concords within a transnational union.

This two-tier conception of EU peoplehood grounded in needs and interests is a coherent one. Multi-faceted bonds of national collectivity are the foundation of this conception. These national peoples require one another for

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84See for example, I. Hont, Jealousy of Trade: International Competition and the Nation-State in Historical Perspective (The Belknap Press of Harvard University Press, 2005), 19–22.

85C. Lord, ‘Polecats, Lions, and Foxes: Coasian Bargaining Theory and Attempts to Legitimate the Union as a Constrained Form of Political Power’, (2011) 3 European Political Science Review, 83.

86D. Hume, ‘Political Discourses’, in E.F. Miller (ed.), Essays, Moral, Political, and Literary (Liberty Fund, 1987 [1752]).

87Bellamy and Castiglione, above, n. 48; J. Habermas, ‘Three Normative Models of Democracy’, (1994) 1 Constellations, 1.
their survival and the pursuit of common interests: the commercial bond of collectivity. The liberal bond can be taken to mediate between these two bonds. On the one hand, the liberal bond further legitimates EU rule, because this collective authority can serve the national peoples’ needs and interests as ‘individual entities’. On the other hand, this liberal interpretation emphasizes that democratic representation is necessary to protect individuals’ fundamental rights and interests. As such, the liberal model includes a strong emphasis on the autonomy of the concords. This emphasis ensures that the Union continues to safeguard its constituent parts rather than transcend them.

4.3 | A story of EU peoplehood to meet EU citizens’ BLD

From a realist perspective, the question is whether a legitimation story can be told to EU citizens why to accept or at least acquiesce to EU rule based on this conception. Firstly, a two-tier conception of EU peoplehood can legitimize the current multi-level order. According to Hobbes, a union requires the institutionalization of a sovereign to ensure effective unity of purpose. Following this Hobbesian logic, some might object that a union implies a need for EU sovereignty.88 I submit that the EU challenges Hobbes’ empirical claim that union requires absolute sovereignty. One might agree with the Hobbesian that institutions are a pre-condition for a people and its effective union;89 many realists will agree that coercive institutions precede sociological unity.90 Yet, the current EU regime suggests that union does not require absolute sovereignty. While Member States retain sovereignty enshrined in a right to exit, a transnational political regime—whatever its current imperfections—can democratically determine a common purpose, and its multi-level governance regime can pursue it.91 The problem might, thus, not lie in the institutions built but the stories (not) told.

The proposed two-tier conception of EU peoplehood can constitute the foundation of a European legitimation story. As touched upon above, the needs and interests of national peoples provide an answer to EU citizens’ BLD. A story of economic interests offers insufficient legitimation of the EU’s authority. Citizens would remain fair-weather friends, who would jump to the ‘national ship’ in times of economic crisis. As such, this interpretation does not provide a firm answer to the BLD of a European order but at most a contingent justification for European cooperation.

This two-tier conception, however, also underpins a need-based answer to EU citizens’ BLD: the EU ensures the survival of national peoples in an age of globalization. Survival requires effective unity of purpose and, possibly, reciprocal assistance. Without the EU, the survival and interests of the European concords, of which citizens are an intrinsic part, are at risk. The collective EU policies are necessary to safeguard these needs and interests. Democratic representation is an essential part of the answer to EU citizens’ BLD, because it should ensure that vital needs and interests of national peoples remain safeguarded in EU decision-making processes or at least compensated when harmed in times of need.

Moreover, this realist conception of EU peoplehood can inform a coherent legitimation story for the EU without undermining national ones. In each Member State, legitimation stories can be elaborated to fit their particular context. These stories can draw upon a broad range of values and norms to meet national citizenries’ BLD compatible with the ideal of democratic self-rule. A EU legitimation story, however, can rely solely on need and interest-based arguments. It can thus invoke classic liberal values, such as tolerance and compromise, but, for now, cannot take recourse to more demanding ones, such as recognition, let alone empathy and love, which are associated with the kind of historical consensus underpinning concords. These liberal values can be taken to recognize the existence of national consensuses, which have to be tolerated. A compromise between them is only acceptable with an eye to their survival or with their

88Morgan, above, n. 67.
89Lagerspetz, above, n. 35.
90M. Stears, ‘Liberalism and the Politics of Compulsion’, (2007) 37 British Journal of Political Science, 533.
91Van Middelaar, above, n. 1.
consent. National and EU stories thus do not necessarily compete but can simultaneously legitimize a democratic multi-level order in Europe.

5 | CONCLUSION

By way of conclusion, I will reflect on the real-world promise of this two-tier conception of EU peoplehood. Despite many sociological relations, EU citizens lack concepts to make sense of their political lives in Europe’s multi-level polity. Many EU citizens continue to rely on legitimation stories grounded in a monistic conception of peoplehood. In such stories, sovereignty is the exclusive property of a single people, and, by extension, legitimate democratic authority can only belong to one regime. The upshot of this legitimation story is that the question of democratic authority in the EU polity is ultimately reduced to a choice between sovereign nation-states or a sovereign European state. I explored the possibility of a pluralistic conception of peoplehood to legitimate the EU. This realist study yields that a real-world foundation exists for a two-tiered conception of EU peoplehood. On this conception, democratic authority can legitimately be shared between peoples with an eye towards their collective survival. Yet, to what extent is this realist conception just another academic construct without resonance in the real world?

Evidence suggests that this two-tiered conception has resonance in Europe’s public imagination. A vast majority of EU citizens identify primarily, and a large part even exclusively, as nationals, therefore, nationhood continues to resonate among EU citizens. Yet, public opinion research also indicates that EU citizens recognize transnational ties between national peoples. EU citizens accept that the Union can attain security and prosperity for the Member States. Moreover, they recognize a similar commitment to liberal democratic values between Europe’s peoples; however, they simultaneously acknowledge that national understandings are distinct from one another in significant ways. Europe’s economic and democratic institutions have arguably even given rise to an embryonic rational EU identity. The functional logic of this identity fits the proposed interest-based conception of commercial and liberal bonds. This empirical evidence suggests that the proposed two-tier conception of EU peoplehood exists in nascent form in the public imagination.

In the face of the EU’s current crises, this study’s normative aspirations were scaled back. This realist conception of peoplehood does not underpin another Messianic vision, but a realist one to maintain and regain support for the EU’s current powers. With cautious optimism, I submit that this two-tier conception can yield legitimation stories that can (re-)generate widespread support for the EU even in these times of crisis. Building on this foundation, one might

92 K. Eder, ‘The EU in Search of its People: The Birth of a Society out of the Crisis of Europe’, (2014) 17 European Journal of Social Theory, 219, 228.
93 Beetz, above, n. 73.
94 Eurobarometer (2013), Eurobarometer 80: European Citizenship (European Commission).
95 J. Díez Medrano, ‘Europe’s Political Identity: Public Sphere and Public Opinion’, in J. Lacroix and K. Nicolaïdis (eds.), European Stories: Intellectual Debates on Europe in National Contexts (Oxford University Press, 2010), at 315.
96 M. Antonsich, ‘The Narration of Europe in “National” and “Post-national” Terms: Gauging the Gap between Normative Discourses and People’s Views’, (2008) 11 European Journal of Social Theory, 505; K. Nicolaïdis and R. Young, ‘Europe’s Democracy Trilemma’, (2014) 90 International Affairs, 1403, 1410.
97 M. Guibernau, ‘The Birth of a United Europe: On Why the EU Has Generated a ‘Non-Emotional’ Identity’, (2011) 17 Nations and Nationalism, 302.
98 Beetz, above, n. 12.
99 See, also, Beetz, above, n. 73; L. Cram, ‘Does the EU Need a Navel? Implicit and Explicit Identification with the European Union’, (2012) 50 Journal of Common Market Studies, 71.
even expect some transnational solidarity to emerge among EU citizens, which, in turn, could become the foundation of bolder democratic visions in the future.

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