

Do All Bridges Collapse? Possibilities for Democracy in the European Union*

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Zusammenfassung: Aus dem Scheitern des EU-Verfassungsvertrages abzuleiten, dass jegliche Reform, die auf steigende Bürgerbeteiligung zielt, in der Europäischen Union zum Scheitern verurteilt sei, wäre verfrüht. Mit seiner stringenten Zurückweisung des Verfassungsprojekts begeht Andrew Moravcsik diesen Fehler. Seine Behauptungen, gestützt auf das, was er empirische Sozialwissenschaft nennt, gehen weit über die Erkenntnisse hinaus, die über demokratische institutionelle Innovationen vorliegen. Partizipative Methoden wie z. B. konsultative Bürgerversammlungen können die Ansichten der Bürger durchaus artikulieren und dazu beitragen, die demokratische Legitimität der EU zu verankern. Wir wissen nicht, ob solche Methoden in der Lage sind, das Demokratiedefizit der EU zu beheben, aber wir wissen sehr wohl, dass die empirische Sozialwissenschaft sich noch nicht abschließend zu dieser Angelegenheit geäußert hat. Es ist daher besser, das demokratische Potenzial solcher Methoden zu untersuchen, als solche Versuche von vornherein zurückzuweisen.

Schlagwörter: Verfassungsvertrag · Europäische Union · Demokratiedefizit · Deliberation · Partizipation

Abstract: It is tempting, but wrong, to infer from the failures of the EU draft constitution that all reforms based on increasing citizen participation in the European Union are doomed to fail. Andrew Moravcsik's trenchant dismissal of the constitutional project commits this error. Moravcsik's sweeping claims, based on what he calls empirical social science, speak well beyond the evidence on democratic institutional innovations. Participatory measures

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such as consultative Citizens' Assemblies may articulate a citizens' perspective that can help to anchor the democratic legitimacy of the EU. We do not know if such innovations can resolve the problems of the democratic deficit, but we do know that empirical social science has not spoken decisively on the issue. It is worth examining their democratic potential rather than dismissing them outright.

Keywords: Constitutional Treaty · European Union · Democratic Deficit · Deliberation · Participation

1. Introduction

We have long admired the rigorously empirical approach that Andrew Moravcsik brings to debates about the politics of the European Union (EU). The bright red thread in Moravcsik's work is the disciplined comparison of the predictive power of competing hypotheses about the underlying functioning of the EU, which generally leads him to attribute causal primacy in explaining the big intergovernmental treaties of the Union to the interplay of the economic interests of member states (Moravcsik 1991, 1998). It has been but a short theoretical step for Moravcsik to move from demonstrating that EU treaties are driven by the interplay of democratically elected national leaders to asserting that there is, therefore, no democratic deficit in the Union at all, except in the minds of excitable academics and card-carrying Eurofederalists (Moravcsik 2002). In this vein, Moravcsik recently published a piece in this journal (2006) in which he argued that the failure of the constitutional treaty was indeed good for the EU, because

“Europe rests on a pragmatically effective, normatively attractive and politically stable ‘European constitutional settlement,’ embodied in the revised Treaties of Rome. This settlement is both popular and broadly consistent with what European citizens say they want the EU to do” (Moravcsik 2006: 221).

We do not mourn the passing of the constitutional treaty, whose participatory procedures we have criticized (Culpepper/Fung 2006a). However, Moravcsik's argument in the 2006 article departs from the sound empirical ground on which his scholarship typically rests, moving quickly from a well-founded critique of the constitutional draft to a sweeping dismissal of any reforms that aim to enhance legitimacy by incorporating public participation. In this article we underline where Moravcsik has spoken well beyond what the data actually say.

There are two errors in Moravcsik's argument that lead him to misread the public opinion data in Eurobarometer. One error involves a questionable set of assertions about the economic policy competences of the European Union and their relation to the economy. The other, more deeply rooted in his intergovernmentalist approach to explanation, is the assumption that the periodic delegation of decision-making authority to the Union has been democratically legitimized, simply because national governments signed the treaties and have not withdrawn from the Union. In the second section, we draw attention to the limits of Moravcsik's skepticism regarding the construction of potentially more democratic EU institutions. He seems to think that even if there were an EU democratic deficit,

there would be no way to address it: “there is simply no empirical reason to believe (...) that opportunities to participate generate greater participation and deliberation, or that participation and deliberation generate political legitimacy” (Moravcsik 2006: 221). While there are no guarantees in the business of constructing democratic institutions, we contend that Moravcsik’s pessimism is unwarranted by the current state of the literature on democracy and democratic innovations.

Moravcsik’s polemical panache in this article far exceeds the extent of empirical findings that buttress his claims. We do not know, as he does not, if the current European constitutional settlement is popular with EU citizens. No polling data of which we are aware, and emphatically not the Eurobarometer data cited in Moravcsik’s article, tell us anything about the popularity of the European constitutional settlement, since the exact nature of this settlement means different things to different people (Weiler 1999; Lindseth 1999; Schmitter 2001; Lindseth 2003a). They do tell us much about the issues that concern European citizens, but moving from that knowledge to that of the constitutional settlement is fraught with interpretive opacity. To say that the data could resolve such an issue is rhetorical sleight of hand, not straightforward social science. And indeed, the lack of clear empirical evidence that speaks to these issues leads us to favor institutional experiments aimed at generating novel forms of participation and deliberation. They may work, and they may not, but as social scientists, we think it is a question well worth asking, empirically.

2. Flawed Logic: The Concerns of Citizens and the Current EU

The Moravcsik Syllogism:

Effective control of the economy is a national, not an EU, competence.

European citizens care mainly about the economy.

Conclusion: The EU deals with subjects of little interest to European citizens.

Moravcsik claims that the EU has no competence over the economic policy areas of most concern to voters, and he says he has the data from Eurobarometer to prove it. Those data show that major concerns of European citizens largely revolve around the state of the economy: unemployment, the “economic situation,” and inflation. These policy areas may be influenced by the European Central Bank, as he concedes, but monetary policy would in any case be handled by a national and politically independent central bank, and “the link between monetary policy and macroeconomic outcomes remains obscure” (Moravcsik 2006: 225). This subject is indeed a matter of academic dispute, but no side of the dispute thinks that central banks have *no* effect on inflation, unemployment, and the economic situation. For Moravcsik, though, fiscal and labor market policies are the “most policy-relevant instruments for influencing employment and growth,” and they remain national competences (Moravcsik 2006: 226). This perspective ignores the strong possibility that some of the problems of European economies may be tied to the lack of coordination between fiscal and monetary policy (cf. Begg et al. 2003) or between national wage bargaining systems and the independent European Central Bank

(Hall/Franzese 1998). Our point here is not about the optimal division of policy competences between the EU and national levels, but about what the “data” show about the concerns of European citizens. Those data show that the economy is an issue of central concern, and there are good grounds for thinking that when European citizens think about political management of the economy, they look not only at national governments, but also at the role of EU institutions.

This is not a minor point, because the fact of citizen disinterest in what the EU does is the empirical premise that drives the rest of Moravcsik’s argument about the normative desirability of greater popular deliberation in the European Union. He concludes from his interpretation of the data that “since everyday voters view the matters handled by the EU as relatively obscure, they have little incentive to debate or decide them” (Moravcsik 2006: 226). The Moravcsik syllogism is constructed on a false premise – that effective control of the economy is a purely national competence – and the conclusion it reaches about the concerns of European citizens is also false. As much of the subsequent argumentation in the article depends on the supposition that European voters do not care about these issues, this is a serious flaw.

There is another problem with Moravcsik’s sweeping claim that the EU deals mainly with obscure issues of little concern to voters, one which in our view vitiates some of his claims about normative desirability of the current constitutional settlement. The EU has been an active player in opening the market in goods and services across European member states. This initiative has allowed national politicians in some countries to liberalize markets while blaming the liberalization on Brussels (Schmidt 2006: 41-42; Culpepper et al. 2006). Market liberalization creates social dislocation, which in turn creates public unease with the European Union at which national politicians have been quick to point the finger of blame for unpopular liberalization programs. For Moravcsik, who wrote one of the seminal pieces of scholarship on the 1986 Single European Act (Moravcsik 1991), this is ancient history: why on earth talk about market opening that happened two decades ago through a democratically ratified governmental treaty? Such an objection takes the intergovernmentalist argument about treaties – where we find Moravcsik’s body of work largely persuasive – and reifies it into an ontology of how everyday policymaking in the Union works, which we find far less compelling.

As an explanatory theory of politics, intergovernmentalist work stresses that international agreements result from bargaining among national governments, and that these agreements consequently reflect the interests of those governments. These agreements are not, according to such an approach, the product of functional spill-over, supranational entrepreneurialism, or the unintended consequences of past decisions. Moravcsik’s *Choice for Europe* (1998) makes a strong empirical case that an intergovernmentalist approach can explain the major treaties of the European Union up to Maastricht. If these treaties are indeed the intended consequences of democratically elected governments in member-states, then one might say with Moravcsik that there is nothing undemocratic about these governments’ choice to delegate certain functions to an international organization, just as they delegate administrative functions to independent agencies at the national level. Yet there is a problem, democracy-wise, when these delegations move from largely technical or administrative matters to those that are heated subjects of political contestation within democratic nation-states. Andy Smith (2006), for example, has shown

in the French case that in a variety of domains where the EU has some policymaking competence, the fact of that competence has changed the character of policymaking such that *nationally* legitimated democratic bodies (the National Assembly and Senate) have a systematically weaker ability to coordinate national policies across sectors within one country. One-off delegations of power to international organizations may be procedurally legitimate, as Moravcsik argues. But as the areas of market regulation covered by such delegation move from minor technical harmonization to issues more central to national politics and systems of political economy, they challenge the essential postwar political compromises that have underpinned both national constitutional settlements and national models of capitalism in some countries (Lindseth 2003b; Höpner/Schäfer 2007). Is this originally technical delegation of power democratically legitimate, now that it is being used to regulate fundamental political issues, such as the scope of public service?

For Moravcsik, this is no problem, because the governments that made these policies have to face their voters in periodic national elections. What could be more democratic than that? Two uncomfortable but robust empirical findings contradict this view. First, the EU is a construction of the mainstream right and left, and those parties support it; the parties who tend to oppose the EU most stridently stand on the margins of national politics across the EU. Second, there is a significant gap between elites and the general public with respect to the desirability and advantages of membership in the European Union (Hooghe et al. 2002; Hooghe/Marks 2006; Marks et al. 2006). This dynamic has, in many member states, led to a situation where the mainstream left and right are not competing over issues of deregulation which, though decided collectively by national governments, often appear to come from Brussels. The most pressing democratic deficit of the European Union lies in this failure of representation at the national level, in which parties of the center-left and center-right no longer develop alternative visions of the appropriate role of markets and solidarity in national politics (cf. Balme 2006).¹ This disconnect between the action of liberalization and the failure of mainstream parties to represent it is problematic for the Schumpeterian view of democracy that Moravcsik espouses, and we suggest it is at least partly to blame for the low trust EU publics generally express toward political parties.

3. Can Participation and Deliberation Create Legitimation?

Our analysis in the previous section suggests that part of the problem of democratic legitimacy in the European Union lies in patterns of party competition at the national level. There is no easy or obvious solution to this problem, but it is important for those who infer the democratic legitimacy of the EU from the delegation of powers to it by national democracies to recognize the fragile basis on which that legitimacy is constructed. Are there, though, other ways in which attempts to increase citizen participation in, and deliberation about, EU politics could enhance its legitimacy? Moravcsik thinks not, which is his prerogative. Yet he goes on to contend, mistakenly, that the findings of empirical

¹ Internally, mainstream parties are quite divided in their attitudes toward the European Union, even if they maintain pro-EU positions overall (Gabel/Scheve 2007).

social science rule out this possibility. We have already shown that the assertion that EU citizens think the EU deals only with obscure issues is false. Salience is only one of the conditions for successful citizen engagement. In this section, we discuss other dimensions of the prospects for deliberative and participatory innovations in the EU.

Before doing so, it is important to note that we have two strong points of agreement with Moravcsik. First, we agree that the proposed constitution, rejected by Dutch and French voters, was a public relations exercise, not an exercise in deliberative democracy. There was not much worthwhile public deliberation in the lead up to the constitutional referenda in France and in the Netherlands. This is unsurprising: plebiscites and referenda do not generate public deliberation unless they are supported by politicians, civic organizations, and media outlets that articulate reasons and arguments from relevant perspectives. Second, we do not advocate democratizing the EU by giving more power to the European Parliament. That institution is far from being the sort of deliberative body that could remedy the shortcomings we observe, and for many of the reasons that Moravcsik himself identifies – low turnout and elections that depend largely on national circumstances rather than supranational policy competition (Hix/Marsh 2007). Yet we are confident that this does not exhaust the possible avenues of democratic innovation in the Union.

We do not even depart from Moravcsik's criticism of the "general propositions" that he takes to undergird the European constitutional project. He writes that:

"Creating more institutional opportunities to participate politically does not, in general, generate more participation. Greater participation does not [in general] generate informed and intensive deliberation. And participation and deliberation do not [in general] generate trust and legitimacy. Some [of these propositions] are *prima facie* invalid, others valid only under specific conditions rarely found in EU policy-making" (Moravcsik 2006: 222).

But the enterprise of conceiving successful democratic institutions – for the EU or for a small village in France – requires mastery of complex particulars rather than generalities. Institutional innovation is more like engineering, but Moravcsik wants to treat it like science. Of all of the bridges that could possibly be built, almost all would collapse in a very short time. It would be an error of logic, and a setback for humanity, to conclude from this general pattern that all bridge-building is futile. It is within the reach of a skillful engineer, who of necessity obeys all of the laws of physics, to build the Pont Neuf or the Ponte Vecchio.

The art of crafting democratic institutions is rudimentary compared to bridge-building. So it should come as no surprise that many institutional opportunities to participate – such as the European Parliament elections cited by Moravcsik, or local elections in the United States – generate only modest levels of participation. Many forms of participation – such as initiatives and referenda in the United States – do not foster deliberation (Cohen/Fung 2004). And, as Moravcsik points out, some institutions – such as armies and police forces – enjoy non-democratic forms of legitimation while some arguably participatory organizations – such as political parties – are publicly suspect. But some institutions do foster substantial public participation and some generate high-quality deliberation, and these features *can* bolster democratic legitimacy.

Moravcsik does not simply contend that politicians and policy-makers should be more careful and inventive when they devise democratic institutions and reforms – we wholeheartedly endorse that thought. Instead, he argues much more: that democratic innovations at the EU level are *futile*. Whatever the importance of democratic participation and deliberation for the legitimacy of local, regional, and national political choices, Moravcsik claims that the specific circumstances of the EU would eviscerate even the most skillful democratic designs. The problem, he argues, is that there is “insufficient incentive” for individuals to invest the energy necessary for informed political deliberation, and that informed engagement is much more demanding for EU issues than for national politics because that transnational setting lacks “salient cleavages, restricted agendas, intermediary organizations, and cultural attachments” that structure mature political environments (Moravcsik 2006: 227).

In the short-term, consultative Citizens’ Assemblies may add a measure of participation and deliberation to EU policymaking while respecting Moravcsik’s well-founded concerns regarding the capacity and willingness of individuals to become informed deliberators. The European Commission’s Plan D for Democracy, Dialogue, and Debate, for example, is hosting a number of projects that bring together hundreds of citizens from across Europe to deliberate about policies and priorities for EU governance. Euro-democracy skeptics scoff at such initiatives as just more public relations, and they may be right. If these initiatives are poorly designed or executed, then they will indeed produce little of value. If these initiatives are well executed, however, they may well articulate worthwhile insights and public perspectives.

Though organized direct deliberation at the transnational scale is unprecedented, these initiatives follow a family of innovations in citizen participation that have been implemented successfully elsewhere in the world. When the western Canadian province of British Columbia recently considered updating its electoral system to some kind of proportional representation, the Liberal Party there created an unprecedented Citizens’ Assembly composed of 160 citizens. After meeting every other week for a year to learn about different voting systems and argue about their merits, the Assembly recommended that the province adopt a single-transferable vote system. Bypassing the legislature, the citizens of British Columbia considered this recommendation in a provincial referendum in May 2005. The measure obtained a majority in all but two of 79 constituencies, and it won 57.9 percent of all the votes cast. However, ratification required a super-majority of 60 percent. The Liberal Party government has scheduled a second referendum on the single-transferable vote proposal for the 2008 election with the hope that interim public discussion will generate a more conclusive decision (Lang 2007).

In many towns and cities throughout the United States, residents engage in study circles to solve local problems around education, race relations, planning, and other issues. After terrorist attacks destroyed the World Trade Center, the public authorities in New York proposed controversial reconstruction plans. In a large scale public deliberation, 5,000 citizens discussed the merits of various planning proposals. The group recommended that planning authorities emphasize the quality of neighborhood life, memorializing the attack’s victims, and architectural aesthetics, in addition to reviving commerce. Public authorities responded by issuing new directives to planners and architects. New York and British Columbia are but two examples of models of public deliberation. Citizens have

used deliberative polls and citizen juries many times in the United States and Europe to understand policies and make recommendations in areas such as crime and justice, urban planning, and science and technology issues.

These “minipublics” and those created by Plan D deliberations work by convening a subset of citizens to deliberate more deeply about a public issue than the entire public could do (Fung 2003, 2006). At their best, these minipublics can produce an articulate *citizen* perspective on political questions that is distinct from the views and positions of professional political representatives, technical experts, stakeholder interest groups, and non-governmental organizations. In contexts where politicians and regulators are tempted to pursue their own agendas rather than public priorities, attention to citizens’ perspectives can be a democratic corrective. Where the social and political distance between politicians and those whom they are charged to serve is great, a manifest citizens’ perspective can help to anchor democratic legitimacy. When people see how politicians incorporate and respond to that citizens’ perspective in their words and deeds, they can take the measure of their democratic commitments. Such minipublics become more attractive as supplements and complements to conventional party politics when the actions and motivations of professional politicians are unpopular or suspect.

Whether more ambitious reforms can surpass the proxy of minipublics and other forms of popular consultation to create party competition and political identities at the European level is of course a more speculative, though still critical, question (Hix 2007). No one knows how precisely to create transnational institutions that elicit popular participation and deliberation – and attempts to create such institutions may fail. We do not even know whether efforts should be directed to reforming national political arrangements, enhancing links between national and EU institutions, or creating novel arrangements such as citizen consultations and civic stakeholder negotiations. Our point in this article has been to set the record straight about what “social science” actually tells us about the democratic legitimacy of the European Union. More than forty percent of European citizens are currently dissatisfied with the way democracy works in their own countries (Eurobarometer 2006). That is no ringing endorsement of national democracies in Europe and the national delegations of power their governments have made to the European Union. We hope that the people of Europe and their political leaders will develop more democratically legitimate institutions, at both the national and transnational levels. Social science does not suggest, much less prove, that they cannot do so. It is only by inventing and comparing different institutional innovations that we will discover the potential and limitations of the democratic enterprise.

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