

# THEORIZING THE EUROPEAN UNION: International Organization, Domestic Polity, or Experiment in New Governance?

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■ **Abstract** The study of the European Union (EU) has been transformed during the past decade, and three distinct theoretical approaches have emerged. The first approach, which seeks to explain the process of European integration, has largely abandoned the long-standing neofunctionalist-intergovernmentalist debate in favor of a rationalist-constructivist debate reflecting broader developments in international relations theory. A second approach, however, has rejected the application of international relations theory in favor of comparative politics approaches which analyze the EU using off-the-shelf models of legislative, executive, and judicial politics in domestic politics. A third and final approach sees the EU as an emerging system of multi-level governance in which national governments are losing influence in favor of supranational and sub-national actors, raising important normative questions about the future of democracy within the EU.

## INTRODUCTION

More than five decades into its history, the European Union (EU) remains a compelling experiment in political organization beyond the nation-state as well as the object of intense scholarly interest from a variety of theoretical perspectives. During its first four decades, from the 1950s through the 1990s, the study of the EU was dominated by students of international relations, and the primary theories of European integration—neofunctionalism and intergovernmentalism—remained essentially static and essentially parasitical on other fields, with only periodic attempts to generalize from the study of the EU to the study of politics more generally.

Over the course of the past decade, however, empirical and scholarly developments have fundamentally changed the shape of EU studies and their potential contribution to political science. Three developments are particularly noteworthy. First, within the field of international relations, students of the EU have largely left behind the neofunctionalist/intergovernmentalist debate of previous decades in

favor of mainstream international relations theories, most notably rational choice institutionalism and constructivism, which has emerged as the primary intellectual divide in the field. In a second major development, however, students of comparative politics have moved in increasing numbers to study the EU, not as an instance of regional integration or regional cooperation, but as a political system featuring both a horizontal and a vertical separation of powers, analytically more similar to the U.S. political system than to other international organizations. Such work has raised and begun to answer fundamentally new questions about legislative, executive, and judicial behavior in the EU, seeking to approximate the model of “normal science” among mainstream comparativists. These contrasting images of the EU as an international organization or a political system comparable to other domestic systems have, however, been rejected by a governance school, which views the EU as neither an international organization nor a domestic political system, but rather a new and unique experiment in governance beyond the nation-state. Drawing in parts from both comparative politics and international relations, this third approach portrays an EU in which nation-state governments are losing ground to both subnational and supranational actors, raising important questions about the governance capacity and democratic legitimacy of the EU and exploring recent experiments in new governance such as the EU’s Open Method of Coordination (OMC).

In this article, I explore each of these developments in turn, tracing the emergence of the rationalist/constructivist divide in international relations approaches, the development of a comparative politics school striving toward a “normal science” of political behavior in the EU, and the challenge from a governance school exploring the analytic as well as normative implications of governance beyond the nation-state. The article is organized in four parts. In the first, I provide a brief overview of the most influential theories of European integration, with particular attention to the emergence of a rationalist-constructivist divide and the prospects for reconciliation among these two theories. The second section examines the emergence of a comparative-politics agenda in EU studies and the concept of the EU as a political system characterized by a horizontal and a vertical separation of powers. In the third section, I examine the recent development of a governance approach to the EU. In the fourth section, I assess the overall state of the field, noting the tendency toward fragmentation but also the increasing dialogue among scholars from different theoretical traditions and the increasingly sophisticated empirical work being carried out by practitioners of all three approaches.

## THEORIES OF EUROPEAN INTEGRATION

For many years, the academic study of the European Communities (EC)—as they were previously called—was virtually synonymous with the study of European integration. From its humble beginnings with the European Coal and Steel Community in 1951, the initially modest and largely technocratic achievements of

the European Communities seemed less significant than the potential that they represented for the gradual integration of the countries of Western Europe into something else: a supranational polity. When the integration process was going well, as it was during the 1950s and early 1960s, neofunctionalists and other theorists sought to explain the process whereby European integration proceeded from modest sectoral beginnings to something broader and more ambitious. When the integration process was going badly, as it was from the 1960s through the early 1980s, intergovernmentalists and others sought to explain why it had not proceeded as smoothly as its founders had hoped. Regardless of the differences among these bodies of theory, the early literature on the European Communities sought to explain the process of European integration (rather than, say, policy-making), and in doing so, it drew largely (but not exclusively) on theories of international relations.

From the beginnings of the integration process through the early 1990s, the dominant theoretical traditions in EU studies were neofunctionalism, which saw European integration as a self-sustaining process driven by sectoral spillovers toward an ever-closer union, and intergovernmentalism, which emphasized the gatekeeping role of EU member governments and their resistance to any wholesale transfer of sovereignty from the member states to a new center in Brussels. By the 1990s, however, this debate had largely faded, replaced by a new divide between rationalist approaches, such as liberal intergovernmentalism and rational choice institutionalism, and constructivist approaches, which emphasized the potentially transformative potential of the EU.

## Neofunctionalism

In 1958, on the eve of the establishment of the European Economic Community (EEC) and Euratom, Ernst Haas published his magisterial text, *The Uniting of Europe*, setting out a neofunctionalist theory of regional integration. As elaborated in subsequent work by Haas and other scholars (see Haas 1961, Lindberg & Scheingold 1970), neofunctionalism posited a process of functional spillover in which the initial decision by governments to place a certain sector, such as coal and steel, under the authority of central institutions inevitably creates pressures to extend the authority of the institutions into neighboring areas of policy such as currency exchange rates, taxation, and wages. Thus, Haas and other neofunctionalists predicted that sectoral integration would produce the unintended consequence of promoting further integration in additional issue areas.

Augmenting this process of functional spillover was a complementary process of political spillover, in which both supranational actors, such as the European Commission, and subnational actors, such as interest groups within the member states, create additional pressures for further integration. At the subnational level, Haas suggested that interest groups operating in an integrated sector would have to interact with the international organization charged with the management of their sector. Over time, these groups would come to appreciate the benefits from integration and would thereby transfer their demands, expectations, and even their

loyalties from national governments to a new center, thus becoming an important force for further integration. As a result of such sectoral and political spillovers, according to the neofunctionalists, sectoral integration would become self-sustaining, leading to the creation of a new political entity with its center in Brussels.

By 1965, however, French President Charles de Gaulle had precipitated the so-called Luxembourg Crisis, insisting on the importance of state sovereignty and rejecting the transfer of additional authority to Brussels. The EEC, which had been scheduled to move to qualified majority voting in 1966, continued to take decisions *de facto* by unanimity, the Commission emerged weakened from its confrontation with de Gaulle, and the nation-state appeared to have reasserted itself. These tendencies were reinforced by developments in the 1970s, when economic recession led to the rise of new nontariff barriers to trade among EC member states and when the intergovernmental aspects of the Community were strengthened by the 1974 creation of the European Council, a regular summit meeting of EU heads of state and government. Even some of the major advances of this period, such as the creation of the European Monetary System in 1978, were taken outside the structure of the EEC Treaty, with no formal role for the Commission or other supranational EC institutions.

## Intergovernmentalism and Liberal Intergovernmentalism

Reflecting these developments, a new intergovernmentalist school of integration theory emerged, beginning with Stanley Hoffmann's (1966) claim that the nation-state, far from being obsolete, had proven "obstinate." Most obviously with de Gaulle, but later with the accession of new member states like Britain, Ireland, and Denmark in 1973, member governments made clear that they would resist the gradual transfer of sovereignty to the Community, and that EC decision making would reflect the continuing primacy of the nation-state. Under these circumstances, Haas himself (1976) pronounced the "obsolescence of regional integration theory," and other scholars, including Paul Taylor (1983) and William Wallace (1983), argued that neofunctionalists had underestimated the resilience of the nation-state.

During the 1990s, intergovernmentalism was substantially reformulated by Andrew Moravcsik (1993, 1998), who put forward a modified liberal intergovernmentalist theory of European integration. By contrast with some authors who saw the relaunching of the integration process as a vindication of earlier neofunctionalist models (Tranholm-Mikkelsen 1991, Sandholtz & Zysman 1989, Burley & Mattli 1993), Moravcsik argued that even these steps forward could be accounted for by an intergovernmental model emphasizing the power and preferences of EU member states. Put simply, Moravcsik's liberal intergovernmentalism is a three-step model combining a liberal theory of national preference formation with an intergovernmental model of EU-level bargaining and a model of institutional choice emphasizing the importance of credible commitments. In the first or liberal stage of the model, national chiefs of government (or COGs) aggregate the interests of their domestic constituencies, as well as their own interests, and articulate their

respective national preferences toward the EU. Thus national preferences are complex, reflecting the distinctive economics, parties, and institutions of each member state, but they are determined domestically, not shaped by participation in the EU as some neofunctionalists had proposed.

In the second or intergovernmental stage of Moravcsik's model, national governments bring their preferences to the bargaining table in Brussels, where agreements reflect the relative power of each member state and where supranational organizations such as the Commission exert little or no influence over policy outcomes. By contrast with neofunctionalists, who emphasized the entrepreneurial and brokering roles of the Commission and the upgrading of the common interest among member states in the Council, Moravcsik and other intergovernmentalists emphasized the hardball bargaining among member states and the importance of bargaining power, package deals, and side payments as determinants of the most important EU decisions.

Finally, Moravcsik puts forward a rational choice theory of institutional choice, arguing that EU member states adopt particular EU institutions—pooling sovereignty through qualified majority voting or delegating sovereignty to supranational actors like the Commission and the European Court of Justice (ECJ)—in order to increase the credibility of their mutual commitments. In this view, sovereign states seeking to cooperate among themselves invariably face a strong temptation to cheat or defect from their agreements. Moravcsik argues that pooling and delegating sovereignty through international organizations allows states to commit themselves credibly to their mutual promises by monitoring state compliance with international agreements and filling in the blanks of broad international treaties such as those that have constituted the EC/EU.

In empirical terms, Moravcsik argues that the EU's historic intergovernmental agreements, such as the 1957 Treaties of Rome and the 1992 Treaty on European Union, were not driven primarily by supranational entrepreneurs, unintended spillovers from earlier integration, or transnational coalitions of interest groups, but rather by a gradual process of preference convergence among the most powerful member states, which then struck central bargains among themselves, offered side payments to smaller member states, and delegated strictly limited powers to supranational organizations that remained more-or-less obedient servants of the member states. In theoretical terms, all three elements of Moravcsik's argument were placed explicitly into a rationalist framework, which provided a common set of assumptions about the key actors in the process of European integration and the (domestic) sources of their preferences.

During the 1990s, Moravcsik's liberal intergovernmentalism emerged as the leading theory of European integration, yet its basic theoretical assumptions were questioned by international relations scholars coming from two different directions. A first group of scholars, collected under the rubrics of rational choice and historical institutionalism, accepted Moravcsik's rationalist assumptions but rejected his spare, institution-free model of intergovernmental bargaining as an accurate description of the integration process. By contrast, a second school of

thought, drawing from sociological institutionalism and constructivism, raised more fundamental objections to Moravcsik's theory, rejecting the methodological institutionalism of rational choice theory in favor of an approach in which national preferences and identities were shaped, at least in part, by EU norms and rules.

### The "New Institutionalisms," Rational Choice and Historical

The rise of institutionalist analysis of the EU did not develop in isolation, but reflected a gradual and widespread reintroduction of institutions into a large body of theories (such as pluralism, Marxism, and neorealism) in which institutions either had been absent or were considered epiphenomenal. By contrast with these institution-free accounts of politics, which dominated much of political science between the 1950s and the 1970s, three primary institutionalisms—rational choice, historical, and sociological or constructivist—developed during the course of the 1980s and early 1990s, each with a distinct definition of institutions and a distinct account of how they matter in the study of politics (Hall & Taylor 1996).

The first of these approaches began with the effort by American political scientists to understand the origins and effects of U.S. Congressional institutions on legislative behavior and policy outcomes. Rational choice scholars noted that majoritarian models of Congressional decision making predicted that policy outcomes would be inherently unstable, because a simple majority of policy makers could always form a coalition to overturn existing legislation, yet substantive scholars of the U.S. Congress found considerable stability in Congressional policies. In this context, Kenneth Shepsle (1979, 1986) argued that Congressional institutions, and in particular the committee system, could produce structure-induced equilibrium by ruling some alternatives as permissible or impermissible and by structuring the voting power and the veto power of various actors in the decision-making process.

Shepsle and others have since examined the agenda-setting power of Congressional committees; devised principal-agent models of Congressional delegation to regulatory bureaucracies and to courts (Moe 1984, Kiewiet & McCubbins 1991); and, most recently, have pioneered a transaction-cost approach to the design of political institutions, arguing that legislators deliberately and systematically design political institutions to minimize the transaction costs associated with the making of public policy (Epstein & O'Halloran 1999, Huber & Shipan 2002). Although originally formulated and applied in the context of American political institutions, these rationalist institutionalist insights travel to other domestic and international contexts and were quickly taken up by students of the EU. Responding to the increasing importance of EU institutional rules such as the cooperation and codecision procedures, authors including Fritz Scharpf, George Tsebelis, and Geoffrey Garrett sought to model, in rational choice terms, the selection and workings of EU institutions, including the adoption, execution, and adjudication of EU public policies. Although beginning with the study of the EU as an international organization, many of these studies drew increasingly on relevant literatures from comparative politics, and are therefore reviewed in the next section of this review.

(For reviews of institutionalism in EU studies, see Jupille & Caporaso 1999, Dowding 2000, Aspinwall & Schneider 2001, and Pollack 2004.)

By contrast with the formal definition of institutions in rational choice terms, sociological institutionalism and constructivist approaches in international relations defined institutions much more broadly to include informal norms and conventions as well as formal rules, and they argued that such institutions could constitute actors, shaping their identities and hence their preferences in ways that rational choice approaches could not capture (these approaches are examined in the next section).

Historical institutionalists took up a position between these two camps, focusing on the effects of institutions *over time*, in particular the ways in which a given set of institutions, once established, can influence or constrain the behavior of the actors who established them. In its initial formulations (Hall 1986, Thelen & Steinmo 1992), historical institutionalism was seen as having dual effects, influencing both the constraints on individual actors and their preferences, and thereby encompassing the core insights of both the rationalist and constructivist camps. What makes historical institutionalism distinctive, however, is its emphasis on the effects of institutions on politics over time. In a sophisticated presentation of this strand of historical institutionalist thinking, Paul Pierson (2000) has argued that political institutions are characterized by increasing returns, insofar as those institutions and policies create incentives for actors to stick with existing institutions, adapting them only incrementally in response to changing circumstances. Insofar as political institutions are indeed subject to increasing returns, politics should be characterized by certain interrelated phenomena, including: inertia, or lock-ins, whereby existing institutions may remain in equilibrium for extended periods despite considerable political change; a critical role for timing and sequencing, in which relatively small and contingent events at critical junctures early in a sequence shape events that occur later; and path dependence, in which early decisions provide incentives for actors to perpetuate institutional and policy choices inherited from the past, even when the resulting outcomes are manifestly inefficient.

In recent years, these insights have been applied increasingly to the development of the EU, with various authors emphasizing the temporal dimension of European integration as a process occurring over time. At its best, this literature does not simply point to the stickiness or the path dependence of EU institutions, but develops and tests specific hypotheses about which types of institutions are subject to lock-ins, how those institutions shape historical trajectories over time, and under what conditions early choices either do—or do not—set the EU down a path from which it is increasingly costly to deviate. Pierson's (1996) study of path dependence in the EU, for example, seeks to understand European integration as a process that unfolds over time and the conditions under which path-dependent processes are most likely to occur. Working from essentially rationalist assumptions, Pierson argues that despite the initial primacy of member governments in the design of EU institutions and policies, gaps may occur in the ability of member

governments to control the subsequent development of institutions and policies, for four reasons. First, member governments in democratic societies may, because of electoral concerns, apply a high discount rate to the future, agreeing to EU policies that lead to a long-term loss of national control in return for short-term electoral returns. Second, even when governments do not heavily discount the future, unintended consequences of institutional choices can create additional gaps, which member governments may or may not be able to close through subsequent action. Third, Pierson argues, the preferences of member governments are likely to change over time, most obviously because of electoral turnover, leaving new governments with new preferences to inherit an *acquis communautaire* negotiated by, and according to the preferences of, a previous government. Given the frequent requirement of unanimous voting (or qualified majority—still a high hurdle) to overturn past institutional and policy choices, individual member governments are likely to find themselves “immobilized by the weight of past initiatives” (Pierson 1996, p. 137). Finally, EU institutions and policies can become locked in not only as a result of change-resistant institutions from above, but also through the incremental growth of entrenched support for existing institutions from below, as societal actors adapt to and develop a vested interest in the continuation of specific EU policies.

At their best, historical institutionalist analyses offer not only the banal observation that institutions are sticky, but also a tool kit for predicting and explaining under what conditions we should expect institutional lock-ins and path-dependent behavior. More specifically, we should expect that, *ceteris paribus*, institutions and policies will be most resistant to change (*a*) where their alteration requires a unanimous agreement among member states, or the consent of supranational actors like the Commission or the European Parliament (EP); and (*b*) where existing EU policies mobilize cross-national bases of support that raise the cost of reversing or significantly revising them. Both of these factors vary across issue areas, and we should therefore expect variation in the stability and path-dependent character of EU institutions and policies.

In sum, for both rational choice and historical institutionalists, EU institutions matter, shaping both the policy process and policy outcomes in predictable ways, and indeed shaping the long-term process of European integration. In both cases, however, the effects of EU institutions are assumed to influence only the incentives confronting the various public and private actors—the actors themselves are assumed to remain unchanged in their fundamental preferences and identities. Indeed, despite their differences on substantive issues, liberal intergovernmentalism, rational choice institutionalism and most historical institutionalism arguably constitute a single rationalist research program: a community of scholars operating from similar basic assumptions and seeking to test hypotheses about the most important determinants of European integration. By contrast, constructivist and sociological institutionalist approaches argue that the most profound effects of EU institutions are precisely in the potential remaking of national preferences and identities in the crucible of EU institutions.



## Constructivism and the Reshaping of European Identities and Preferences

Like rational choice theories, constructivist theory did not begin with the study of the EU. Indeed, as Thomas Risse (2004) points out in an excellent survey, constructivism came to EU studies relatively late, with the publication of a special issue of the *Journal of European Public Policy* in 1999 as a turning point. Yet constructivist theorists have been quick to apply their theoretical tools to the EU since then, promising to shed light on potentially profound effects of the EU on the peoples and governments of Europe.

Constructivism, like rational choice, is not a substantive theory of European integration per se, but a broader metatheoretical orientation with implications for the study of the EU. As Risse (2004, p. 161) explains:

... [It] is probably most useful to describe constructivism as based on a social ontology which insists that human agents do not exist independently from their social environment and its collectively shared systems of meanings ("culture" in a broad sense). This is in contrast to the methodological individualism of rational choice according to which "[t]he elementary unit of social life is the individual human action" (Elster 1989, p. 13). The fundamental insight of the agency-structure debate, which lies at the heart of many social constructivist works, is not only that structures and agents are mutually codetermined. The crucial point is that constructivists insist on the *constitutiveness* of (social) structures and agents (Adler 1997, pp. 324–5; Wendt 1999, Ch. 4). The social environment in which we find ourselves, "constitutes" who we are, our identities as social beings.

For constructivists, then, institutions are understood broadly to include not only formal rules but also informal norms, and these rules and norms are expected to constitute actors, that is, to shape their identities and their preferences. Actor preferences are not exogenously given and fixed, as in rationalist models, but endogenous to institutions, and individuals' identities shaped and reshaped by their social environment. Taking this argument to its logical conclusion, constructivists generally reject the rationalist conception of actors as utility-maximizers operating according to a "logic of consequentiality," in favor of March and Olsen's (1989, pp. 160–62) conception of a "logic of appropriateness."

In the field of EU studies, a growing number of scholars have argued that EU institutions shape not only the behavior but also the preferences and identities of individuals and member governments (Sandholtz 1996, Jørgensen 1997, Lewis 1998). This argument has been made most forcefully by Thomas Christiansen, Knud Erik Jørgensen, and Antje Wiener in their introduction to a 1999 special issue of the *Journal of European Public Policy* on "The Social Construction of Europe":

A significant amount of evidence suggests that, as a process, European integration has a transformative impact on the European state system and its

constituent units. European integration itself has changed over the years, and it is reasonable to assume that in the process agents' identity and subsequently their interests have equally changed. While this aspect of change can be theorized within constructivist perspectives, it will remain largely invisible in approaches that neglect processes of identity formation and/or assume interests to be given endogenously (Christiansen et al., 1999, p. 529).

The authors begin with the claim that the EU is indeed reshaping national identities and preferences, and they reject rationalist approaches for their inability to predict and explain these phenomena. Not surprisingly, such claims have been forcefully rebutted by rationalist theorists, including most notably Andrew Moravcsik (Moravcsik 1999, Checkel & Moravcsik 2001).

Constructivist theorists, according to Moravcsik (1999) raise an interesting and important set of questions about the effects of European integration on individuals and states. Yet, he argues, constructivists have failed to make a significant contribution to our empirical understanding of European integration, for two reasons. First, constructivists typically fail to construct distinct falsifiable hypotheses, opting instead for broad interpretive frameworks that can make sense of almost any possible outcome and are therefore not subject to falsification through empirical analysis. Second, Moravcsik argues, even if constructivists posit hypotheses that are in principle falsifiable, they generally do not formulate and test those hypotheses in ways that distinguish clearly between constructivist predictions and their rationalist counterparts. Until constructivists test their hypotheses, and do so against prevailing and distinct rationalist models, he argues, constructivism will not come down "from the clouds" (Checkel & Moravcsik 2001).

Constructivists might, of course, respond that Moravcsik privileges rational choice explanations and sets a higher standard for constructivist hypotheses (since rational choice scholars typically do not attempt to test their own hypotheses against competing constructivist formulations). Many postpositivist scholars, moreover, dispute Moravcsik's image of EU studies as science, with its attendant claims of objectivity and of an objective, knowable world. For such scholars, Moravcsik's call for falsifiable hypothesis testing appears as a power-laden demand that "non-conformist" theories play according to the rules of a rationalist, and primarily American, social science (Jørgensen 1997). To the extent that constructivists do indeed reject positivism and the systematic testing of competing hypotheses, the rationalist/constructivist debate would seem to have reached a metatheoretical impasse in which constructivists and rationalists fail to agree on a common standard for judging what constitutes support for one or another approach.

In recent years, however, an increasing number of constructivist theorists have embraced positivism, and these scholars have produced a spate of constructivist work that attempts rigorously to test hypotheses about socialization, norm diffusion, and collective preference formation in the EU (Wendt 1999, Checkel 2003, Risse 2004). Some of these studies, including Liesbet Hooghe's (2002, 2005) extensive analysis of the attitudes of Commission officials and several studies

of national officials participating in EU committees (Beyers & Dierickx 1998, Egeberg 1999), use quantitative methods to test hypotheses about the nature and determinants of officials' attitudes, including socialization in national as well as European institutions. Such studies, undertaken with methodological rigor and with a frank reporting of findings, seem to demonstrate that that EU-level socialization, although not excluded, plays a relatively small role by comparison with national-level socialization, or that EU socialization interacts with other factors in complex ways. Other studies, including Checkel's (1999, 2003) study of citizenship norms in the EU and the Council of Europe, and Lewis's (1998, 2003) analysis of decision making in the EU Committee of Permanent Representatives, utilize qualitative rather than quantitative methods, but are similarly designed to test falsifiable hypotheses about whether, and under what conditions, EU officials are socialized into new norms, preferences, and identities.

As a result of these and other studies, the metatheoretical gulf separating rationalists and constructivists appears to have narrowed considerably, and EU scholars have arguably led the way in confronting, and possibly reconciling, the two theoretical approaches. Perhaps most constructively, three EU scholars (Jupille et al. 2003) have recently put forward a framework for promoting integration of—or at least a fruitful dialogue between—rationalist and constructivist approaches to international relations. Rationalism and constructivism, the authors argue, are not hopelessly incommensurate, but can engage each other through “four distinct modes of theoretical conversation,” namely:

1. competitive testing, in which competing theories are pitted against each other in explaining a single event or class of events;
2. a “domain of application” approach, in which each theory is considered to explain some subset of empirical reality, so that, for example, utility maximizing and strategic bargaining obtains in certain circumstances, whereas socialization and collective preference formation obtains in others;
3. a sequencing approach, in which one theory might explain a particular step in a sequence of actions (e.g., a constructivist explanation of national preferences) while another theory might best explain subsequent developments (e.g., a rationalist explanation of subsequent bargaining among the actors); and
4. “incorporation” or “subsumption,” in which one theory claims to subsume the other so that, for example, rational choice becomes a subset of human behavior ultimately explicable in terms of the social construction of modern rationality.

Looking at the substantive empirical work in their special issue, Jupille, Caporaso, and Checkel find that most contributions to the rationalist-constructivist debate utilize competitive testing, whereas only a small number (e.g., Schimmelfennig 2003a) have adopted domain of application, sequencing, or subsumption approaches. Nevertheless, they see substantial progress in the debate, in

which both sides generally accept a common standard of empirical testing as the criterion for useful theorizing about EU politics.

## Integration Theory Today

In place of the traditional neofunctionalist/intergovernmentalist debate, the 1990s witnessed the emergence of a new dichotomy in EU studies, pitting rationalist scholars against constructivists. During the late 1990s, it appeared that this debate might well turn into a metatheoretical dialogue of the deaf, with rationalists dismissing constructivists as “soft” and constructivists denouncing rationalists for their obsessive commitment to parsimony and formal models. During the past several years, however, a more constructive dialogue between the two approaches has emerged, including a steady stream of empirical studies allowing us to adjudicate between the competing claims of the two approaches. Furthermore, whereas the neofunctionalist/intergovernmentalist debate was limited almost exclusively to the study of European integration, the contemporary rationalist/constructivist debate in EU mirrors larger debates among those same schools in international relations theory more broadly. Indeed, not only are EU studies relevant to the wider study of international relations, they are in many ways the vanguard of international relations theory, insofar as the EU serves as a laboratory for broader processes such as globalization, institutionalization, and socialization.

## THE EU IN COMPARATIVE PERSPECTIVE

Thus far, we have examined the EU literature from the perspective of one concerned overwhelmingly with the causes and the direction of European integration as a process. Throughout its history, however, many scholars have approached the EU not solely or primarily through the lenses of international relations theory, but as a polity or political system akin to other domestic political systems. This tendency was most pronounced in the work of federalist writers, who explicitly compared the EU to federal and confederal systems in Germany, Switzerland, and the United States of America (Capelletti et al. 1986, Scharpf 1988, Sbragia 1993), as well as in the work of systems theorists such as Lindberg & Scheingold (1970), who saw the EU as a political system characterized by political demands (inputs), governmental actors, and public policies (outputs). At the same time, an increasing number of EU scholars sought deliberately to bracket the question of integration and the EU’s final destination, focusing instead on a better understanding of the EU policy process in all its complexity and diversity (Wallace & Wallace 1977).

By the mid-1990s, a growing number of scholars sought to understand the EU as a political system using the theoretical tools developed in the study of domestic polities. This perspective was championed most effectively by Simon Hix (1994, 1999), who issued a call to arms to comparativists in a series of publications. Previous studies of the EU, Hix argued, had drawn almost exclusively from theories

of international integration, and they had problematized the EU as a process of integration; in doing so, however, they neglected the politics of the EU, as well as its characteristics as a political system. The EU, Hix argued, was clearly less than a Weberian state, lacking in particular a monopoly on the legitimate use of force; yet he echoed Lindberg and Scheingold by suggesting that the EU could be theorized as a political system, with a dense web of legislative, executive, and judicial institutions that adopted binding public policies and hence influenced the authoritative allocation of values in European society. Furthermore, by contrast with earlier studies that examined EU politics through the single dimension of integration (ranging from nationalism at one extreme to centralization at the other), Hix suggested that EU politics takes place in a two-dimensional space, with integration representing one dimension, alongside a second dimension spanning the traditional left-right divide over the extent and the nature of government intervention in the economy. As such, Hix concluded, the EU could and should be studied using “the tools, methods and cross-systemic theories from the general study of government, politics and policy-making. In this way, teaching and research on the EU can be part of the political science mainstream” (Hix 1999, p. 2).

Hix’s call to arms among comparativists has not escaped criticism, with a number of authors arguing that Hix’s dichotomous formulation of the division of labor between international and comparative politics—with the former using international relations theoretical tools to understand integration, and the latter using comparative tools to understand politics—represented an oversimplification of our object of study and a disciplinary step backward from integration to fragmentation of subfields within political science. Indeed, Jupille et al. (2003) suggested that “converging empirical and intellectual trends, especially in the area of political economy, increasingly undermine . . . the distinction between comparative and international” (p. 10; see also Hurrell & Menon 1996). Empirically, the phenomenon of globalization has drawn scholars’ attention to the links between international developments and domestic politics, not just in the EU but globally. In theoretical terms, an increasing number of theories—Peter Gourevitch’s (1978) “second-image reversed,” Robert Putnam’s (1988) “two-level games” model, and various models of globalization (Keohane & Milner 1998, Caporaso 1997)—all theorized mechanisms linking domestic politics to developments at the international level, suggesting that purely comparative approaches might miss this domestic-international interaction. Furthermore, as we have just seen, rational choice theories of politics promised precisely to provide a single overarching theoretical framework linking together American, comparative, and international politics (Milner 1998). Under the circumstances, according to Jupille, “it would be perverse if the erosion of such disciplinary boundaries were to be resisted in EU Studies, the object of study of which seems precisely to fall in the interstices of the two subfields!” (Jupille 2005).

For all of these reasons, the comparative–international relations divide did not prove to be the important schism in EU studies that many had expected, and much useful work has integrated domestic and international politics within a single

theoretical framework. Nevertheless, comparative political scientists have moved increasingly into EU studies, in part because the EU has intruded increasingly into what had previously been seen as exclusively domestic arenas, and in part because an increasing number of scholars accepted Hix's claim that the EU could be theorized as a political system and analyzed using off-the-shelf categories from the comparative study of domestic polities. This movement of comparativists into EU studies is reflected in quantitative data collected by Jupille (2005), who demonstrates the rise of EU studies from an almost entirely international relations-based initiative to one that features equally in the pages of international relations and comparative journals (see also Keeler 2004).

Although such comparative work on the EU is extraordinarily diverse, comprising numerous middle-range "islands of theory" (Dalton 1991) and empirical research, much of it can fairly be characterized as comparative, rationalist, and positivist in nature. First, as Hix (1998) argues, much of the work on EU politics proceeds from the assumption that the EU is not a *sui generis* system of governance, but is a variant on existing political systems and can therefore be understood with the aid of off-the-shelf models of politics in other (primarily national) contexts. In recent years, a growing number of these theories have drawn from the study of American politics, since the EU arguably resembles the US in possessing both a horizontal and a vertical separation of powers.

Second, in terms of the rationalist/constructivist divide sketched in the previous section, most of the work reviewed in this section is either implicitly or explicitly rationalist, taking the assumption that actors (be they states, individuals, or supranational organizations) have fixed, exogenously given preferences, and that they act systematically to maximize those preferences within the constraints of EU institutions. Within this rationalist literature, a growing subset not only employs the language of rational choice (i.e., "soft" rational choice) but also draws from and elaborates formal and game-theoretic models of EU decision making.

Finally, much of the work discussed here can be characterized as implicitly or explicitly positivist, seeking to test theory-driven hypotheses systematically, often (though by no means always) with the aid of quantitative as well as qualitative methods. Much of this work has appeared in mainstream American and European journals of political science, such as the *American Journal of Political Science*, the *American Political Science Review*, the *British Journal of Political Science*, and the *European Journal of Political Science*, but the spiritual home of this body of literature is undoubtedly the journal *European Union Politics*, which has published a steady stream of articles featuring formal models of decision making and innovative use of new and existing data sets to test hypotheses about political behavior in the EU. The editors of the journal, and many of its contributors, explicitly put forward a model of "normal science" in which scholars deduce theories of specific aspects of EU politics (e.g., legislative or executive or judicial politics) and seek to test them comparatively with the most precise available data (Gabel et al. 2002, p. 481). A thorough examination of this literature is beyond the scope of this review, and I therefore focus here on two dimensions, namely the

horizontal or federal division of powers between the EU and member-state levels and the vertical or separation-of-powers division among the legislative, executive, and judicial branches of the EU.

## The Horizontal Separation of Powers: The EU as a Federal System

The EU did not begin life as a federal union, nor, in the view of most analysts, does it constitute a fully developed federation today. In political terms, the word “federal” was regarded as taboo by the British and other delegations that negotiated the 1992 Maastricht Treaty on European Union (it was referred to obliquely as “the f-word”). In analytical terms, some scholars question whether the EU can or should be accurately described as a federal state:

The contemporary EU is far narrower and weaker a federation than any extant national federation—so weak, indeed, that we might question whether it is a federation at all. The EU plays almost no role—at most a weak sort of international coordination—in most of the issue-areas about which European voters care most, such as taxation, social welfare provision, defense, high foreign policy, policing, education, cultural policy, human rights, and small business policy. European Union institutions are tightly constrained, moreover, by supermajoritarian voting rules, a tiny administration, radical openness, stringent provisions for subsidiarity, a distinct professional ethos, and the near-total absence of the power to tax and coerce. The EU was designed as, and remains primarily, a limited international institution to coordinate national regulation of trade in goods and services, and the resulting flows of economic factors. Its substantive scope and institutional prerogatives are limited accordingly. The EU constitutional order is not only barely a federal state; it is barely recognizable as a state at all (Moravcsik 2001, pp. 163–64).

Nevertheless, federalism was a powerful normative ideal motivating many of the founding fathers of the European movement and much of the early scholarship on the EU. By the 1980s, moreover, the institutions and policy processes of the European Communities had developed strong analytical similarities to those of existing federations, and theories of federalism therefore took on greater importance, not just as a normative ideal motivating European integration, but as a positive theoretical framework capable of explaining and predicting the workings of the EU as a political system.

The term federalism has been the subject of numerous overlapping definitions, but most of these formulations rely on the three elements emphasized by R. Daniel Kelemen, who has described federalism as “an institutional arrangement in which (a) public authority is divided between state governments and a central government, (b) each level of government has some issues on which it makes final decisions, and (c) a federal high court adjudicates disputes concerning federalism” (2003, p. 185). In most federal systems, the structure of representation is twofold, with popular or

functional interests represented through a directly elected lower house, whereas territorial units are typically represented in an upper house whose members may be either directly elected (as in the U.S. Senate) or appointed by state governments (as in the German *Bundesrat*). In both of these senses, the EU already constitutes a federal system with a constitutionally guaranteed separation of powers between the EU and member-state levels, and a dual system of representation through the EP and the Council of Ministers—and hence the literature on comparative federalism provides a useful toolkit for theorizing the workings of the EU.

Perhaps the most difficult issue in the EU, as in other federal systems, is the question of the distribution of powers among the federal and state levels of government. Economic models of fiscal federalism have long suggested that the functions of macroeconomic stabilization and distribution are best exercised at the federal level, because these functions would be likely to go unprovided or underprovided if left to the individual states; and indeed, most mature federations feature a strong fiscal role for government, smoothing out asymmetric shocks across states and providing for redistribution of funds from wealthier to poorer states (Börzel & Höfli 2003, pp. 180–81). Helen Wallace (2000) has pointed out that the choice of a given level of government—federal/EU versus national/state—can be theorized through the metaphor of a pendulum, where the choice of policy arena varies depending on a number of contextual, functional, motivational, and institutional factors.

In this view, the history of the EU can be viewed as a series of centralizing initiatives (e.g., the founding years of the 1950s and the relaunching of the integration process in the 1980s) followed by periods of retrenchment or devolution (e.g., the Gaullist revolt of the 1960s and the post-Maastricht backlash of the 1990s) (Donahue & Pollack 2001). The struggle over European integration, in this view, is not a *sui generis* process but a constitutionally structured process of oscillation between states and central governments familiar from other federal systems.

Ironically, while emphasizing the similarity of the EU to other federal systems, students of comparative federalism have also pointed to an exceptional aspect of the EU, which is the absence or at least the weakness of fiscal federalism and the dominance of regulatory federalism at the EU level. By contrast with most federal systems, which engage in substantial fiscal transfers across state boundaries, the EU budget has been capped at a relatively small 1.27% of its GDP, the majority of which is devoted to agricultural and cohesion spending. The EU is therefore unable to engage in substantial redistribution or macroeconomic stabilization through fiscal policy, and it only indirectly influences the structure of European welfare states, which remain predominantly national. In the absence of a substantial budget, therefore, the EU has engaged primarily in regulatory activity, earning it the moniker of a “regulatory state” in the work of Giandomenico Majone (1996). The regulatory output of the EU, in Majone’s view, has been driven by both demand and supply factors. On the demand side, the imperative of creating a single internal market has put pressure on EU member states to adopt common or



harmonized EU-wide regulations, most notably on products, in order to remove nontariff barriers to trade and ensure the free movement of goods, services, labor and capital throughout the EU. On the supply side, an entrepreneurial Commission has seen regulation as a viable way to enhance its own policy competence despite the financial limits imposed by the EU's strict budgetary ceiling.

In empirical terms, the EU has engaged in a vast project of economic regulation, driven largely by the creation and maintenance of the internal market, and these EU regulations have been adopted according to a regulatory mode of governance within which the Commission plays a vital entrepreneurial role, the Council and EP a collective role as a bicameral legislature, and the ECJ and national courts a dual role in enforcing EU regulations and challenging national regulations that might impede the free movement of labor. As in other federal systems, the adoption of far-reaching central regulations has taken the EU into areas of regulation not originally envisaged by the framers of the treaties, generating significant controversy and increasing demands since the 1990s for adherence to the principle of subsidiarity, the notion that the EU should govern as close as possible to the citizen and therefore that the EU should engage in regulation only where necessary to ensure the completion of the internal market and/or other fundamental aims of the treaties. Even in the regulatory field, therefore, the horizontal separation of powers is not fixed but fluid, and the result resembles not so much a layer cake as a marble cake, in which EU and member-state authorities are concurrent, intermixed, and constantly in flux.

## The Vertical Separation of Powers

Unlike the parliamentary states of Western Europe, but like the United States, the EU can also be characterized by a vertical separation of powers in which three distinct branches of government take the leading role in the legislative, executive, and judicial functions of government, respectively. This does not mean, of course, that any one institution enjoys sole control of any of these three functions; indeed, as Amie Kreppel points out, the Madisonian conception of separation of powers "requires to a certain extent a comingling of powers in all three arenas (executive, legislative, and judicial)" (2002, p. 5). In the case of the EU, for example, the legislative function is today shared by the Council of Ministers and the EP, with an agenda-setting role for the Commission; the executive function is shared by the Commission, the member states, and (in some areas) independent regulatory agencies; and the judicial function is shared by the ECJ, the Court of First Instance, and wide array of national courts bound directly to the ECJ through the preliminary reference procedure (Alter 2001).

Reflecting this separation of powers, comparative-politics scholars have during the past decade devoted extraordinary attention to theorizing, predicting, and explaining legislative, executive, and judicial behavior using off-the-shelf theories drawn from the rational choice study of American and comparative politics. A thorough discussion of these three arenas is clearly beyond the scope of this

review; nevertheless, a brief overview of the literature will illustrate the application of comparative and rationalist theories to each of these three domains and the promise and limits of such applications.

**LEGISLATIVE POLITICS: TOWARD BICAMERALISM** Without doubt, the largest and most systematic strand within the comparative/EU literature has been that on the EU legislative process. Drawing heavily on theories of legislative behavior and legislative organization, students of EU legislative politics have applied, tested, and adapted off-the-shelf theories of legislative politics to understand the process of legislative decision making inside the Council of Ministers and the EP, as well as the respective powers of these two legislative bodies as the EU has moved gradually from an essentially intergovernmental body to one increasingly resembling a classic bicameral legislature. Looking first at the Council of Ministers, a number of authors have attempted to model the relative voting power of member states in the Council of Ministers and the formation of voting coalitions among the member governments under different decision rules. Under unanimity voting, for example, EU legislative rules provide each member government with equal voting weight and with the opportunity to veto a decision that could leave them worse off than the status quo. Moving from unanimity to qualified majority voting, however, raises the possibility that states can form winning coalitions reflecting their respective interests and the voting weights within the EU's system of qualified majority voting. In this context, a number of scholars have used increasingly elaborate formal models of Council voting to establish the relative voting weights—and hence the bargaining power—of various member states. Nevertheless, as Garrett & Tsebelis (1996) have pointed out, voting weights are not the sole index of a member state's legislative influence, because not all coalitions of member states are equally likely to form in Council negotiations. Instead, a thorough understanding of member-states' legislative influence must also take into account the relative preferences of member governments: Those governments with preferences close to the center of the distribution on a given issue are thus most likely to be in a winning majority independent of their formal voting weight, whereas other governments may be preference outliers (in terms of either the integration or the left-right dimension) and therefore more likely to be isolated in EU decision making, again independent of their formal voting weights.

The EP, similarly, has been the subject of extensive theoretical modeling and empirical study over the past two decades, with a growing number of scholars studying the legislative organization of the EP and the voting behavior of its members (MEPs) through the lenses of comparative legislative studies. The early studies of the EP, in the 1980s and early 1990s, emphasized the striking fact that, in spite of the multinational nature of the EP, the best predictor of MEP voting behavior is not nationality but an MEP's "party group," with the center-left Party of European Socialists, the center-right European People's Party, and other, smaller party groups demonstrating extraordinarily high measures of cohesion in empirical studies of roll-call votes (e.g., Kreppel 2001). These MEPs were shown to contest elections

and cast their votes in a two-dimensional issue space, including not only the familiar nationalism/supranationalism dimension but also and especially the more traditional, domestic dimension of left-right contestation (Hix 2001). In a similar vein, many students of the EP noted the tendency of the two major party groups to form oversized voting coalitions, ostensibly to ensure large majorities and increase the EP's influence relative to the Council; recent studies, however, have pointed to a tentative retreat from oversized coalitions toward more normal patterns of minimum-winning coalitions on the left or the right (Kreppel & Hix 2003). Still other studies have focused on the legislative organization of the EP, including not only the party groups but also the EP's powerful committees, whose members play an important agenda-setting role in preparing legislation for debate on the floor of Parliament (Kreppel 2001, McElroy 2004). These scholars have shown that the EP can increasingly be studied as a normal parliament whose members vote predictably and cohesively within a political space dominated by the familiar contestation between parties of the left and the right (Hix et al. 2002).

Through the 1980s and the 1990s, the legislative powers of the EP grew sequentially, from the relatively modest and nonbinding consultation procedure of the EEC Treaty through the creation of the cooperation procedure in the 1980s and the creation and reform of a codecision procedure in the 1990s. This expansion of EP legislative power, and the complex nature of the new legislative procedures, has fostered the development of a burgeoning literature and led to two vigorous debates in the legislative studies community about the nature and extent of the EP's and the Council's respective influence across the various procedures. The first of these debates concerned the introduction of the cooperation procedure, which gave the EP a second reading of EU legislation and allowed the EP to propose amendments that, if accepted by the Commission, could then be adopted by the Council by qualified majority, but rejected only by unanimity. In an influential article, George Tsebelis (1994) argued that this provision gave the EP conditional agenda-setting power, insofar as the EP would now enjoy the ability to make specific proposals that would be easier for the Council to adopt than to amend. Other scholars disputed Tsebelis's model, arguing that the EP's proposed amendments had no special status without the approval of the Commission, which therefore remained the principal agenda setter in the EU legislative process (Moser 1996). Subsequent empirical studies by Tsebelis and others appeared to confirm the basic predictions of Tsebelis's model, namely that the EP enjoyed much greater success in influencing the content of legislation under cooperation than under the older consultation procedure (Tsebelis 1996, Kreppel 1999, Corbett et al. 2000).

A second controversy emerged in the literature over the impact of EP under the codecision procedure introduced by the 1993 Maastricht Treaty (codecision I) and reformed by the 1997 Treaty of Amsterdam (codecision II). Under the Maastricht provisions, codecision would elevate the EP to a nearly equal status with the Council within the EU's bicameral legislature; specifically, legislation adopted under codecision could be negotiated between the two chambers in a conciliation committee, the results of which would have to be approved by the requisite majority

in both chambers. In a major exception to the principle of strict bilateralism, however, the Maastricht version of codecision allowed the Council to reassert its initial position, which would become law unless rejected by an absolute majority in the EP. In a series of controversial articles, Tsebelis and Garrett argued that contrary to common perceptions of the codecision procedure as a step forward for the EP, Parliament had actually lost legislative power in the move from cooperation to codecision I, in favor of the Council, which gained the agenda-setting power to present the EP in its third reading with any possible alternative that the latter would prefer over the status quo (Tsebelis 1997; Tsebelis & Garrett 1997a,b). By contrast, other rational choice scholars disputed Garrett and Tsebelis's claims, noting that alternative specifications of the model predicted more modest agenda-setting power for the EP under cooperation and/or a stronger position for the EP in codecision (Scully 1997a-c; Crombez 1997; Moser 1997). Here again, quantitative and qualitative empirical analysis has provided at least tentative answers to the question of EP influence across the various legislative procedures, with the most extensive study suggesting that the EP has indeed enjoyed greater legislative influence under codecision I than under cooperation, largely at the expense of the Commission, which no longer plays the crucial intermediary role between the EP and the Council (Tsebelis et al. 2001). In any event, the Treaty of Amsterdam subsequently simplified the codecision procedure, removing the Council's third reading and creating a more symmetrical codecision II procedure in which "the Council and the Parliament are now coequal legislators and the EU's legislative regime is truly bicameral" (Tsebelis & Garrett 2000, p. 24).

**EXECUTIVE POLITICS: DELEGATION AND DISCRETION** Rational choice institutionalists have devoted increasing attention during the past decade to the question of delegation to, and agency and agenda-setting by, supranational organizations such as the Commission. These studies generally address two specific sets of questions. First, they ask why and under what conditions a group of member-state principals might delegate powers to supranational agents, such as the Commission, the European Central Bank (ECB), or the ECJ. With regard to this first question, rationalists like Moravcsik (1998), Majone (1996), and Pollack (2003) have drawn from the theoretical literature on delegation in American, comparative, and international politics in order to devise and test hypotheses about the motives of EU member governments in delegating specific powers and functions to the Commission and other supranational actors.

Simplifying considerably, such transaction-cost accounts of delegation argue that as rational actors, member-state principals delegate powers to supranational organizations primarily to lower the transaction costs of policy making, in particular by allowing member governments to commit themselves credibly to international agreements and to benefit from the policy-relevant expertise provided by supranational actors. Despite differences in emphasis, the empirical work of these scholars has demonstrated that EU member governments delegate powers to the Commission, the ECB, and the ECJ largely to reduce the transaction costs of policy making,

in particular through the monitoring of member-state compliance, the filling-in of framework treaties (“incomplete contracts”), and the speedy and efficient adoption of implementing regulations that would otherwise have to be adopted in a time-consuming legislative process by the member governments themselves. By the same token, however, the same studies generally concede that transaction-cost models do a poor job of predicting patterns of delegation to the EP, which appears to have been delegated powers primarily in response to concerns about democratic legitimacy rather than to reduce the transaction costs of policy making.

In addition to the question of delegation, rational choice institutionalists have devoted greater attention to a second question posed by principal-agent models: What if an agent such as the Commission, the ECJ, or the ECB behaves in ways that diverge from the preferences of the principals? The answer to this question in principal-agent analysis lies primarily in the administrative procedures that the principals may establish to define *ex ante* the scope of agency activities, as well as the procedures that allow for *ex post* oversight and sanctioning of errant agents. Applied to the EU, principal-agent analysis leads to the hypothesis that agency autonomy is likely to vary across issue areas and over time, as a function of the preferences of the member states, the distribution of information between principals and agents, and the decision rules governing the application of sanctions or the adoption of new legislation (Pollack 2003, Tallberg 2000).

Much of this literature on delegation and agency focuses on the rather arcane question of comitology, the committees of member-state representatives established to supervise the Commission in its implementation of EU law. For rational choice theorists, comitology committees act as control mechanisms designed by member-state principals to supervise their supranational agent (the Commission) in its executive duties. More specifically, rational choice analysts have analyzed the differences among the three primary types of comitology committees—advisory committees, management committees, and regulatory committees—noting that, in formal models of executive decision making, the Commission is least constrained under the advisory committee procedure and most constrained under the regulatory committee procedure, with the management committee procedure occupying a middle ground. Rationalists predict that under these circumstances, the influence of the Commission as an agent should vary with the type of committee governing a given issue area; empirical research suggests that member governments do indeed design and use comitology committees as instruments of control and that Commission autonomy and influence vary as a function of the administrative and oversight procedures adopted by the Council (Dogan 1997, Franchino 2001, Pollack 2003).

Finally, students of executive politics in the EU have turned increasingly to the study of a relatively new phenomenon: the proliferation of new executive bodies at the EU level, including the ECB and a diverse array of independent regulatory agencies. The ECB, created by the Maastricht Treaty and now serving as the collective central bank of the Euro-zone, is without doubt the most spectacular example of supranational delegation in the history of the EU. Indeed, both rational choice scholars and EU practitioners have referred to the ECB as the most

independent central bank in the world, owing to the long and nonrenewable terms of office of its members and the insulation of the bank and its mandate, which can be altered only by a unanimous agreement of the member states. For rationalist scholars, the creation of the ECB is a classic case of delegation to increase the credibility of member-state commitments to a stable, noninflationary common currency (Moravcsik 1998). Arguing from a sociological institutionalist perspective, however, Kathleen McNamara has argued that the functional advantages of delegation to independent central banks are disputable, and that the creation of the ECB therefore represents a process of institutional isomorphism, in which organizational forms considered to be successful and legitimate in one setting diffuse and are copied in other settings “even if these rules are materially inappropriate to their needs” (2002). During the past decade, a growing number of European independent regulatory agencies have emerged, including the European Agency for the Evaluation of Medicinal Products (EMA), the European Food Safety Authority (EFSA), and more than a dozen others. Although most of these agencies are in their infancy, early research has catalogued the diverse functions of these various agencies, as well as the wide range of control mechanisms designed by member governments to limit the discretion of these agencies in ways appropriate to their various tasks, suggesting again that EU member governments delegate functions to executive actors for the reasons specified in rationalist theories and tailor control mechanisms to the functions and expected preferences of the respective agencies (Everson et al. 2001).

**JUDICIAL POLITICS AND THE ECJ** In addition to the lively debate about the nature of EU executive politics, rational choice institutionalists have also engaged in an increasingly sophisticated research program into the nature of EU judicial politics and the role of the ECJ in the integration process. Writing in the early 1990s, for example, Geoffrey Garrett first drew on principal-agent analysis to argue that the Court, as an agent of the EU’s member governments, was bound to follow the wishes of the most powerful member states. These member states, Garrett argued, had established the ECJ as a means to solve problems of incomplete contracting and monitoring compliance with EU obligations, and they rationally accepted ECJ jurisprudence, even when rulings went against them, because of their longer-term interest in the enforcement of EU law (Garrett 1992). Garrett and Weingast (1993, p. 189) argued that in such a setting, the ECJ might identify “constructed focal points” among multiple equilibrium outcomes, but the Court was unlikely to rule against the preferences of powerful EU member states, as Burley & Mattli (1993) had suggested in a famous article drawing on neofunctionalist theory.

Responding to Garrett’s work, other scholars have argued forcefully that Garrett’s model overestimated the control mechanisms available to powerful member states and the ease of sanctioning an activist Court, which has been far more autonomous than Garrett suggests. Such accounts suggest that the Court has been able to pursue the process of legal integration far beyond the collective preferences of the member governments, in part because of the high costs to member states of overruling or failing to comply with ECJ decisions. The ECJ enjoys powerful

allies, moreover, in the form of national courts and individual litigants, the ECJ's "other interlocutors," which refer hundreds of cases per year to the ECJ via the "preliminary reference" procedure of Article 234 (Weiler 1994; Mattli & Slaughter 1995, 1998; Stone Sweet & Caporaso 1998; Stone Sweet & Brunell 1998; Alter 2001). In this view, best summarized by Stone Sweet & Caporaso (1998, p. 129), "the move to supremacy and direct effect must be understood as audacious acts of agency" by the Court. Responding to these critiques, rational choice analyses of the ECJ have become more nuanced over time, acknowledging the limits of member-state control over the court and testing hypotheses about the conditions under which the ECJ enjoys the greatest autonomy from its national masters (Garrett 1995, Garrett et al. 1998, Kilroy 1999).

Finally, the literature on the ECJ and legal integration has increasingly moved from the traditional question of the ECJ's relationship with national governments toward the study of the ECJ's other interlocutors, including most notably the national courts that bring the majority of cases before the ECJ and the individual litigants who use EU law to achieve their aims within national legal systems. Such studies have problematized and sought to explain the complex and ambivalent relationship between the ECJ and national courts, which may be simultaneously challenged and empowered as a result of ECJ legal supremacy, as well as the varying litigation strategies of one-shot litigants and repeat players before the courts (Mattli & Slaughter 1998, Alter 2001, Conant 2002). These and other studies have demonstrated the complexities of ECJ legal integration; the interrelationships among supranational, national, and subnational political and legal actors; and the limits of EU law in national legal contexts.

### Toward Normal Science?

An increasing number of scholars have approached the study of EU policy making, employing the theoretical tools of comparative politics, formal and informal models drawn from rational choice, and a positivist commitment to systematic empirical testing. The resulting literature, although sometimes highly abstract and inaccessible to the general reader, has substantially advanced our understanding of EU policy making; of the respective roles and influence of the Commission, Council, EP, and ECJ; and increasingly of the relationship between EU institutions and their national and subnational interlocutors. Furthermore, with the creation and dissemination of a range of new databases, the scope for systematic testing and falsification of theories will only increase in the years to come, making the EU an increasingly promising arena for the practice of "normal science."

## THE GOVERNANCE APPROACH: THE EU AS A POLITY

On the basis of the previous section, the reader might easily conclude that the story of EU studies is a linear progression from international relations theories of European integration to rational choice theories derived from comparative politics and tested in a positivist manner using data on the political behavior of actors

within the EU. Such a story, however, would be misleading. The comparative politics approach to the study of the EU has not replaced the international relations study of regional integration, but now exists alongside it, asking different questions and employing different theoretical and methodological tools to answer them. Just as important, the traditional international relations and comparative politics approaches to the EU now coexist with yet a third approach, typically labeled the governance approach, which draws from both international relations and comparative politics and which considers the EU not as a traditional international organization or as a domestic political system, but rather as a new and emerging system of “governance without government.”

The governance approach is not a single theory of the EU or of European integration, but rather a cluster of related theories emphasizing common themes (Jachtenfuchs 2001, Jachtenfuchs & Kohler-Koch 2004). Nevertheless, Hix (1998) has usefully contrasted the governance school from its rationalist/comparativist/positivist alternative, arguing that the governance approach constitutes a distinctive research agenda across four dimensions. First, in contrast to the comparative approach, which theorizes the EU as a political system in which formal rules shape the behavior of governmental and nongovernmental actors, the governance approach theorizes EU governance as nonhierarchical, mobilizing networks of private and public actors who engage in deliberation and problem-solving efforts guided as much by informal norms as by formal institutions. Second, whereas comparativists see the EU as a variant of existing political systems, practitioners of the governance approach are suspicious of off-the-shelf models from comparative politics, advocating the need for a new vocabulary (Schmitter 1996, p. 133) to capture the distinctive features of EU governance. Third, in contrast to the methodological individualism of rationalist analyses, students of EU governance often emphasize the capacity of the EU to foster deliberation and persuasion, a model of policy making in which actors are open to changing their beliefs and their preferences and in which good arguments can matter as much or more than bargaining power. Fourth, governance theorists, like comparativists, frequently express a normative concern with the democratic deficit in the EU; but whereas comparativists emphasize majoritarian or parliamentary models of democracy in their assessments, governance theorists emphasize the promise of the EU as a deliberative democracy in which collective problem solving offers a normatively superior alternative to majoritarian rule in a multinational union. Finally, whereas Hix and other many comparative scholars are committed to a positivist model of hypothesis testing and generalization, governance scholars tend to eschew hypothesis testing in favor of “thick description” and normative critique of contemporary EU governance.

The EU literature on governance thus defined has exploded in the course of the past decade, and space precludes a full and fair discussion of all the intellectual currents and empirical claims in that literature (seminal statements include Jachtenfuchs 1995, Scharpf 1999, Jachtenfuchs 2001, Hooghe & Marks 2001, and Jachtenfuchs & Kohler-Koch 2004). This review will focus instead on a few key



issues, including (a) the concept of governance as derived from both the comparative and international relations literatures; (b) early applications to the EU, in the literatures on multi-level governance and policy networks; (c) a substantial literature on the governance capacity of member states and of EU institutions and the problems of legitimacy faced by the latter; and (d) a novel set of claims about the EU as a process of deliberative supranationalism capable of resolving these normative dilemmas.

## Governing without Government

In Hix's (1998) critique, the governance approach is presented as *sui generis*, treating the EU as fundamentally different from other polities. In practice, however, the governance approach has drawn from a broader literature on governance in both comparative politics and international relations; indeed, Rod Rhodes (1996) identifies at least six distinct uses of the term in the literature, including familiar concepts such as corporate governance, the new public management, and normative conceptions of good governance. At their most far-reaching, theorists of governance advance the radical claim that contemporary governments lack the knowledge and information required to solve complex economic and social problems and that governance should therefore be conceived more broadly as the negotiated interactions of public and private actors in a given policy arena. In this view, modern society is radically decentered, and government features as only one actor among many in the larger process of socioeconomic governance (Kooiman 1993).

Perhaps the most systematic definition of governance has been offered by Rhodes (1996, p. 660), who defines governance in terms of "self-organizing, interorganizational networks" of both public and private actors in the definition and delivery of public services. In this view, governance through public-private networks complements Williamson's (1985) traditional classification of markets and hierarchies as the two ideal-typical modes of "authoritatively allocating resources and exercising control and coordination." Governance in this sense is not new, in the sense that governments have always cooperated with various public and private actors in the provision of services, but the adoption of neoliberal policies in Europe and the United States has prompted a general move toward governance by such networks, as states shrink the size of the public sector and attempt to off-load responsibility for service provision to the private and voluntary sectors.

This shift from government to governance, moreover, raises new analytical and normative questions, including the interlinked issues of fragmentation, steering, and accountability. Fragmentation may result when centralized state bureaucracies outsource the provision of public services to a broad array of public, quasi-public, and private organizations, reducing central government control over policy outcomes. At best, Rhodes and others argue, governments may steer public policies in a given direction, but policy outcomes will depend in practice on the interactions of multiple actors over whom governments have only imperfect control.

Finally, the delegation of public functions by governments to independent agencies and private actors raises questions about democratic accountability to the electorate.

Within international relations theory, the analysis of governance typically begins with the systemic view of states coexisting in a condition of anarchy, and the primary question is whether, and under what conditions, states can cooperate to realize joint gains, despite the absence of a global government to enforce agreements among them. James Rosenau and others have argued that in this context, an international order can be maintained, even in the absence of world government, through processes of international governance. Governance, according to Rosenau,

... is not synonymous with government. Both refer to purposive behavior, to goal-oriented activities, to systems of rule; but government suggests activities rather are backed by formal authority, by police powers to ensure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, nongovernmental mechanisms whereby persons and organizations within its purview move ahead, satisfy their needs, and fulfill their wants (1992, p. 4).

Elaborating on this basic conception, other international relations theorists have examined the workings of various international regimes, defined as "social institutions that consist of agreed-upon principles, rules, norms, decision-making procedures and programs that govern the interactions of actors in specific issue-areas" (Young 1997, p. 4). Moreover, although traditional regime theories assumed that states were the primary or the only actors within international regime, an increasing number of international relations theorists have argued for the importance of different types of networks, including transgovernmental networks of lower-level government or judicial actors interacting across borders with their foreign counterparts (Slaughter 2004) and transnational networks of private actors forming a global civil society to lobby states and to influence individual behavior directly through joint actions such as international campaigns or boycotts (Wapner 1996).

## Multi-Level Governance and EU Policy Networks

Drawing from both international relations and comparative politics, the governance approach in EU studies similarly emphasizes the core themes of nonhierarchical networks, public-private interactions, and "governance without government." By most accounts (Jachtenfuchs 2001; Bache & Flinders 2004, p. 3), the governance approach to the EU can be traced, at least in part, to Gary Marks' work on the making and implementation of the EU's Structural Funds. Writing in opposition to intergovernmentalists like Moravcsik, who claimed that the process of

European integration reflected the preferences of member governments and in fact strengthened those governments by providing them with privileged positions in EU policy making, Marks (1993) argued that the Structural Funds of the 1980s and 1990s provided evidence for a very different image of the EU, one in which central governments were losing control both to the Commission (which played a key part in designing and implementing the funds) and to local and regional governments inside each member state (which were granted a partnership role in planning and implementation by the 1988 reforms of the funds). In making this argument, Bache & Flinders point out:

The multi-level governance concept . . . contained both vertical and horizontal dimensions. “Multi-level” referred to the increased interdependence of governments operating at different territorial levels, while “governance” signaled the growing interdependence between governments and nongovernmental actors at various territorial levels (Bache & Flinders 2004, p. 3).

Marks’ analysis married the fundamental insights of the aforementioned policy networks literature with the view of an EU in which supranational and subnational actors were chipping away at the traditional dominance and control of national governments.

Later studies of the EU Structural Funds questioned Marks’ far-reaching empirical claims, noting in particular that EU member governments played central roles in the successive reforms of the funds, and that these member states remained effective gatekeepers, containing the inroads of both the Commission and subnational governments into the traditional preserve of state sovereignty (Pollack 1995, Bache 1998). Following these challenges, proponents of the multi-level governance approach have retreated somewhat from the early and more far-reaching claims about the transformative effects of EU structural policy, while continuing to explore both the vertical dimension of territorial reform and the horizontal dimension of EU policy networks.

With regard to the vertical aspect of multi-level governance, Liesbet Hooghe, Gary Marks, and others returned to EU regional policies, seeking to delineate and explain the substantial variation in the empowerment of supra- and subnational actors in the various member states by the EU’s Structural Funds. The most thorough examination of EU regional policies (Hooghe 1996) qualified the far-reaching claims of earlier studies, demonstrating that in some cases, new and existing regional authorities were able to draw upon EU resources and on their place in emerging policy networks to enhance regional autonomy, whereas in other states, such as the United Kingdom and Greece, central governments were able to retain a substantial gatekeeping role between the EU and subnational governments. Despite this cross-national variation in outcomes, Hooghe & Marks (2001) find and purport to explain what they call “an immense shift of authority” from national governments to the European arena and to subnational, regional governments in many states including France, Italy, Spain, Belgium, and the United Kingdom. Although it remains controversial whether such devolution was driven wholly or

in part by European integration or by purely national considerations, it is clear that many regional governments have taken a proactive stance in European policy making, establishing permanent offices in Brussels and interacting directly with EU institutions (Marks et al. 1996). Like the literature on federalism, the literature on multi-level governance focuses in large part on the territorial aspects of governance in Europe; by contrast with the federalism literature, however, multi-level governance scholars are concerned not only with the distribution of authority between the nation-state and the EU, but also and more broadly with the shift of authority away from national governments and toward both supranational and subnational actors (Hooghe & Marks 2001, Bache & Flinders 2004).

At the same time, other scholars have focused on the horizontal or network aspects of European integration, drawing on the categories of network theory to describe and explain the workings of transnational and transgovernmental networks that can vary from the relatively closed policy communities of public and private actors in areas such as research and technological development to the more open and porous issue networks prevailing in areas such as environmental regulation. The openness and interdependence of these networks, it is argued, determine both the relative influence of various actors and the substantive content of EU policies (particularly in their early stages, when the Commission drafts policies in consultation with various public and private actors) (Peterson & Bomberg 1999, Peterson 2004). This network form of governance, moreover, has been accentuated further during the past decade by the creation of formal and informal networks of national regulators in areas such as competition (antitrust) policy, utilities regulation, and financial regulation. In contrast to most students of legislative politics who emphasize the importance of formal rules in shaping actors' behavior and polity outcomes, students of policy networks emphasize the informal politics of the EU, in which such networks of private and public actors substantially determine the broad contours of the policies that are eventually brought before the Council and the EP for their formal adoption.

A final offshoot from the multi-level governance tradition examines the phenomenon of "Europeanization," the process whereby EU institutions and policies influence national institutions and policies within the various member states. Such studies date to the 1970s, when a small number of scholars examined how EU membership had influenced national political institutions and public policies (see, e.g., Wallace 1973). During the 1990s, the study of Europeanization became a cottage industry, with a growing number of studies seeking to explain both the process of Europeanization and the significant variation in outcomes observed across both member states and issue areas. In one particularly influential formulation, Cowles et al. (2001) suggested that the extent of Europeanization should be the dual product of (a) adaptational pressures resulting from the varying "goodness of fit" between EU and national institutions and policies and (b) domestic intervening variables including the number of veto points and the organizational and political cultures embedded in existing national institutions. Subsequent scholars have elaborated further on this basic framework, sketching alternative rationalist

and constructivist mechanisms whereby the EU might influence national politics, in the first instance by constraining national choices, in the second case by instilling new norms and reshaping national identities and preferences (Börzel & Risse 2000). More recently, Frank Schimmelfennig and Ulrich Sedelmeier (2003a,b; 2005) have led teams of researchers who have sought explicitly to test alternative rationalist and constructivist hypotheses about the effect of EU membership on the new member states in central and eastern Europe. Simplifying only slightly, they find some evidence of EU-led policy learning and socialization, as predicted by constructivist models, but the content and the timing of policy reforms in the new members suggests that the greatest impact of the EU has resulted from explicit EU conditionality, a classic rationalist mechanism.

### Governance Capacity and Democratic Legitimacy

A second major branch of the governance approach to the EU has emerged from the European political economy literature of the 1980s and 1990s, associated with scholars such as a Wolfgang Streeck (1996) and Fritz Scharpf (1999), whose work analyzes and undertakes a normative critique of the EU. In this view, European integration has purportedly undermined the autonomy and domestic governance capacity of EU member states through negative integration, while failing to establish a substantial and democratically legitimate governance capacity at the supra-national EU level.

This critique of the EU's governance capacity, and the resulting democratic deficit, is typically made in two stages. First, it is argued that EU internal market regulations and ECJ decisions have increasingly eroded, invalidated, or replaced national social regulations, thereby thwarting the social aims and the democratically expressed preferences of national electorates and their legislatures. Moreover, even where EU legislation and ECJ jurisprudence leave national laws, taxation systems, and welfare programs untouched, it is often argued that the free movement of capital mandated by the EU may set in motion a process of regulatory competition in which national governments face pressures to adjust national regulations in an effort to make them more attractive to mobile capital. The recent adoption of the euro, and the limitations on national budget deficits contained in the EU Stability and Growth Pact, may have constrained national autonomy still further, depriving states of fiscal policy tools that have proven effective in the past pursuit of economic and social goals. In the words of Claus Offe (2000), the *acquis communautaire* (the body of legislation mandated by the EU and devoted primarily to market liberalization) now threatens the *acquis nationale* of strong liberal democracy and well-developed welfare states. The full extent of this purported race to the bottom remains a matter of dispute, with Scharpf (1999) and others acknowledging that the extent of competitive deregulation appears to vary systematically across issue areas, but the prospect of undermining national regulations and welfare states poses important analytic and normative challenges to social democrats and to students of democratic theory.

This challenge to national governance raises a second question: whether the race to the bottom might be averted, and democracy regained, at the EU level. On this score, many contributors to the debate are pessimistic, pointing to the distant and opaque nature of EU decision making; the strong role of indirectly elected officials in the Council of Ministers and unelected officials in the Commission; the weakness of the EP and the second-order nature of its elections; and the bias in the treaties in favor of market liberalization over social regulation (Williams 1991, Scharpf 1999, Greven 2000). Joseph Weiler (1995) and others have suggested that even if these institutional flaws in the EU treaties were to be addressed, Europe lacks a *demos*, a group of people united by a sense of community or “we-feeling” that could provide the constituent basis for an EU-level democracy. Governance theorists argue that for all of these reasons, the EU faces a profound crisis of legitimacy, and much of the governance literature is given over to proposals for increasing the democratic accountability and the governance capacity of the EU. Whereas in the past EU institutions had relied primarily on output legitimacy (i.e., the efficiency or popularity of EU policy outputs), today there are increased calls for reforms that would increase the input legitimacy (i.e., the democratic accountability of EU institutions to the electorate).

Simplifying slightly, we can identify three distinct reform tracks proposed in the literature: parliamentarization, constitutionalization, and deliberation. The first of these, parliamentarization, would involve *inter alia* the strengthening of the EP’s legislative and budgetary powers, a strengthening of EU party groups and the increased salience of EU (rather than national) issues in European elections, and the subordination of the Commission to the EP as in the national parliamentary systems of Europe. Recent treaty reforms have taken several steps in the direction of parliamentarization, but EU member states remain reluctant to make the EP a fully equal partner in some areas, and in any event, Weiler (1995) and others point out that majoritarian rule at the EU might exacerbate rather than ameliorate the EU’s crisis of legitimacy by subjecting national communities, or *demos*, to a long-term minority position in a union of 25 member states.

A second and more modest proposal is constitutionalization, the creation of overarching rules and procedural controls that would ensure minimum levels of transparency and public participation in EU policy making. To some extent, the Commission opened the debate on these questions in 2001 with its *White Paper on Governance* (CEC 2001), which called for various reforms including the online publication of policy information, a code of conduct for consultation with civil-society groups, strengthened rules on public access to EU documents, and the establishment of a systematic dialogue with local and regional governments in the member states. Even these reforms, however, would fail to bring the EU on a par with many national governments, which remain far more visible, transparent, and accountable to their citizens than EU institutions.

In light of these difficulties, an increasing number of authors have suggested a third model for the EU, namely a deliberative democracy in which citizens, or at least their representatives, would collectively deliberate in search of the best

solution to common problems. This deliberative turn constitutes a major theme in the study of EU governance, and merits a more extended discussion.

### Argument, Persuasion, and the “Deliberative Turn”

The recent emphasis on deliberation in the EU derives largely from the work of Jürgen Habermas (1985, 1998), whose theory of communicative action has been adapted to the study of international relations and to the study of EU governance. The core claim of the approach, as popularized by Risse (2000) in the field of international relations, is that there are three “logics of social action,” namely (a) the logic of consequentiality (or utility maximization) emphasized by rational-choice theorists, (b) the logic of appropriateness (or rule-following behavior) associated with constructivist theory, and (c) a logic of arguing derived largely from Habermas’s theory of communicative action.

In Habermasian communicative action, or what Risse (2000, p. 7) calls the logic of arguing, political actors do not simply bargain based on fixed preferences and relative power; they may also “argue,” questioning their own beliefs and preferences and remaining open to persuasion and to the power of the better argument. In the view of many democratic theorists, moreover, such processes lead to the promise of a normatively desirable deliberative democracy, in which societal actors engage in a sincere collective search for truth and for the best available public policy, and in which even the losers in such debates accept the outcome by virtue of their participation in the deliberative process and their understanding of the principled arguments put forward by their fellow citizens (Elster 1998, Bohman 1998).

Habermas and his followers concede that genuine communicative action or argumentative rationality is likely only under a fairly restrictive set of three preconditions. First, the participants in a deliberation must demonstrate an ability to empathize, to see the world through others’ eyes. Second, the participants must also share a “common lifeworld, . . . a supply of collective interpretations of the world and of themselves, as provided by language, a common history, or culture.” Third, an ideal speech situation requires that the discourse be undertaken openly and that all actors have equal access to the discourse (Risse 2000, pp. 10–11). These are demanding preconditions, and all the more so at the international level, where a common lifeworld cannot be taken for granted and where relationships of power are ubiquitous. For this reason, Risse concedes, we should expect international deliberation or arguing only under certain conditions, including most notably:

- the existence of a common lifeworld provided by a high degree of international institutionalization in the respective issue-area;
- uncertainty of interests and/or lack of knowledge about the situation among the actors; and
- international institutions based on nonhierarchical relations enabling dense interactions in informal, network-like settings (2000, pp. 19–20).

These conditions are by no means satisfied everywhere in international politics; but where they are present, according to Habermasian and other constructivist scholars, international actors will engage in arguing rather than bargaining, presenting their arguments in a common language of law or science and proceeding to decisions on the basis of the better argument rather than the bargaining power of the respective actors. Empirical studies of deliberation face significant methodological hurdles in distinguishing between arguing and bargaining, or between genuine communicative action and cheap talk (Checkel 2001, Magnette 2004). Despite these challenges, a growing number of studies have pointed to at least suggestive evidence of deliberation in international institutions such as the UN Security Council (Johnstone 2003).

The promise of deliberation has received extraordinarily attention within the study of the EU, whose dense institutional environment and networked forms of governance are seen as a particularly promising place to look for evidence of international deliberation. This analytical claim, moreover, has been married to a normative case for what Christian Joerges (2001) has called deliberative supranationalism, which he claims offers a potentially compelling solution to the challenge of democratic legitimacy within the EU (see also Eriksen & Fossum 2000, 2003).

In empirical terms, EU scholars have identified the promise of deliberation in three EU-related forums: comitology committees, the Constitutional Convention of 2003–2004, and the new governance mechanisms of the EU's Open Method of Coordination (OMC). With regard to the first of these, Christian Joerges and Jürgen Neyer (1997a,b) draw on Habermasian accounts of deliberative democracy as well as constructivist analysis in political science to argue that EU comitology committees provide a forum in which national and supranational experts meet and deliberate in a search for the best or most efficient solutions to common policy problems. In this view, comitology is not an arena for hardball intergovernmental bargaining, as rationalists assume, but rather a technocratic version of deliberative democracy in which informal norms, deliberation, good arguments, and consensus matter more than formal voting rules, which are rarely invoked. In support of their view, Joerges and Neyer (1997a,b) present evidence from their study of EU foodstuffs regulation, where they find that the importance of scientific discourse limits the ability of delegates to discuss distributional issues, particularly in scientific advisory committees, which in turn focuses debate and deliberation onto scientific questions. In addition, the authors point out, delegates not only meet regularly in comitology committees but often meet as part of advisory committees and working groups involved in the adoption of the legislation in question, an ideal setting for long-term socialization into common European norms. In this way, comitology committees pass from being institutions for the strategic control of the Commission to being forums for deliberative interaction among experts for whom issues of control and distribution, as well as the carefully contrived institutional rules of their respective committees, recede into the background in favor of a collective search for the technically best solution to a given policy problem. Joerges and Neyer's claims remain controversial, however, with rational choice scholars arguing that EU member states design and utilize comitology committees systematically as



instruments of control and that evidence of deliberation in such committees remains sketchy (Pollack 2003, pp. 114–145). Other critics, moreover, question the normative value of deliberative supranationalism in comitology committees, noting that such expert deliberation takes place largely out of the public eye (Zürn 2000).

A second EU arena often identified as a promising venue for deliberation was the Convention on the Future of Europe, which met to consider changes to the EU treaties and which concluded with a concrete proposal for a draft constitution for consideration by the EU's member governments. Composed of representatives of EU institutions, national governments, national parliaments, and representatives from candidate countries, the convention was explicitly conceived as a deliberative body, in contrast with the intergovernmental conference that had produced the contentious and inelegant Treaty of Nice in 2000 (Maurer 2003, Closa 2004). In a careful and theoretically informed study, Paul Magette (2004) suggests that the actual meeting of the convention illustrated elements of both arguing and bargaining. On the one hand, Magette argues, the public nature of the debates and the imperative of achieving consensus among the participants compelled participants to publicly justify their positions in terms of broad constitutional principles and the common good and to refrain from overt threats or horse trading. On the other hand, Magette concedes, representatives of national governments did on occasion present fixed national positions in debate, and there is at best mixed evidence that participants in the debate were genuinely open to persuasion and to changing their preferences as in a Habermasian "ideal speech situation." Furthermore, "the *conventionnels* knew and acknowledged that their experience would be followed by a classic IGC, and tended to anticipate it. They deliberated, but under the shadow of the veto" (Magette 2004, p. 220).

Finally, the promise of deliberation has also been emphasized by students of the OMC. Based on previous EU experience in areas such as economic policy coordination and employment policy, the OMC was codified and endorsed by the Lisbon European Council in March 2001, and it is characterized as an intergovernmental and legally nonbinding form of policy coordination based on the collective establishment of policy guidelines, targets, and benchmarks, coupled with a system of periodic peer review in which member governments present their respective national programs for consideration and comment by their EU counterparts. By and large, the OMC has been utilized not as a replacement for, but as a complement to, the traditional "Community method" in areas where member governments have been reluctant to adopt binding regulations, as in the areas of employment policy, social inclusion, and pensions reform. The OMC remains controversial both politically and in the academic community. For many commentators, the OMC offers a flexible means to address common policy issues without encroaching on sensitive areas of national sovereignty, representing a middle ground between communitarization and purely national governance. In addition, the basic elements of the OMC—institutionalized cooperation, iteration within nonhierarchical networks, and emphasis on exchange of information and learning—all suggested that OMC networks were potentially promising arenas, and potential test cases, for Habermasian deliberation (Hodson & Maher 2001, Scott & Trubek 2002).

Careful empirical work, however, has at least tempered the more far-reaching claims put forward by the supporters of the OMC. On the one hand, in-depth studies of the European Employment Strategy and other OMC processes suggests that the OMC has led to some sharing of experiences and the creation of a common language and common indicators for the analysis of public policy, and some scholars suggest that bargaining power in OMC committees depends at least in part on the strength of one's arguments and not solely on the size of one's country. "Strategic bargaining" according to one study, "is not the general mode of interaction in the committees" (Jacobsson & Vifell 2003, p. 21). On the other hand, however, a number of scholars have argued that when it comes time to negotiate politically sensitive provisions, detailed targets, or public recommendations to the member governments, national representatives revert to a presentation of fixed national positions, engaging clearly in bargaining rather than arguing behavior and demonstrating few signs of having been persuaded to change their basic approach to employment or other issues (see, e.g., Jacobsson & Vifell 2003, Jobelius 2003, Borrás & Jacobsson 2004, Zeitlin et al. 2005). In sum, although EU institutions and policy procedures such as comitology, the Convention on the Future of Europe, and the OMC might seem to be most likely arenas for Habermasian deliberation, evidence for such behavior remains at best partial, and the EU's status as a deliberative democracy open to question.

### Legitimate Governance?

The governance approach to the EU is a distinctive one, drawing on both comparative politics and international relations theories and asking analytically and normatively important questions about the workings of EU policy networks, the transformation of territorial governance, and the prospects for deliberative democracy at the EU level. To be sure, the governance approach is not without its flaws or critics, and even its proponents concede that it remains a constellation of interrelated claims rather than a single, coherent theory (Jachtenfuchs 2001, Jachtenfuchs & Kohler-Koch 2004). In empirical terms, one can argue that the analytical and normative elaboration of the governance approach has frequently outpaced the empirical work needed to assess the plausibility of its claims. Nevertheless, students of EU governance have made significant progress in formulating a research program and in producing more empirical evidence and more nuanced claims about territorial change, Europeanization, and deliberation in an enlarged EU.

## CONCLUSIONS

In a 1972 essay, Donald Puchala likened integration theorists and the EU to blind men touching an elephant, each one feeling a different part of the elephant and purporting to describe a very different animal. Today, theories of the EU are even more diverse than in Puchala's day, comprising three distinct approaches with

lively debates both within and among all three. Puchala's metaphor was meant to suggest the relative immaturity and weakness of integration theory and the limits of its insights, yet there is a more optimistic reading of the dizzying array of theories purporting to provide insights into the workings of the EU and the telos of European integration.

In contrast to 1972, when Puchala was writing, the 1990s and early 2000s have witnessed a partial retreat from grand theorizing about the integration process in favor of a series of mid-range theories addressing a variety of topics including *inter alia* the workings of the EU's legislative, executive and judicial processes, the prospects of socialization or deliberation in EU institutions, the effects of European integration on national institutions and policies, and a wide range of other questions (see e.g. Pollack 2005 for an application of the three approaches examined above to the study of EU policy making). As with the study of other political systems, this diversity of mid-range questions has spawned a corresponding theoretical diversity, with various theories purporting to problematize and explain different aspects of the EU, in much the same way that distinctive bodies of theory have problematized different aspects of the American political experience. Furthermore, although one might be justified in fearing a cacophony of competing theories and a consequent dialogue of the deaf, there is in fact evidence that the opposite has occurred, with more dialogue across different theories and different theoretical approaches and with increasingly careful empirical work in all three traditions, allowing us to adjudicate among competing claims and to come to at least preliminary conclusions about the most important analytical and normative questions facing the EU at the start of the 21<sup>st</sup> century.

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## CONTENTS

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PROSPECT THEORY AND POLITICAL SCIENCE, <i>Jonathan Mercer</i>	1
THE RELATIONSHIP BETWEEN THEORY AND POLICY IN INTERNATIONAL RELATIONS, <i>Stephen M. Walt</i>	23
DOES DELIBERATIVE DEMOCRACY WORK?, <i>David M. Ryfe</i>	49
CONSTITUTIONAL REFORM IN BRITAIN: THE QUIET REVOLUTION, <i>Vernon Bogdanor</i>	73
IMMIGRATION AND POLITICS, <i>Wayne A. Cornelius and Marc R. Rosenblum</i>	99
MAKING SENSE OF RELIGION IN POLITICAL LIFE, <i>Kenneth D. Wald, Adam L. Silverman, and Kevin S. Fridy</i>	121
STRATEGIC SURPRISE AND THE SEPTEMBER 11 ATTACKS, <i>Daniel Byman</i>	145
UNPACKING "TRANSNATIONAL CITIZENSHIP," <i>Jonathan Fox</i>	171
THE POLITICAL EVOLUTION OF PRINCIPAL-AGENT MODELS, <i>Gary J. Miller</i>	203
CITIZENSHIP AND CIVIC ENGAGEMENT, <i>Elizabeth Theiss-Morse and John R. Hibbing</i>	227
THE DEVELOPMENT OF INTEREST GROUP POLITICS IN AMERICA: BEYOND THE CONCEITS OF MODERN TIMES, <i>Daniel J. Tichenor and Richard A. Harris</i>	251
TRANSFORMATIONS IN WORLD POLITICS: THE INTELLECTUAL CONTRIBUTIONS OF ERNST B. HAAS, <i>John Gerard Ruggie, Peter J. Katzenstein, Robert O. Keohane, and Philippe C. Schmitter</i>	271
THE GLOBALIZATION OF PUBLIC OPINION RESEARCH, <i>Anthony Heath, Stephen Fisher, and Shawna Smith</i>	297
RISK, SECURITY, AND DISASTER MANAGEMENT, <i>Louise K. Comfort</i>	335
THEORIZING THE EUROPEAN UNION: INTERNATIONAL ORGANIZATION, DOMESTIC POLITY, OR EXPERIMENT IN NEW GOVERNANCE?, <i>Mark A. Pollack</i>	357
THE GLOBALIZATION RORSCHACH TEST: INTERNATIONAL ECONOMIC INTEGRATION, INEQUALITY, AND THE ROLE OF GOVERNMENT, <i>Nancy Brune and Geoffrey Garrett</i>	399
CONSTRUCTING JUDICIAL REVIEW, <i>Mark A. Graber</i>	425

INDEXES

Subject Index	453
Cumulative Index of Contributing Authors, Volumes 1–8	477
Cumulative Index of Chapter Titles, Volumes 1–8	479

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