

PLATO (The Post-Crisis Legitimacy of the European Union)

A Research Framework in the form of a 'Living Review'

Third edition, 1 October 2019

Christopher Lord

ARENA, Centre for European Studies, University of Oslo

1. Introduction

PLATO asks whether the EU has suffered a legitimacy crisis as a result of the financial and migration crises. To answer that research question, PLATO will, however, need to build its own original theory of legitimacy crisis. This paper sets out a framework for both building that new theory and answering the research question with the help of 15 PhD projects. The paper is in the form of a living review. That means it will be updated as PLATO progresses. The following paragraphs explain how the living review will be both a tool and an outcome of PLATO's research.

First, the living review will provide some basic conceptualisation: some definitions and categories: some ways of identifying legitimacy crises: some ways of distinguishing legitimacy crises from mere legitimacy problems, tensions or predicaments: some ways of categorising legitimacy crises by their form, by their causes and by the kinds of political order in which they occur. Whether, indeed, legitimacy crises are likely to be different in two kinds of political order – single states and the European Union – is the puzzle from which PLATO starts out. Original concepts and theories (Habermas 1973) were of legitimacy crisis within states, even within historically particular forms of state. Yet, the EU is a multi-state, multi-national, multi-demos political order which exercises power both within and beyond the state without itself being a state. Whatever we know about legitimation difficulties in states may not always help us identify the character, causes and consequences of legitimacy crises in the case of the EU.

Second, the living review will provide a reference point and a co-ordination mechanism for the PLATO PhD projects. Once we are clearer how legitimacy crises

can be defined, identified and classified, it will be easier to compare and contrast conclusions from across the 15 PhD projects. That will, in turn, make it easier to conduct cumulative research within PLATO itself: to identify where projects have found something similar or where they have, conversely discovered different things that can increase our understanding of variation in legitimacy, legitimacy problems or legitimacy crises.

Third, by promoting coherence and cumulative research within PLATO, the living review will contribute to the impact of PLATO research. Using the living review to record and stimulate joint conceptualisation of legitimacy crisis will make it easier to disseminate results through joint publications and joint workshops at international conferences. Best of all, that joint conceptualisation will be perfectly compatible with the 15 PhD projects investigating the problem of legitimacy crisis in different ways. Indeed, that variation may even be required, as will be seen, by an important conceptual characteristic of legitimacy itself.

As it develops from one edition to another, the living review will also provide a shared framework for summarising, synthesising and interpreting results. If, by answering its own research question each PhD can also contribute to a common investigation, each PLATO PhD will also have a ‘multiplier effect’ on all the others. Its impact will not just consist of its own findings, but also on its contribution to how PLATO projects cumulate to build new understanding of legitimacy crisis and what it would be for the EU to experience a legitimacy crisis.

Fourth, the living review will contribute to the professional development of PLATO researchers. In a sense, PLATO researchers face the same challenge as all PhDs in needing to work together and apart: At the risk of stating the obvious, the theoretical framework of any one PhD needs to be both a) a summary of the state-of-the-art and b) an original contribution to that ‘state-of-the-art’. No less obviously, a large part of any PhD defence is then a discussion of how well a dissertation has used existing concepts and theories whilst adding to them. Theoretical discussions within PLATO – brought together in this living review – can contribute to the theoretical framework of each PhD project. Those discussions can, conversely, help each PhD say something new either about PLATO’s conceptual and theoretical framework or its application.

That exercise can create opportunities unavailable to most PhDs. PhD researchers are

normally caught in a predicament. Forced to develop some small niche, they can easily fail to keep up with the large questions of their discipline (except the one large question to which their small niche corresponds!) In contrast, PLATO develops individual PhD projects within a common investigation that raises *several* of the most fundamental questions in the study of politics and society: questions about power and legitimacy; about things that happen within states and beyond them; about social constructions of identities, meaning, politics and politicisation; about trust, accountability, public spheres, parliaments, civil society, stakeholders, democratic principals, democratic agents, norm diffusion; or, in short, all the building blocks of democratic politics in their diversity and interaction with one another. Nor is building a whole new theory normally within the scope of single PhDs, whose focussed research questions are better suited to ‘theory-testing’, ‘theory-developing’ or ‘theory-refining’. So ‘theory-building’ is one more thing PLATO can do together which its individual projects cannot realistically be expected to do apart.

Finally, the living review aims to provide guidance for how the PLATO projects should contribute to shared theory-building. You should, above all, concentrate on answering your own research questions as agreed with your supervisors. Shared theory building is then something we can do through discussions co-ordinated at the network level. All you need to do is contribute to those discussions; and, in answering your own research question, consider implications for PLATO’s theoretical framework.

So how to proceed? Building new theory needed to do research during the course of research itself may sound alarmingly circular. Yet, it is a common enough challenge. The obvious way to resolve it is to frame some initial theoretical expectations that are then adjusted and refined during the research. Hence, Section 2 discusses how we should conceptualise and investigate legitimacy. Section 3 turns to legitimacy crisis. Sections 4 and 5 develop expectations of what might count as a legitimacy crisis in the case of the EU. Section 6 adds some observations on the importance of actorness in any legitimacy crisis and in framing understandings of what would constitute such a crisis: observations that are a part of the work PLATO has done since the last living review towards a shared book project which will bring together the theoretical frameworks used in individual PhD projects. Section 7 returns to how you can use all this in your own PhDs and how we can work towards the next edition of the living review.

Just how this living review can be both a tool and an outcome of PLATO's research is illustrated by how this edition differs from the last. Since, the first edition, we have discussed theory, research design and methods at the Oslo kick-off conference and three further research schools in Berlin, Vienna and Cambridge. Above all, individual PhD projects have developed from initial proposals to full research designs. Hence, this edition goes further than the first in conceptualising legitimacy, legitimacy crisis and what it would be for the European Union to experience a legitimacy crisis. One of those conceptual advances has been made by a paper co-authored by Claire and Jan which, as seen, proposes that we also distinguish legitimacy and legitimisation crises.

2. Legitimacy

I start by discussing where we need – and, quite as important, where we do *not* need – to work with the same concept of legitimacy. In discussing justice, Rawls (1979: 3) makes a crucial distinction between concepts and conceptions. Any principle for giving people what is due to them is a concept of justice. But there are lots of different interpretations – or conceptions – of what it is to give people their due. We might say something similar about legitimacy (Applbaum 2010). I take it that any concept of legitimacy must be one of justified political power. Yet, there are many - often rival - conceptions of justified political power. Still, legitimacy is not a fully contested concept. Rather it is a boundedly contested one. The contest is only between concepts of justified political power.

For sure, I will introduce one more constraint for the purposes of constructing PLATO's conceptual framework. Section 5 will argue that any concept of EU legitimacy must be one of *democratically* justified political power. Yet I will also identify at least three very broad conceptions or models – with many combinations within and across those models – of what would count as democratically legitimate exercise of power by the European Union. Maybe others in PLATO can identify even more models, and variations within models.

Ok, once we pass from conceptualisation to investigation and operationalisation, we may run into problems of specification that cannot be avoided by saying there are different (and possibly equally valid) ideas of legitimacy? Above all, we will need to decide what to do about the elephant in the room: the huge question of whether we should investigate what people *ought* to believe is justified political power or what

they *in fact* believe is justified political power. Now, I don't want to avoid the difficulty of distinguishing normative and empirical understandings of legitimacy. Attempting to do that may only lead to more confusion; and, in any case, the question always pops up where it is least wanted: in PhD defences, in comments on paper presentations and in reviews journal submissions. So, in Annex 1, I suggest some reasons why the normative and empirical study of legitimacy need to be both connected and disaggregated: why, on the one hand, concepts of legitimacy work by connecting normative and empirical assumptions; and why, on the other hand, the normative and empirical components of legitimacy need disaggregating into standards, rights, obligations, circumstances, attitudes, behaviours and so on.

However, even if legitimacy itself is a concept that works by connecting normative and empirical assumptions, ways of investigating it can be normative or empirical to different degrees. That, I think, is even true of methods of investigating standards of legitimacy.

First, and most obviously, defining standards can just be a reasoned justification by the researcher of a specific concept of legitimate power. But even that can be normative or empirical to different degrees. Political philosophers distinguish ideal and non-ideal theory (Annex 1); or, in the case of legitimacy, theories by which power can be ideally justified; and of how it can be justified under non-ideal or sub-optimal circumstances.

A second possibility is that a researcher does not try to work out her own justifications for political power and what standards follow. But neither does the researcher merely report what actual actors believe. Rather the researcher starts with at least some presuppositions or criteria for justified political power; and, therefore, some limits on where actors can be taken to be talking about legitimate political power even where they purport to do so.

A third possibility is that the researcher does not put a prioristic limits on what can be taken as justified political power. But the researcher does not just take those ideas as they are either. Rather, the researcher intervenes in some way designed to separate reasoned from raw understandings of justified political power, via, for example, a deliberation an experiment or a deliberative experiment (such as a focus group)

A fourth possibility is that a researcher tries to avoid normative assumptions or normative arguments of any kind about what should count as justified political power, or even what should count as justification. Even, standards are treated as matters for empirical investigation. So, the study of legitimacy becomes a doubly empirical one: of what actors, *in fact*, take to be standards for political power; and of how far political power, *in fact*, measures up to those standards.

The four approaches are not necessarily better or worse than one another. Rather, they answer different questions. The third, for example, answers the question what do actors believe is justified political power after they have, indeed, had opportunities to justify their beliefs about power? The fourth, on the other hand, takes beliefs about the justification of political power as they are, with all their inconsistencies, incoherence or incompleteness. Investigating that is also important.

3. Legitimacy crisis

Specifying where we do and do not need some shared understanding of legitimacy and shared ways of investigating of legitimacy, can plainly only be the first step in building a theory of what it would be for the EU to experience a legitimacy crisis. No less obviously, the next step is to specify what a legitimacy crisis would amount to? (See also Beetham 2013: 168). As Claire and Jan ask in their paper, how should the concept of a legitimacy crisis be differentiated from others with which it shares a ‘semantic field’? How is a legitimacy crisis different from mere legitimacy deficits, or legitimacy problems? Should we, indeed, distinguish *legitimacy* crises from *legitimation* crises? And, if so, do we then need to distinguish different types of legitimacy/legitimation crisis?

Much discussion of legitimacy/legitimation crises originates from Jürgen Habermas’ (1973: 1-2) classic *Legitimation Crisis*. Habermas notes that ‘prior to its employment as a social-scientific term, the concept of crisis was familiar to us from medical usage...It refers to the phase of an illness in which it is decided whether or not an organism’s self-healing powers are sufficient for recovery’. Philosophers ‘from Aristotle to Hegel’ then took crises to be ‘turning points’ where ‘conflicting norms shatter identities.’ Social scientists then conceptualised and investigated where those crises can be of social and political systems, as well as norms and identities: ‘the structure’ of social political systems can ‘allow fewer possibilities for solving problems

than are necessary to the continued existence of the system' (ibid). Hence, a minimum definition might be as follows:

A legitimacy crisis occurs where a political order is unable to satisfy all conditions for the justification of its powers simultaneously.

That is an intentionally abstract and generic definition, designed to avoid assuming any one political form such as a state; or, indeed, any one form of crisis. Building a theory of what it would be for any one political order (such as the EU) to experience a legitimacy crisis should then consist of 'filling in' the generic definition by specifying standards and conditions needed for the justification of the powers of that political order; and specifying what would constitute a failure to satisfy those conditions simultaneously.

In doing that, we might expect at least the following challenges. First, it is plainly not sufficient for a crisis that things should be terrible. Rather a crisis has also to overwhelm the powers of a system to correct, adjust or repair itself. Indeed, as Claire and Jan observe, legitimacy crises might sometimes even be forms of 'creative destruction' that force realignments of norms, identities, systems, political power and justifications for political power into more mutually sustaining relationships. We might, conversely, imagine where some rather small difficulty leads to a downward spiral or to a cumulative movement away from some 'general equilibrium' where a polity can satisfy all conditions for its legitimacy simultaneously. Hence, Claire and Jan propose that we distinguish between legitimacy crises and legitimation crisis: between legitimacy-threatening shortfalls (legitimacy crises) and obstacles to the elimination of those shortfalls through re-legitimation (legitimation crises)

Second, the last point, underlines the analytical importance of being able to distinguish exogenous and endogenous aspects of a legitimacy crisis. The inability of a political order to satisfy all conditions necessary for its legitimacy simultaneously may originate in factors external to it: in shocks, triggering events, or problems displaced into political systems from other systems: economic, ecological, demographic or social. Yet, no legitimacy crisis will be entirely exogenous to the extent there must also be some endogenous failure of political systems, identities or understandings of justified political power to adjust. In contrast, a purely endogenous legitimation is at least a theoretical possibility. The inability of a polity to satisfy

simultaneously all conditions for the legitimate exercise of its powers, may be mainly attributable to changing understandings of justified political power within its political order.

Third legitimacy/legitimation crises can vary in degree as well as kind. They can be latent; and, where they become actual, they can be i) corrigible; or ii) existential to the very survival of a political order. They may also be iii) partially existential threats to just some of the powers, mandates or institutions of a political order; or they may be iv) long-fuse crises that threaten a political order with slow death or a hollowing out of its powers.

Fourth, even though legitimacy crises are crises of political systems, they may not only be problems of systems, as opposed to problems of value or of justification. Problems of satisfying all the conditions for the legitimacy of a political order are likely always to be problems, in some way, of meaning, validity, and identity: of what justified political power can and cannot mean for a particular group of people who need to ask themselves whether and how they can justifiably rule themselves together. Indeed, normative and functional factors are likely to interact in shaping legitimacy crises. Actors need normative orders (Forst 2017) or orders of worth (Boltanski & Thévenot 2006) – that is, more or less agreed understandings of what is justified - if they are to be functionally capable of solving collective action problems or co-operation problems at all. Hence legitimacy crises may often be ‘tensions’ between the ‘demands of systems’ (Claire and Jan: 6 & 19) and justifications needed to legitimate those systems. If, however, legitimacy crises are likely to be fundamental predicaments – between what political and social systems demand of us and how those systems can be justified by what we believe about political power (Beetham 2013) – it is all the more important that we should have the theories and methods needed to investigate legitimacy crises; and that those theories and methods should be adjusted so that they are capable of investigating legitimacy crises in each political order in which they may occur.

4. Legitimacy crisis and European Union: What needs legitimating and with whom?

As a generic definition I have proposed that a legitimacy crisis occurs where a political order is unable to satisfy all conditions for the justification of its powers

simultaneously. So, by specifying where a political order would fail to meet all conditions for its legitimacy simultaneously we can begin to build a theory of where it would experience a legitimacy crisis. To do that in the case of the EU, it would plainly help to have answers to three further questions: a) what is it about the European Union that needs legitimation? b) with whom does the European Union need to be legitimate? and c) by what standard(s) does the European Union need to be legitimate? Given that to build a theory is just to form a set of plausible expectations, I propose that we take a discussion within PLATO of questions a)-c) to be the basis of our shared building of a theory of what it would be for the EU to experience a legitimacy crisis. That discussion needs to be an open one. But let me set the ball rolling – and demonstrate what might be involved in answering each of the questions – by setting out some initial possibilities. This section asks what about the Union needs legitimacy and with whom the Union needs to be legitimate. By then combining answers to those questions with a discussion of standards by which the Union needs to be legitimate, Section 5 proposes three models of where the Union might plausibly fail to satisfy all conditions needed for its legitimacy simultaneously; and, therefore, experience a legitimacy crisis.

To answer what it is about the EU that needs legitimacy, I now explain why I said on page 1 that the EU is a multi-state, multi-national, multi-*demos* political and legal order which exercises power both within and beyond the state without itself being a state. Consider first the non-state character of the EU (Hix 1995: 3). Its member states may have a monopoly of force. But the Union does not. That difference is important to how far it can even be meaningful to ask whether the Union is legitimate, let alone in legitimacy crisis. States, it is often argued, are in special need of justification (Buchanan 2002 & 2004; Beetham 2013). They are ultimate or final arbiters of political authority. States can, in principle, regulate all other relationships in societies. Above all, states are forms of coercion. Indeed, the concept of legitimacy can even be understood as reserved for the special challenge of justifying the kind of political power exercised by states. So, we may have to justify stretching the concept of legitimacy to the case of the EU before it makes sense to ask whether the EU is legitimate. As Rodney Barker (2003) reminds us, there can only be a problem of legitimacy where there is an exercise of political power: legitimacy, as he puts it, is not a concept that can ‘usefully be applied where rule is absent, hypothetical or so

indirect as to be invisible to the ruled' (159-60). Yet the Union's powers can be understood as more indirect or derived than autonomous. For example, Andrew Moravcsik (1993: 508) argues that Union institutions are merely 'contractual environments' – of technical supports and commitment technologies – for governments to reach bargains that need little further explanation or justification than the distribution of preferences between themselves. On that interpretation to ask whether the Union is legitimate, or in legitimacy crisis, approaches a category error. Since the Union has limited autonomous stateness of its own, it neither has nor requires any special legitimacy beyond the bargained agreements of its component states.

On other understandings, though, the EU partially replicates those features of the state that require special justification, even though the Union is not itself a state. Union membership blurs the location of final powers of decision. On the one hand, the Union claims priority of its own laws. That claim is largely uncontested by member states. Exit options from Union policies, or from membership itself, are deeply constrained in practice. On the other hand, exit is not completely constrained and claims to the priority of Union law are not unconditionally accepted. Member states also retain significant collective control of Union decisions (Lindseth 2010), and even, *de facto* much individual control. The Union has limited coercive powers of its own and much, therefore, depends on the active day-to-day co-operation of each members. Hence, arguably, the Union replaces hierarchy with heterarchy by making it hard to say that powers of final powers of decision are located at the one level or the other (Cohen 2012). That means, however, that the Union affects aspects of finality. For example, from the point of view of a citizen of a member state that neither wants to exit the Union nor to dispute the primacy of a Union law nor to withhold its co-operation in enforcing that law, there is nowhere further to go than the EU's legal order in contesting that law.

Another way in which the Union replicates characteristics of the state without being a state is in approximating a comprehensive scheme of co-operation; or at least in contributing to how its member states operate comprehensive schemes of co-operation. In other words, the Union regulates a huge range of other relationships in society. If, as Rawls (2003: 5-8) puts it, a key question of legitimacy is how well overall structures of laws, policies and opportunities all 'hang together' to form a

more or less 'fair scheme of co-operation', it would be hard to argue that the EU does not contribute to that structure and the fairness of it. The EU is a significant source of shared law. Depending on the member state and on methods of calculation, the EU makes 20 to 30 per cent of the laws under which the 510 million citizens of the Union's member state democracies live their lives. Even laws of national and local origin, have to be adjusted and interpreted so that they are compatible with EU law (Brouard et al. 2012).

But what, though, of my claim that the Union exercises power both beyond and within state. By saying the Union exercises power from beyond the state, I mean that it defines rights, makes law, allocates resources and redistributes values, using its own institutions, decision-rules and system of law. The EU political and legal order is not in other words reducible to those of its member states and the control they can exercise over the Union. On the other hand, the Union is an also an exercise of power within the state. Different groups and ideologies within each member state win or lose from participation in the Union. Some have, arguably used the Union to constitutionalise particular outcomes and economic and social models within states. The Union, in other words, makes it harder to use the normal decision-rules of a member state - or even to use its elections (Mair 2013) – to change outcomes in that member state. Above all, a significant part of what citizens experience as the exercise of power within states involves the use of domestic enforcement structures to implement Union laws.

Indeed, participation in the Union changes the very statehood of member state democracies. To be a member state of the EU is to be a different kind of state (Bickerton 2012). Even the core powers (Genschel & Jachtenfuchs 2014) of member states are exercised in ways that are shaped by their membership of the Union. For sure, member states retain huge collective control of the Union (See especially Lindseth 2010). But their collective control changes their individual character. In what has been variously described as fusion (Wessels 1997), infranationalism (Weiler 1997) and intensive intergovernmentalism, participation in Union decision-making has become a large part of what the executive branch of each member state does. That, in turn, changes the internal constitutional configuration of each member state. Joe Weiler (1997) noted long ago that the Council's participation in legislation effectively means that the executive branch of each member state

reconstitutes itself at the European level as a part of the legislature.

Participation in the Union may even change member states as democratic political communities, and not just as democratic political systems. Most European citizens and publics seem to value sustaining national democratic political communities within a European Union of democracies. As Kalypso Nicolaidis (2013) puts it, they value some element of ‘governing together but not as one’ (See also Cheneval & Schimmelfennig; Bellamy forthcoming). But does that mean that the *demos* of states that are members of the Union are different kind of *demos*? *Demos* – whose very economic, ecological, demographic, social and political interconnectedness – means that they can only attain their own values and expectations of self-governing national democratic community by undertaking some obligations to the other democratic peoples of the European Union? National democracies that can, indeed, only deliver their own obligations to their own publics by entering obligations with the other member state democracies of the EU (Lord 2014 & 2016).

Let me return, then, to what about the EU needs legitimation and with whom. I have argued that the Union creates a distinctive set of power relations. Even though it is not itself a state, the Union partially reproduces attributes of the state that are thought to require special justification: it affects i) the location of final political authority; ii) ways in which public policies and laws all hang together; and iii) the production of coercively enforceable laws. Anticipating that it needs a democratic standard of legitimacy, the Union needs to be legitimate with individual citizens. Yet, in a multi-demos polity, that could mean a) individuals as citizens of national democracies; or b) individual citizens twice over: as co-citizens of the European Union and as co-citizens of their national democracies (Habermas 2012). Although we have not made the point explicit, it could also mean c) individual citizens as members or stakeholders in other normatively significant groups.

5. Legitimacy crisis and the European Union: Standards

I have argued that the Union involves a significant exercise of political power and that it is a prolific source of coercively enforceable law. Now, I take it that the Union makes those laws and exercises those powers over liberal-democratic societies. I also take it that liberal democratic societies understand individuals as free and equal. Liberal democratic societies cannot, therefore, take as legitimate any significant

exercise of power that does not assume individuals are, indeed, free and equal. Citizens must be free to control their own laws as equals. So, as a source of shared law-making and as a form of political power, the Union needs to be democratically controlled by citizens with equal opportunities to exercise that control. Even if it does not follow that the Union needs itself to be a democracy (rather than a body controlled by its component democracies), democratic legitimacy is the only standard of legitimacy available to the EU (See Peter 2017 for a wider discussion of where democratic legitimacy may be the only form of legitimacy).

There are at least three – very broad - understandings of how Union can operate as a democratically justified form of political power. According to the one, the Union is, can or should be directly legitimate with citizens. It can be directly justified by values, rights, and political obligations as democratically defined and controlled by citizens. According to a second view, the Union's legitimacy is – and perhaps can only be – indirect. Justification for the powers and decisions of the Union depends on the consent and participation of its member state democracies whose legitimacy the Union 'borrows' (Lindseth 2010). According to a third view we should not just distinguish direct and indirect sources of Union legitimacy. We should also distinguish different ways in which the Union can draw its legitimacy from the inputs, outputs and throughputs (ways of converting inputs into outputs) of its political order (Schmidt 2012: 662-4).

There is nothing very original in setting out those understandings of EU legitimacy. However, PLATO can go well beyond the state-of-the-art in working out where each school of thought implies the EU might fail to meet all conditions for its legitimacy simultaneously. That, I argue in the remainder of this section, suggests three models of where the EU might plausibly experience a legitimacy crisis. Use of the word 'models' can make people a little nervous. However, in using the term, I merely follow others who assume, as I do, that assumptions of fact and value need to cohere (see Annex 1) in specifying approaches to democratic politics. So, assumptions about justifications for democracy, institutional means of delivering those justifications and empirical circumstances need to be compatible (Held 1996) (See also the use of models by the RECON project (Eriksen and Fossum, 2012))

Model 1. The EU will fail to satisfy all the conditions required for its legitimacy simultaneously where it is caught between the necessity and the impossibility of delivering standards of democracy beyond the state.

Consider first why some element of democracy beyond the state may be needed. The Union makes laws, and, in societies that assume citizens are free and equal, individuals must have democratic control of their own laws, if citizens are, indeed, to be free and equal (Rawls 1993; Habermas 1996).

Of course, it could be sufficient for citizens to control Union laws through the election of national governments and national parliaments (See hypothesis 2). Yet, that is not the Union's understanding of its own legitimacy. The Lisbon Treaty endorses a compound form of representation through its claim that 'citizens are directly represented at Union level in the European Parliament' while 'Member States are represented in the European Council by their Heads of State or Government and in the Council by their Governments, themselves democratically accountable either to their national Parliaments or their citizens (Article 10)'. On top of that, the treaty claims that 'political parties at the European level contribute to European political awareness' and Union institutions maintain an 'open transparent and regular dialogue with representative associations and civil society' in which 'citizens and representative associations' have 'the opportunity to make known and exchange their views in all areas'. Here, then, is a view of how representation should work in the European arena that compounds (Fabbrini 2015) together the contributions of elected national governments, a directly elected European parliament, national parliaments, European parties and civil society representation.

Nor is it hard to understand why the European Union might attempt at least some element of democracy beyond the state, rather than just leave everything to the indirect legitimation of its decisions by its component democracies. Collective oversight of Union decisions by elected national governments may only lead to forms of executive domination.

For sure, national parliaments can scrutinise the ways in which member state governments oversee Union decisions. But that, in turn, is open to the objection that it gets power relationships the wrong way around. How can national parliaments supervise what their governments do in EU institutions when, in many member

states, governments control their parliaments? Indeed, national executives can, arguably, practise forms of ‘reverse agency’ (Bohman 2007:7). Instead of controlling Union decisions on behalf of national parliaments and publics, national governments can use Union decisions to co-manage and constrain their own national democracies. Hence, Habermas’ complaint that euro-crisis decisions were dominated by a ‘self-authorising European Council...confined to heads of governments’ who – far from being supervised by national parliaments - undertook to ‘organise majorities in their own national parliaments under threat of sanctions’ (2012: viii) for failing to deliver those majorities.

Yet, even if Union decisions could be adequately controlled by the relationship of each national parliament and national public to its own national government, the making of so much policy and law together at the Union level should, arguably, be accompanied by some element of public contestation and debate across national boundaries, if all those ‘subjected’ to Union decisions are also to have opportunities to represent their views to all those with powers over the making of Union decisions.

However, it is likely to be difficult for the EU to practise democracy beyond the state. A long and demanding set of conditions may be needed for democracy to work well, including: (a) freedoms and rights; (b) a form of political competition that offers voters choices relevant to the control of the political system; (c) a civil society in which all groups have equal opportunity to organise to influence the polity; (d) a public sphere in which all opinions have equal access to public debate, and (e) a defined *demos*, or, at least agreement on who should have votes and voice in the making of decisions binding on all. Achieving all these conditions simultaneously may be hard for a body such as the EU that operates from beyond the state and is not, therefore, itself a state. The capacity of the state to concentrate power, resources and legal enforcement has been useful in all kinds of ways to democracy: in ensuring that the decisions of democratic majorities are carried out; in guaranteeing rights needed for democracy; in drawing the boundaries of defined political communities; and in motivating voters and elites to participate in democratic competition for the control of an entity which manifestly affects their needs and values.

Model 2. The EU will fail to satisfy all the conditions needed for its legitimacy simultaneously where it depends on indirect legitimation by its member state democracies, which, in turn, make conflicting demands on the justifiability of EU power.

Fritz Scharpf (2009) famously argues that the EU is a government of governments which must, in the first instance, be legitimate with its Member States. Member States must feel Union policies are sufficiently legitimate to oblige them to implement those policies even before citizens are called upon to comply. On that interpretation, the indirect legitimacy of the Union is, as it were, prior to any direct legitimacy it might achieve. Indeed, in a hugely influential contribution, Peter Lindseth (2010) uses a legal-historical analysis to argue that the Union continues to 'borrow' the legitimacy of its member states, rather than develop original and free-standing legitimacy of its own.

Yet, it may be difficult for the EU to do what some member state democracies consider necessary to justify the exercise of political power by the Union without acting in ways other member state democracies consider unjustified. That is, arguably, exactly what happened during the euro-crisis. It was hard for the Union to respond in ways that both 'creditor' and 'debtor' member states considered justified: what seemed fair responses to creditor democracies were, perhaps, always likely to seem unfair to debtor democracies.

Indeed, purely intergovernmental decisions may only follow the distribution of power between member states. Is there a risk that any legitimacy gained by maximising the control of Union policies by its individual national democracies is outweighed by any legitimacy lost through persistent inequalities in how far those democracies can influence shared policy? Are there even risks of unjustified forms of 'democracy on democracy' domination?

Those dangers are especially acute in so far as the Union seems engaged in something much more than regulating the external relations of states. The Union co-ordinates core state powers (Genschel & Jachtenfuchs 2014). It turns national states into member states (Bickerton 2012); or, in other words, states whose very statehood is defined by their membership of the Union. For sure, Union decisions are dominated. For sure, it is unusual for the Union to agree anything much at all without the

agreement of all the elected governments of all its member states. But look at what those ‘intergovernmental actors’ actually do when they all huddle together so closely in Union institutions. They engage in a massive undertaking in shared law-making massive undertaking in shared rule. 7000-8000 measures. that profoundly affects the allocation of values in each of their societies and the life chances of their respective citizens, all through a political order from which there are no easy exit options, and which is hard to change precisely on account of one of its intergovernmental features. , as Rawls might put it, reaches down into the ‘basic structures’ of participating societies. In other words, the Union contributes to the overall structure of laws, policies and opportunities under which people live their lives and to how well that overall structure then ‘hangs together’ as a more or less ‘fair scheme of co-operation’ (Rawls 2003: 5-8). Any justification of such a structure may require a shared normative order. For sure, such a shared normative order can be derived from the Union’s participating democracies. But it must presumably be able to constrain them too.

Indeed, a Union that is indirectly legitimated by its member state democracies may even be unusually susceptible to legitimation crises. As we have repeatedly seen, legitimacy crises occur where problems are displaced into and between political systems in ways that make it hard for those political systems to satisfy all the conditions needed for their own legitimacy. Yet, if any one national democracy has an interest in imposing harms on its neighbours or in free riding on the efforts of others to maintain economic, ecological or security systems, then its own electorate and parliament may also have an interest in behaving in those ways (Lord 2017a & b). Thus, far from having the legitimacy needed to deal with problems originating in other systems, a European Union that has to rely on the democratic control of its member state democracies may only tend to displace problems between those democracies.

Model 3. The EU will fail to satisfy all conditions for its legitimacy simultaneously where there are conflicts between inputs, outputs, and throughputs that would justify the exercise of political power by the Union.

Political philosophers and political scientists have long debated how far it is

important to distinguish input, output and throughput conditions for the democratically legitimate exercise of political power. How far does the democratic legitimacy of a political system depend only on votes and deliberation inputted to it? How far is a political system justified (democratically or otherwise) – where quite apart from any inputs they make in voting and public debate – citizens obtain outcomes they value or which help them meet their own (moral or political) obligations to respect the rights of others and treat them with justice? How, far, indeed, does the justification of political power also depend on ‘throughputs’; or, in other words, on the quality of procedures for converting inputs from ‘votes and voices’ into outcomes that deliver values or secure rights?

In answer to those who believe that legitimacy is purely procedural, we might imagine a political system that is procedurally perfect in its voting and deliberations - and which, none the less - has no outputs. Would we consider it legitimate? Perhaps not if we think that one justification for any form of political rule is that it should be able to provide the most basic of public goods needed for personal security and economic and social welfare?

Moreover, democracy may itself have both consequential and intrinsic justifications (Christiano 2003). In other words, we value democracy both as a procedure that allows us to govern ourselves as equals, and as a source of further outcomes. Peace, justice, prosperity, human development may all be outcomes that are, on average, more likely in democratic systems; and which justify democracy over and above anything it does procedurally to treat individuals as free and equal.

Yet a no less familiar argument than all the foregoing is that the input, output or throughput components of legitimacy may come into conflict with one another. The question then arises whether a polity can make what are themselves accepted as legitimate trade-offs (Schmidt 2015) between optimal outputs and ideal procedures?

Once again, the challenge may be especially acute in the case of the EU. As a Union of democracies, a high level of agreement between member states may be a procedural condition for input and throughput legitimacy. However, multiple veto points may make it harder for the Union to secure the outputs that are thought to justify collective action at the European level in the first place. And, yet, the Union may be caught in a predicament. It may need to be ‘output legitimate’ if it is to be legitimate

at all and it may only be ‘output legitimate’ in so far as it is ‘input legitimacy’ via its member state democracies that are, in turn, only willing or able to supply ‘input legitimacy’ in ways that are likely to constrain the Union’s output legitimacy. After all, it seems plausible that the Union is structurally best placed to provide some forms of output legitimacy while member states are better placed to secure input legitimacy (Scharpf 1999). On the one hand, it is the Union whose policy outputs can provide collective goods at the European level and internalise externalities between member states. On the other hand, it is member states that can provide inputs to Union policies that are mediated through established forms of democracy within the state, rather than the more difficult route of democracy beyond the state.

Once again, the euro-crisis seems to provide much material to test these various possibilities. Solutions could only be found at the European level, not least because saving the banks and saving the euro required collective action and agreed constraints on how any one member state democracy could impose externalities on others. On the other hand, the Union lacked sufficient input legitimacy for crisis decisions without turning the European Council into an emergency decision-maker able to commit each national democracy at the highest possible level. Yet, the need to work through the unanimous agreement of the European Council itself constrained the policy outputs available to the Union.

6. Actorness in the analysis of legitimacy crisis

The last section developed some different theoretical expectations of what would count as a legitimacy crisis. But just how these core principles and standards should be operationalized – just what needs to be done to specify and deliver them – often seems to depend on who are the actors. Indeed, politics itself arguably consists of disagreement between actors – and different kinds of actor - on just what justifies the political. Whether, indeed, they are located in this or that institution or none at all; whether they are located at the local, national or European levels; whether they are located inside the Union or outside it, actors’ judgements of how far the Union is in legitimacy crisis are likely to be framed by different legitimacy assumptions, legitimacy discourses and legitimacy strategies. Where people stand, the joke goes, depends on where they sit.

Indeed, depending on where they sit – where they are situated – in economies,

societies, political and legal orders, and all the power relations associated with those things, different actors are likely to take different stands on the empirical, normative and conceptual questions that are needed to investigate whether the EU has experienced a legitimacy crisis. Take, first, the empirical questions. Just what has happened to the European Union since 2008? Just how have those who experience the possibilities, problems, frustrations, policies, decisions, laws, and institutions of the EU understood, criticized, trusted, mistrusted, approved, disapproved, identified with, felt alienated or just felt indifferent to a European Union that has seemingly suffered serial crises? How far, indeed, have the feelings and experiences of different actors varied across different kinds of crisis? How far have actors responded differently to a Union afflicted by problems in its financial system and its currency; by migration crises; by geopolitical threats; by populist challenges to the Union's distinctive mix of technocracy and elite forms of representative democracy; and, indeed, by crises in the membership of the euro and of the Union itself? Does the empirical evidence of what 'real actors' think or do confirm, challenge or nuance the idea of a Union in crisis? And, if confirm to some degree, does it suggest one crisis or many: one set of underlying problems in the nature of the Union, or a series of more loosely connected problems that just happened to arrive in sequence or just happened to cumulate and feed off one another in ways there were far from inevitable? Does, indeed, evidence of the beliefs and behaviours of real actors suggest any crisis is temporary and corrigible or permanent and structural?

To those empirical questions must be added normative ones. Indeed, the idea of a legitimacy crisis in the EU would hardly make sense at all without some idea of just what values, rights and standards are important to different categories of actors: of what values, rights and standards held by different actors the Union ought to satisfy in the first place. But that begs a deeper question: when ought we to ask at all what conditions the Union ought to satisfy to count as a justified form of political power? Might it even be a category error to suppose that the Union belongs to that category of political orders that requires any independent legitimation additional to any it derives from other actors or processes, notably its component member state democracies and the politics and law they generate through their shared membership of the Union? So, is the Union, an autonomous, or a derived set of power relations? For sure, it exercises powers over the life chances of individuals, and over whole

national democracies. But how far does that call for enquiry into the legitimacy of the Union as opposed to the legitimacy of other actors exercising power through the Union? So, the normative questions needed to understand whether the Union has experienced a legitimacy crisis also turn out to be questions about actorness: about the normative standards owed different kinds of actors, notably citizens, national democracies and even actors outside the Union; and about the rightfulness of different kinds of actor exercising different kinds of power either autonomously or as derived powers.

Assume, however, that we can sort out normative standards of legitimacy and when those standards apply to one set of actors or another. There would still be further conceptual questions. Just when do mere legitimacy difficulties become legitimacy crises? And is any threshold between legitimacy difficulties and legitimacy crises likely to be different, once again, for different kinds of actor: for a non-state and beyond-state actor such as the EU; for single democratic states; or for composite power relations and actor configurations formed by bringing together different combinations of actors at sub-national, national, supra-national and global levels in different ways and for different purposes? Are differences in where legitimacy difficulties are likely to become legitimacy crises just of degree: of smaller or larger margins of tolerance in cases of different actor configurations? Or, are they likely to be differences of kind, reflecting differences, on the one hand, in normative standards that ought to apply to the Union, single state democracies and combinations of the two; and, on the other hand, different empirical conditions under which those various actors and actor configurations are likely to get into trouble? How, finally, in answering all those questions should we cut through existing conceptual thickets in the literature? How far should we use existing concepts – notably of input, throughput, output, direct and indirect legitimacy - to form our own expectations of where legitimacy problems can become legitimacy crises in different political configurations and power relations that constitute the Union? In sum, the question of actorness suffuses all these questions requiring us, at every turn, to ask who are the actors in anything that can count as a legitimacy crisis in the European Union; and who amongst those actors are the subjects, the objects, the causes, the drivers, the victims, or the bystanders in legitimacy difficulties, legitimacy crises and any cross-over from the one to the other?

7. Conclusion

Let me now return by way of conclusion to how the theoretical framework and your individual projects might co-evolve.

First, I have repeatedly emphasised that theory-building is the formation of some set of general expectations, plausible, internally coherent and capable of identifying, explaining or evaluating new phenomena or relationships. In this living review I have, therefore, tried to form general expectations of what power relationships need justification in the case of the EU; of with whom those power relations need to be legitimate; of standards by which they need to be legitimate; of where the Union might fail to satisfy all conditions for its legitimacy simultaneously; and, therefore, of where the Union might experience a legitimacy crisis. But we need to keep thinking. I said my answers are just a first go. My sketches of the three models are just that: sketches.

Second, in sketching some initial suggestions for the theoretical framework, I have tried throughout to suggest how building a theory that has legitimacy as one of its components – as a theory of legitimacy crisis has – should respond to the difficulties of attempting a purely empirical or a purely normative understanding of legitimacy or, indeed, of making a fact/value distinction at all. As seen, I discuss those difficulties in Annex 1. However, they may have more implications for PLATO, its theory, its cases and its methods. Again, we need to keep thinking.

Third, consider what PLATO's overall framework overall framework implies for your research and *vice versa*. Does your PhD tell us something about the difficulties of satisfying all the conditions needed for the Union to be directly legitimate with its citizens (model 1)? Does your PhD tell us something about the difficulties of making the Union legitimate through each of its member state democracies (model 2)? And cutting across the previous two, does your PhD tell us something about the difficulties of making the Union input, output or throughput legitimate (model 3).

Fourth, think too about Claire and Jan's distinction between legitimacy crisis and legitimation crisis (See section 3). Does your PhD identify some way in which recent crises have created a critical shortfall in the EU's legitimacy (legitimacy crisis)? Or does your research also identify some way in which the EU has been constrained from

repairing a shortfall in its legitimacy (legitimation crisis)?

Fifth, the first edition of the living review had a section on research strategies of building theories with the help of individual case studies. (Blatter & Haverlund 2012). I would like to come back to that in the next edition once you have had opportunities to reflect on the preceding points.

ANNEX 1. On normative and empirical understandings of legitimacy

It is often assumed that legitimacy is either normative or it is empirical and that a choice, therefore, needs to be made between investigating what people, in fact, believe about the justification of political power or investigating what they ought to believe. That is a very well-known debate. However, contributing something original to that debate can, in turn, contribute to the originality of PLATO, its PhD projects, and any new theoretical understanding of legitimacy crisis we can develop together. With that, in mind, I want to make three claims. First, that both empirical and normative understandings of legitimacy need disaggregation. Second, that they, conversely, need connecting. Yet, third, there are limits to how far conceptual order can be brought to legitimacy at all. It can even be a mistake to seek to resolve all inconsistencies between different understandings of justified political power.

Why do both empirical and normative understandings of legitimacy need further subdivision? In so far as legitimacy is empirical, there are different ways of understanding its empirical substance: as certain attitudes or beliefs about political power (support, trust, approval, acceptance) or as certain kinds of behaviour (compliance, participation)? Sometimes it may even make sense to study ‘absences’, for example, of protest or complaint; whilst even those indicators that are based on the presence of empirical conditions may need careful calibration to allow for degrees of legitimacy or threshold effects in its delivery. Legitimacy may presuppose that a public has passed a threshold at which it is even aware of itself as a collectivity (Dewey 1927 [1954]: 35) that can meaningfully ask what can be justified as a form of shared rule and, therefore, of political power. Hence empirical indicators of legitimacy based on identity, trust, politicisation, communication within a public sphere, or shared beliefs may need to be differentiated twice over: into continuous indicators of degrees of legitimacy within systems already assumed to be capable of legitimacy; and into discontinuous ‘yes/no’ indicators of how far institutional orders have passed a threshold at which they are even capable of their own autonomous form of legitimate politics.

If, on the other hand, legitimacy is best understood as a normative quality there are different ways of understanding its normativity (Eriksen, 2014). Is legitimacy best understood as a *right* to exercise political or an *obligation* to comply with it, or both?

And what kinds of right and obligation - indeed, whose rights and obligations - are we talking about any way? Could it be that a form of political power is legitimate where people have fundamental obligations to treat others justly and respect their fundamental rights that cannot be met without that form of political power (Buchanan 2002 & 2004)? After all, if 'legitimacy entails the justifiability of power relations' (Beetham 2013:5) any demonstration that a particular form of political power can help those over whom it is exercised meet obligations that would be difficult to satisfy without that form of political power would presumably be an important argument for its 'justifiability'. But does that, in turn, mean political systems are justified by rights and obligations that people have anyway prior to those political systems, or, are legitimate political systems and political communities needed before people can fully specify the very rights and obligations that justify political power (Miller 2007)?

On the question of who has rights and obligations in any legitimate exercise of political power, it might seem obvious that any right must be held by power holders; and any obligation must be owed by those over whom power is exercised. Yet, relationships between rights to use power and obligations to comply with it can be complex. Liberal democratic understandings of legitimacy in particular are probably best understood as a family of concepts (Rawls 1993) with somewhat different understandings of the rights and obligations involved in exercising political power. For sure, any liberal understanding of justified political power would probably need to be defended in the same way against the anarchist's claim that political power can never be justified: namely, as sketched in the preceding paragraph, by counter-claiming that individuals have rights and basic duties of justice to one another that cannot be met without forms of political power that themselves respect those rights and standards of justice. But, if that is so, the obligations we owe others to develop and comply with forms of political power capable of securing rights and justice are not, in the first instance, owed to governments or other power holders. Rather they are owed to other individuals and our co-citizens (Buchanan 2002). We only owe those obligations to power holders in so far as they derive from our obligations to other individuals. Likewise, power holders only have rights to exercise political power in ways that are contingent and bounded by the very obligations individuals and citizens owe one another.

In sum then, individual studies will need to break down broad concepts of empirical or normative legitimacy by differentiating and specifying what indicators, standards, rights or obligations they intend to investigate. In contrast, I now argue, building requires the opposite; namely, transcending and connecting empirical and normative understandings of legitimacy. There are limits to how far legitimacy can be observed empirically without understanding its normative force and value; and limits to how far political power can be justified normatively as a matter of right or obligation without making empirical assumptions about the circumstances in which that power is exercised.

Legitimacy cannot be reduced to empirical indicators, such as support. As, Rousseau (1973 [1762]: 250) pointed out long ago, legitimacy consists of a normative obligation that is only really tested when people are called upon to comply with policies and laws they do not support. Indeed, any attempt to avoid making assumptions of value – by assuming that legitimacy can just be an empirically researchable belief in legitimacy regardless of the normative source of that belief - will run into the same difficulty. Empirically researchable beliefs in legitimacy cannot be firm indicators if those beliefs are likely to evaporate quickly where they do not correspond to other beliefs about rights and values that justify political power. Indeed, that is precisely what can happen in a legitimacy crisis. Political systems that are otherwise taken for granted or hardly noticed can be exposed by crises to reasoned and critical reflection on whether their powers can be justified by values, rights or obligations.

Moreover, without conceptualising legitimacy normatively as rights and obligations that justify political power, we risk failing to understand legitimacy both as a value and as a practical quality of political systems. A liberal democratic understanding of legitimacy may be valued in and of itself as an historically improbable idea that there can actually be a form of political power that can be justified by its ability to help those over whom it is exercised meet values and obligations they can freely discuss, define and control for themselves as equals (Buchanan 2002). Indeed, the more power can be justified in that way, the more those over whom it is exercised will be internally motivated to comply. Legitimacy will then operate as a ‘coercion minimising device’ (Bourdieu 1994). That, in turn, has a huge practical benefit. Political systems which can concentrate on securing rights, values and justice or on providing public goods - rather than coercing people – are more likely to score well

on indicators of human development. All this may be especially important to the EU. Given that it has limited coercive resources of its own, the EU may have little other than legitimacy itself – its own legitimacy or that of its participating democracies - to ensure compliance with its policy or laws. That, in turn, may be good reason to expect the EU to experience any legitimacy crisis in distinctive ways.

What, though, of the difficulties of forming any normative understanding of legitimacy without making empirical assumptions? If legitimate political power helps individuals meet their own obligations it has, of its nature, both normative and empirical components. It depends, normatively on rights and obligations, and empirically on conditions for meeting those obligations. Consider Kant's dictum that 'ought implies can' for any practical political philosophy; (Weale 1999: 13), or, indeed, David Estlund's (2008: 63) argument that a 'normative theory can be as cynical or as utopian as one wishes.' In other words, what is an ideally legitimate form of political power and what is a legitimate form of political power under non-ideal conditions are both important questions. Combining that observation with others in this section, we need to be able to build concepts and theories of legitimacy from a mixture of assumptions about ideals, rights, values and empirical circumstances that are usually far from ideal.

That suggestion, however, is likely to be resisted by many as a confusion of fact and value that cannot possibly be scientific. However, the fact-value distinction (Putnam 2004) has been widely misunderstood. The only logical mistake that needs avoiding is any claim that conclusions of value can follow from assumptions of fact without at least one assumption of value. So long as they avoid that error, arguments of value can rest on any number of assumptions of fact. Indeed, they must contain at least one assumption of fact if things are not going to get really utopian! Moreover, empirical and normative claims are always found together (Quine 1951). Normative claims are needed to make empirical claims and *vice versa*. As Robert Brandom (2008: 15) puts it, to make empirical claims we also need to accept *obligations* to demonstrate that we have a *right* to make empirical claims *justifying* their *validity*. So, as all those italicised words suggest, we need to know how to use normative concepts before we can make empirical claims (ibid). Conversely, there are things we need to do empirically to define and develop normative concepts such as legitimacy. We need to commit to those standards and aim at their mutual understanding (Habermas 1986)

through our speech (Searle 2010) and behavior. Speech acts are facts. Committing to a standard for the legitimate exercise just through the act of saying 'I commit' is as much of an empirically ascertainable fact as it is a normative commitment.

References

- Applbaum, A. (2010) 'Legitimacy without the Duty to Obey', *Philosophy and Public Affairs* 38 (3): 215-239.
- Barker, R. (2003). 'Legitimacy, Legitimation and the European Union: What Crisis?' in P. Craig and R. Rawlings (eds) *Law and Administration in Europe. Essays in Honour of Carol Harlow*, Oxford: Oxford University Press.
- Beetham, D. (2013) *The Legitimation of Power*, Basingstoke: Palgrave.
- Bellamy, R. (forthcoming) *A Republican Europe of Sovereign States. Cosmopolitan Statism, Republican Intergovernmentalism and Democratic Reconnection of the EU*, Cambridge: Cambridge University Press.
- Bickerton, C. (2012) *European Integration. From Nation States to Member States*, Oxford: Oxford University Press.
- Blatter, J. and Haverland, M. (2012) *Designing Case Studies. Explanatory Approaches in Small-N Research*. Basingstoke: Palgrave Macmillan.
- Bohman, J. (2007) *Democracy Across Borders from Demos to Demoi*, Cambridge, MA: MIT Press.
- Boltanski, L. and Thévenot, L. (2006) *On Justification*, Princeton: Princeton University Press.
- Bourdieu, P (1994) 'Rethinking the State', *Sociological Theory*, 12(1):1-20.
- Brandom, R. (2008) *Between Saying and Doing. Towards an Analytic Pragmatism*, Oxford: Oxford University Press.
- Brouard, S., Costa, O., and König, T. (2012) 'Delors' Myth: the Scope and Impact of the Europeanization of European Law Production' in S. Brouard, O. Costa and T. König (eds) *The Europeanization of Domestic Legislatures. The Empirical Implications of the Delors Myth in Nine Countries*, New York: Springer: 1-20.
- Buchanan, A. (2002) 'Political Legitimacy and Democracy', *Ethics* 112 (4): 689-719.
- Buchanan, A. (2004) *Justice, Legitimacy and Self-Determination*, Oxford: Oxford University Press.
- Cheneval, F. and Schimmelfennig, F. (2013) 'The Case for Democracy in the European Union', *Journal of Common Market Studies*, 51(2): 334-350.

- Christiano, T. (2003) 'The Authority of Democracy', *Journal of Political Philosophy* 12 (3): 266-90.
- Cohen, J. (2012) *Globalization and Sovereignty. Rethinking Legality, Legitimacy and Constitutionalism*, Oxford: Oxford University Press.
- Dewey, J. (1927 [1954]) *The Public and its Problems*, Athens: Ohio University Press.
- Eriksen, E.-O. and Fossum, J.-E. (2012) *Europe's Challenge: reconstituting Europe or reconfiguring democracy?* London: Routledge: 14-38.
- Eriksen, E.-O. (2014) *The Normativity of the European Union*, Basingstoke: Palgrave Macmillan.
- Estlund, D. (2008) *Democratic Authority, a Philosophical Framework*, Princeton, NJ: Princeton University Press.
- European Commission. (2012) *Communication from the Commission to the EP and the Council, A Roadmap towards Banking Union*.
- Fabbrini, S. (2015). *Which European Union? Europe After the Euro Crisis*. Cambridge: Cambridge University Press.
- Forst, R. (2017) *Normativity and Power: Analyzing Social Orders of Justice*, Oxford: Oxford University Press.
- Genschel, P. and Jachtenfuchs, M. (eds) (2014) *Beyond the Regulatory Polity? The European Integration of Core State Powers*, Oxford: Oxford University Press.
- Habermas, J. (1973) *Legitimation Crisis*, Cambridge: Polity Press.
- Habermas, J. (1986) *The Theory of Communicative Action, Reason and the Rationalisation of Society*, Polity: Cambridge.
- Habermas, J. (1996) *Between Facts and Norms*, Cambridge: Polity.
- Habermas, J. (2001) *The Postnational Constellation, Studies in German Political Thought*, Cambridge MASS: MIT Press.
- Habermas, J. (2012) *The Crisis of the European Union, A Response*, Cambridge: Polity Press.
- Held, D. (1996) *Models of Democracy*, Cambridge: Polity.
- Hix, S. (1995) *The Political System of the European Union*, Basingstoke: Macmillan.

- Lindseth, P. (2010) *Power and Legitimacy: Reconciling Europe and the Nation State*, Oxford: Oxford University Press.
- Lord, C. (2015) 'Utopia or Dystopia? Towards a Normative Analysis of Differentiated Integration', *Journal of European Public Policy*, 22(6): 783-798.
- Lord, C. (2017) 'An Indirect Legitimacy Argument for a Directly Elected European Parliament', *European Journal of Political Research*, published on-line DOI 10.1111/1475-6765.12204.
- Lord, C. (2017c), 'How can Parliaments contribute to the Legitimacy of the European Semester?', *Parliamentary Affairs*, DOI: <https://doi.org/10.1093/pa/gsx017>.
- Mair, P. (2013), *Ruling The Void: The Hollowing of Western Democracy*, London: Verso.
- Miller, D. (2007) *National Responsibility and Global Justice*, Oxford: Oxford University Press.
- Nicolaïdis, K. (2013) 'The case for Demoicracy in the European Union', *Journal of Common Market Studies* 51(2): 351-69.
- Peter, F. (2017) 'Political Legitimacy', *The Stanford Encyclopedia of Philosophy*, Edward Zalta (ed.), [www://plato.stanford.edu/archives/sum2017/entries/legitimacy](http://plato.stanford.edu/archives/sum2017/entries/legitimacy).
- Putnam, H. (2004) *The Collapse of the Fact/Value Dichotomy and other Essays*, Harvard: Harvard University Press.
- Quine, W. (1951) 'Two Dogmas of Empiricism', *The Philosophical Review*, 60(1): 20-43.
- Rawls, J. (1971) *A Theory of Justice*, Cambridge MA: Harvard University Press.
- Rawls, J. (1993) *Political Liberalism*, New York, NY: Columbia University Press
- Rawls, J. (2003) *Justice as Fairness, A Restatement*, Harvard Mass: Belknap Press of University of Harvard Press.
- Rousseau, J.-J. (1973 [1762]) *The Social Contract or Principles of Political Right*, London: Everyman.
- Scharpf, F. (1999) *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.

- Scharpf, F. (2009) 'Legitimacy in the Multilevel European Polity', *European Political Science Review* 1 (2): 173-204
- Schmidt, V. (2012) 'Democracy and Legitimacy in the European Union' in E. Jones, A. Menon and S. Weatherill, *The Oxford Handbook of the European Union*, Oxford: Oxford University Press, pp. 661-675.
- Searle, J. (2010) *The Making of the Social World, The Structure of Human Civilization*, Oxford: Oxford University Press.
- Weale, A. (1999) *Democracy*, Basingstoke: Palgrave Macmillan.
- Weiler, J. (1997) 'Legitimacy and Democracy of EU Governance' in G. Edwards and A. Pijpers (eds) *The Politics of European Union Treaty Reform*, London: Pinter.
- Wessels, Wolfgang. 1997. 'A Dynamic Macropolitical View on Integration Processes.' *Journal of Common Market Studies* 35: (2), 267-99.
- White, J. and Ypi, L. (2016) *The Meaning of Partisanship*, Oxford: Oxford University Press.