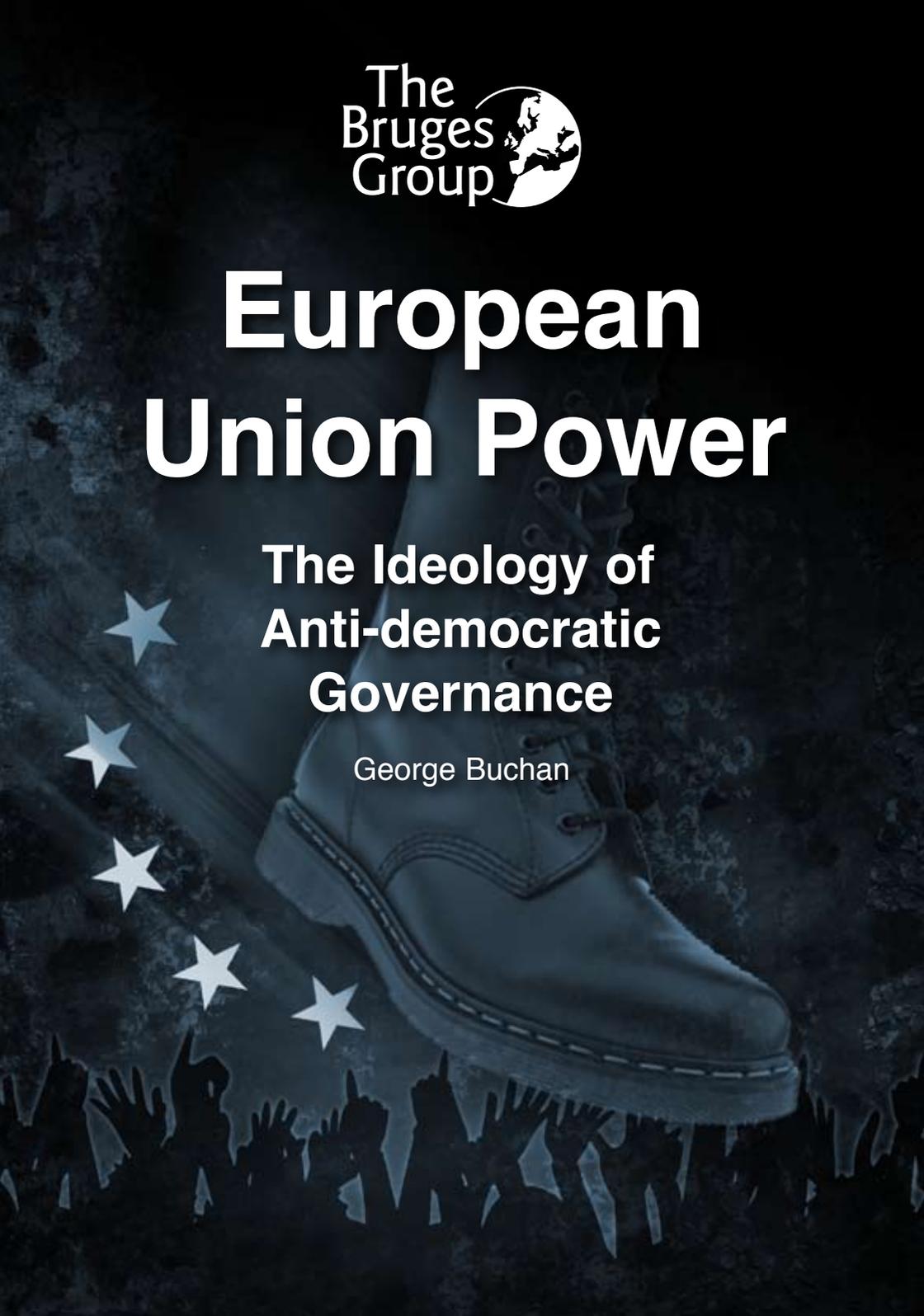


# European Union Power

**The Ideology of  
Anti-democratic  
Governance**

George Buchan



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# **European Union Power: The Ideology of Anti-democratic Governance**

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## **Introduction**

The institutions of the European Union (EU) label themselves democratic through emphasising the democratic attributes which are lightly sprinkled across the EU system. However, the actual structure and workings of this form of governance are very much undemocratic, and when this is combined with the nature of the 'common European interest' and the notion of political union, it becomes actively anti-democratic. This is because in going back to the fundamental principles, concepts and values which create democratic legitimacy, the EU's self-defined and self-marketed label of being democratically legitimate is not justified. Central to this assertion is the application of the old English sports proverb: it's the taking part that counts.

Therefore, part one of this paper examines what constitutes democratic legitimacy by going back to the roots of democratic governance, and by examining it in terms of the nature of power which precedes it. The differences between different theoretical models and forms of democratic governance are not covered because this paper focuses on the common threads from which they are all formed. Therefore in placing the structure and nature of the EU against this examination in part two, it becomes blatant as to how and why the EU does not deserve its self-branded characterization of democratically legitimate power and governance. Part three of this paper then takes the results of parts one and two and puts them onto the international stage, because there is an inherent link between the centralisation of internal power and the inevitability of its external projection.

## **Part One: The Democratic Milieu**

There is a general equation of democracy and freedom as one and the same. On the whole this is a fairly obvious and correct assumption, as it is democracy as a form of governance and power which creates the public and political freedoms and rights which creates this generic form and sense of freedom. However, whilst the freedoms of a population are directly linked to how democratic their governance is, in analysing the European Union, there must be a conceptual separation of democracy

in terms of governance and political freedom, and democracy in terms of the civil freedoms that democratic electorates enjoy. This conceptual separation must exist because the European Union and its member state citizens are not directly linked to each other; they are practically and pragmatically separated by means of the member-state government. In terms of the EU, because the citizen and their governance is intermediated by a third party (ironically being the member-state government itself), the traditional nature of democratic governance in Europe is changed because the European Union is a structure of political power existing and working above the level of the nation-state. Specifically, this is changed because the traditional direct nature of the political connection between the governed and the governing is short-circuited by the same intermediary, but also in that in working above the nation-state a default direct political connection has not been created by the EU, giving a taste of the form of governance that it embodies.

However, in returning to the public freedoms of EU member-state citizens, these member states are some of the freest states on the globe. A very readable and poignant study of this can be found at [freedomhouse.org](http://freedomhouse.org) in their grading of political and civil freedom by nation<sup>1</sup>. What all democratic states have in common, is in their domestic public arenas there is what I call (simply because I have not seen it framed like this by anyone else yet) the *free-market economics of democratic politics*<sup>2</sup>. This is simply an effective way to understand the nature of freedom in democracies by analogising it with its political cousin – the free market. This is the idea that people are only involved in democratic politics as much or as little as they freely choose to be (the double-edged sword of an unforced relationship), and that their opinions only go as far as they are marketable, and that there is a market for them<sup>3</sup>. Furthermore, it is the free interaction of all these different opinions available in the democratic political marketplace which regulates political outcomes and policies to generally be inline with overall democratic ideals, because the government is obliged to be reflective of its citizens' opinions and interests if it wants to remain in power. Therefore, what is key here is that there is an open public (and media-based, hence the media's label as the Fourth Estate) political marketplace within democracies in which citizens can express their political views absolutely and completely freely - this is the background environment to opinion-forming and free political activity. This is the fundamental environment in which democracy is

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1 [www.freedomhouse.org/template.cfm?page=552](http://www.freedomhouse.org/template.cfm?page=552)

2 [www.edinvillie.org/ReadingRoom/viewarticle.aspx?ArticleID=24](http://www.edinvillie.org/ReadingRoom/viewarticle.aspx?ArticleID=24)

3 The British National Party is a good political example of this whereby its values are pretty much unmarketable because they do not reflect British values. There is no market for them, and so they are kept on the margins of British politics where they ought to be.

able to flourish. Why this regulates political outcomes and democratic legislatures is because the government's interests are directly related to its citizens, principally because the primary governmental interest of holding power is inextricably tied to their public election. At its most basic premise, therefore, the fundamental interest of government to remain in power is directly related to its ability to generally reflect the interests of its citizens. If it does not, it will simply be voted out of power. This is the foundational pretext for democracy; a pretext which the EU does not have because, as will be seen in part two, its legislature is closed to the public yet is the ultimate arbiter of power.

In terms of the European Union, the fundamental environment that enables democracy to flourish - the democratic political marketplace - is all but non-existent, and is so for three reasons. Whilst jumping ahead slightly, explaining this sets the tone. Firstly, the political connection between the governed and the governing is diluted to such an extent that the legislature (the European Commission) has no link, interaction with, and is not accountable to, member-state citizens; hence the role of the member-state government as an intermediary because, as will be detailed in part two, the institution that creates and produces legislation is closed to the public. Because of this, there is no need or obligation for the legislature to work in the interests of, or be reflective of, its member-state citizens, and it is not structurally or ideologically set up to act in this way. Secondly, and related, when the source of political power is not the citizen, but a mix the member-state governments and independent EU bureaucratic interests, there is no reason or fundamental obligation to actually have a democratic political marketplace in which European Union progression and legislative direction is publicly discussed and debated, because, governance is an overwhelmingly closed practice. Thirdly, and also related, public discussion and debate of European political union has not yet been sparked enough to create the public interest for this debate to exist. The nature of anti-democratic law-making and governance has not yet been sparked because the member-state citizens are (therefore naturally) structurally and ideologically kept out of its creation<sup>4</sup>. When these three basic facets of EU governance are mixed into the premise of a democratic political marketplace, the marketplace itself becomes diluted at best.

However, in order to more fully understand how this works, the very foundations of democratic governance and the fundamental principles which create the political connection between the governed and the governing will now be brought back into

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4 The current mix of 'consumer politics' and political disengagement are helping to keep this public debate at a minimum – people have no reason to become interested in governance kept out of their reach when they are already disaffected with governance which is well within it.

focus. How and where power comes from is the absolute and unqualified heart of democracy, and the consequent labelling of any government and legislature as democratically legitimate. It is the unchangeable foundational principle that the citizen is the source of power and the source of the right to govern. This is the essence and spirit from which all forms and models of democracy flow.

### **The Nature of Democratic Power and Governance**

The source of power and therefore the source of the right to govern in a democracy is the citizen. This is impossible to overstate, because this is the very heart of democratic theory, practice and ideology. Because there is no other source from which democratic power and the subsequent right to govern originates, democratic power and governance itself is best characterised as the consensual outsourcing of power and control from the citizen to an elected assembly. However, precisely because government is then centralised, it naturally opens up a gap (of representation, accountability and interests) separating the citizens from their government as they are not, then, left to run their own affairs in absence of a higher level of control (which is anarchy). However, it is democracy which ideologically, theoretically and pragmatically leaves the smallest possible degree of separation between the citizen and the government because, at the most fundamental level, the right to govern is derived precisely from the citizen, and consequently, all notions of accountability, representation and (national) interests are also traced *directly* back to the citizen via a direct political connection.

The health of a democracy is therefore directly related to the extent of this gap – the closer a government is tied in principle and practice to its citizens, the more democratic it is. This is because accountability to the citizen and representation of their interests are inherently intertwined with the very right to govern, because the governmental interest of holding power is tied to the majority of citizens allowing it to happen. Therefore, the inherent ideological aim of democracy is that it is the citizens who chart the course of governmental direction, policy and political production<sup>5</sup>. Whilst as with any ideal this gets diluted in practice, it is nonetheless the underlining and guiding principle of governance, and therefore why the extent of dilution is directly related to the proximity to democratic principles and the extent of the ‘separative’ gap. What cyclically keeps this theory of governance strong is the democratic political marketplace: this makes government naturally accessible to the

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5 This is why hope and change are highly emotive and therefore constant and blatant concepts in election strategies; because it hits the electoral nerve of the citizen being the source of power, and furthermore is a key word which inserts empowerment into the collective electoral consciousness.

citizen and open to their influence. Therefore, in terms of legislative and decision-making processes and products, whilst they obviously must come from the top down (the nature of government), what is key is that the ideology and processes preceding such decision-making and legislative processes must come from the bottom-up - public consent is democratic legislation's means of production.

At best, the source of European Union power can be described as the citizen by extension of the member-state government. As will be seen in discussing the structure and nature of the European Union in part two, the citizen as the central reference point has been replaced by members of member-state governments and internal bureaucratic interests. However, democratic governance was never created for the democratic government to hand its power and right to govern over to *any other body*, and especially not to that of a closed independent legislature. This is absolutely central to the Westphalian model of the nation-state. Despite its simplicity, the right to govern coming directly from the citizen is not negotiable, nor open to interpretation - it is one of the few zero-sum issues of democratic politics. The EU's right to govern any amount of policy issues and areas above that of the member-state therefore requires a public mandate to do so which must come in the form of public referenda, otherwise by ratifying such powers, the member-state breaks its fundamental principle of governance, and furthermore breaks the original political connection between the governed and the governing by becoming an intermediary of power rather than its guarantor.

To clarify further, we must go back to fundamental concepts of democratic accountability and democratic representation, because when these are fused to the nature of democratic power and the right to govern outlined above, it creates the political connection between the governed and the governing, which is broken by pan-EU centralisation of power and therefore political union.

### **Democratic Accountability**

Because the source of power and the right to govern is the citizen in a democracy, governmental accountability is structurally and ideologically directed there. In its most basic and discernible form, this is the ability to remove a government from power through free elections. Therefore, if the government loses track of the interests of its citizens, it will practically lose their support, and therefore inevitably lose its right to govern. Democratic accountability accordingly recognises the active political nature of the citizen in the political decision-making and legislative process, particularly in government's use of, and interaction with, the democratic political marketplace.

Ideally, it uses this as a litmus test for the production of legislation. This is because the support of the people is the primary requirement for election, and therefore the right to govern is inherently intertwined with the ability to generally reflect and be in line with trends in public opinion and interests. Democratic accountability, then, acts as an explicit and direct part of the political connection between the governed and the governing because being accountable to the citizen is generically synonymous with working in their interests. Furthermore, it means these interests are projected from the people to the government via the democratic political marketplace, and government's obligatory interaction with it. This then produces an inherently bottom-up production process of what constitutes these interests in the first place. In short, if an electorate (including the very existence of the term) does not create the interests by which government directs itself, these interests are not reflective of the citizen, and decisions and legislation based upon them are not democratically legitimate because they avoid the underlying accountability process which makes them democratic.

As will be seen in part two, the European Commission is the institution which creates legislation. Because it is a closed structure (and therefore closed to the influence of public debate), the laws it produces has no structural means or ideological obligation by which to be accountable to its member-state citizens. In addition to this and in place of democratic accountability as the base for legislation, legislation is a production of recommendations of the internal policy agencies each with their predefined mission of looking at how to harmonise the laws of the member-states in their given policy remit. Therefore in terms of democratic accountability as outlined above, EU legislative procedures cannot be anything less than anti-democratic. Without accountability, such legislation cannot by default be representative.

### **Democratic Representation**

In order for democratic accountability to exist and for the general democratic milieu to be meaningful and responsive, representation must be a principle guiding factor, and focused squarely on the citizen. The enactment of representation is the pragmatic incarnation of the political connection between the governed and the governing, and so the underlying rationale of representation, therefore, is that democratic government works for and with its electorate.

In this fundamental expression, representation is a proclamation, alignment and promotion of the general trends which encompass varying values and interests held

by parts of the electorate – a constituency is full of constituents<sup>6</sup>. This is how the interests of the people being the interests of the government come to be essentially and pragmatically one in the same thing. Moreover, it is the pragmatic evidence by which to show that a government is working in the interests of its citizens. Therefore, in the absence of a publicly elected legislature, and a representative body (parliament) which cannot be integral to the very creation and formation of legislation (the product of power), then the legislature cannot be proven to be working in the interests of its citizens because there is no way to prove that they are being represented. Naturally therefore, because parliament is powerfully weak (excuse the oxymoron), democratic representation is also.

Therefore in terms of the EU, it is the separation of the legislative body, and indeed the very roots of EU creation and progression, from the citizens of member-states which makes the body itself, and the legislation it produces anti-democratic. This is further strengthened when the legislature is not always obliged to have parliamentary input. It is impossible to sprinkle a system of governance with democratic traits and then market its institutions and products as democratic. The European Parliament is weak, which by default makes the only connection to the people weak. In turn, this means that every other institution and their *raison d'être* are not based on the citizen being the source of power and the right to govern because the representative and accountable link which would provide for this does not exist. As this does not exist, it entirely changes the nature of the political connection between the governing and the governed.

### Summing Up: The Political Connection

Government cannot be democratic without a two-way relationship characterised by accountability to, and representation of, the citizen. As democracy gets its *raison d'être* from the citizen, government must be accessible to them, and *vice versa*, in order for their interests to be understood before they can then be promoted. Therefore government must have the underlying obligation (and desire) to engage its population because an electorate must pragmatically, structurally and ideologically back up any label of democratic governance. A democratic government that is created out of the reach of its constituents is a contradiction in terms.

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6 Because this naturally starts at the individual level, disagreement and marginalisation of views is also a natural part of politics – the end of Abraham Lincoln's immortal quote is not "... you can't please all the people all of the time" for no reason.

This is because political connection is essentially the sense, understanding and acknowledgement of an abstract yet direct and positive link which is mutually beneficial to both the electorate and the elected. It is a two-way relationship 'ideally' based on a sense of mutual worth and value, respect, attention, enquiry and sharing of information, beliefs and values. Whilst this naturally gets diluted in practice (as like any other ideal) this remains the product of the nature of democratic power and accountability, and its interaction with the democratic political marketplace. However, there must also be a practical and pragmatic incarnation of this relationship in order for the democratic system to have real value, which comes in the form of representation. Again, this springs from the central and fundamental concept that the source of power and the right to govern is the citizen, and is directly related to why accountability cannot rest within government itself; because the citizen must have the exclusive ability to decide (elect) the government (hence the name the 'electorate'). As the pragmatic outcome of power is legislation and law, in order to be democratic there must be a direct and active political connection between the citizen and the body that produces it. Legislation, therefore, must be a product of this democratic milieu, as this is the only way how legislation becomes a product of the interests of the citizenry as a whole. This is because within the melange of power and accountability comes interests, and if power and accountability cannot be traced back to the citizen, then there is no reason why the interests served by this form of government has any tie or incentive to inherently serve the interests of its citizens. Therefore, in order for any form of governance to be labelled democratic, it must be characterised by the above fundamental principles and components.

In case the above is described as an idealistic view of democracy, it is extremely important to note that it is so only in as far it is an explanation of the absolute fundamental principles from which all various forms of democracy in practice come from. If a form of government does not have all these pillars as its base ideology for structural governance, then it simply cannot be labelled democratic. Furthermore, in assuming the above description is too idealistic, it provides as evidence of how far away we have come from these principles, and goes a long way to explain political disengagement.

However, as this first part has outlined the principles and values upon which democratic governance is created, it can now be used as a template with which to analyse the nature and structure of European Union governance. Therefore part two will now further explain the anti-democratic nature of EU governance by doing precisely this.

## Part Two: The Structure and Nature of European Union Power

The first part of this paper organised the nature of democratic legitimacy by going back to the principles upon which it is founded, and asserted that without these key characteristics and their foundational values, governance cannot be labelled democratic. The root from which all forms of democracy originate is the concept that the citizen is the source of power and the source of the right to govern. Whilst there are many different forms of democratic governance, these subsequent principles cannot change because they are the product of their common underlying ideology. Therefore, if the ideological base is interfered with, mainly by breaking or diluting these principles, the consequent, fundamental and mandatory political connection between what therefore must be termed an 'electorate' and a compulsorily 'elected government' is likewise broken or made indirect. Then the subsequent form of governance democratically regresses at best, and is actively antidemocratic at worst. As tone lines voice with character, the citizen lines governance with democracy. The original democratic principles therefore serve as the template with which to analyse the self-styled and self-marketed EU governance as democratically legitimate. By analysing EU governance this way, any sense of 'democratic deficit' occurring by chance will be shown to be impossible.

However, when the EU is labelled anti-democratic, there is a common comparative reaction with communist or autocratic frameworks of government. In turn, this immediately clashes with the obvious free societies that we all live in, which is central to EU advocates' assertion that the EU is indeed democratic. Civil freedom encompasses all the physical, abstract and economic freedoms of expression in an individual, congregational and societal capacity, which is traditionally the responsibility of the nation-state as it remains its guarantor through the traditional Westphalian nation-state set-up (the result of defence and military capability). At its core, the freedoms we have in European democracies are protected by our nation-states and their military capabilities because the primary responsibility of the democratic nation-state is the protection and well-being of its citizens<sup>7</sup>. This is the corner-stone of the theory behind the democratic nation-state. However in relating this back to governance, civil freedom is the obvious side to democracy because it is essentially the rules of engagement and interaction between citizens themselves,

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7 This is why it is imperative firstly that the UK defence budget should be ring-fenced from budget cuts and our armed forces should be given the best possible equipment and care, and secondly why defence cannot be allowed to be outsourced and centralised in Brussels – as soon as the ability to defend yourself is compromised, so is everything else because your protection cannot be guaranteed. There is a growing trend within European populations, which is also promoted in Brussels for obvious political reasons, that defence is not really important anymore – the threats are all coming from far away places. This cavalier and complacent attitude to national security will have disastrous effects for our ability to defend ourselves when threats come to our own backyard, because a trivialisation of defence and defence expenditure is a trivialisation of the primary responsibility of the democratic nation-state.

and their government, (which become guaranteed as rights) by which we live on a pragmatic daily basis. This is why for example, freedom of speech, the media and the consequent ability to speak out against the government is seen as a synonym for democracy.

Therefore at first glance this anti-democratic label seems to be a contradiction in terms. But it is in the existence of EU power working above and independently to that of the member-state (and by default its citizens) which is the key to unlocking the nature of EU power, and also its inbuilt gravitational pull towards political union. At this point it is vitally important to note that due to its obligation to be protected, civil freedom is not something that can be embarked on by the EU as it does not yet have the centralised capacity or capability to defend it. However, despite the state remaining the guarantor of civil freedom, it is no longer the top tier of political power and therefore the link between the governed and the governing is short-circuited by the national government itself.

This is why civil freedom and political freedom can be separated within the framework of EU governance. Democratically however, this is virtually impossible because there is a traditional direct connection between government and the citizen. But, the EU works above national government, and furthermore, does so with an independent power-base and legislature<sup>8</sup>. National government then, ironically, becomes an intermediary (between the citizen and the EU), and the *only* elected body, the European Parliament, cannot regulate the legislature. Therefore, civil freedom is effectively answerable to one source (the nation-state), and political freedom answerable to another (the EU); the implication being that they are no longer intertwined by a common foundation in the citizen.

As civil freedom is focussed on the citizenry and the nature of their actions, political freedom is likewise focussed on government and nature of its actions. Therefore when the connection between civil and political freedom is diluted or broken (and as the citizen lines governance with democracy), governance takes on a different character as its focus begins to black out what surrounds it. The idea is akin to living alone in the city – there is no one else to whom you must take into account in your immediate actions, and it is entirely possible to be completely shut-off from everyone else, yet the surrounding millions exist and are part of city life. Therefore, in the introduction of a higher level of governance which is independent of the nation-state, the EU's power and right to govern becomes the citizen by extension of the state

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8 Legislation is taken to encompass EU laws, regulations and directives because these become legally binding and are sourced in Brussels. For this paper, the importance is less on how they anatomically differ, and more on the fact that they are legally binding and therefore constitute the pragmatic incarnation of power.

(hence its demotion to an intermediary), and changes the nature of political freedom because the direct connection between the governed and the governing is broken. It is political freedom, therefore, which is being decayed through European political union, because it changes the traditional nature of democracy by how it connects itself to the citizen. Indeed, the political structure of the European Union is not set up to introduce a separate and accompanying direct line.

## **The EU Structure**

The Lisbon Treaty, which lays the foundations for near, medium and long term EU power and governance, is currently allowing the Parliament more say in the creation of legislation, which in itself shows the undemocratic nature of what preceded it. Time will tell precisely how the Lisbon treaty will pragmatically manifest itself, but by looking to EU history<sup>9</sup>, it can be guaranteed that without outside intervention, as a form of governance it will continue to consolidate and expand its power, whilst lightly seasoning its structures and institutions with democratic attributes in order to continue to style and market itself as legitimate governance.

## **The European Parliament**

The only publicly elected institution is the European Parliament. In considering this point in relation to part one of this paper, these two sentences will form their own paragraph as a statement of their importance.

Whilst the European Parliament is elected by the citizens of member-states, it is important to qualify the quality of this democratic legitimacy from the bottom up. Historically speaking, the first elections to the European Parliament were in 1979 meaning that EU creation and progression until then was wholeheartedly anti-democratic because it was completely independent to, and closed off from, the very peoples it was set up to encompass. This is what sets the tone for discussing the nature of EU interests, and exemplifies its entirely different source of power and right to govern than that of the democratic nation-state. What helps qualify the nature of EU power is, barring the traditional electoral connection of the legislature to the citizen, that the only elected institution is not the initiator of legislation. This therefore means there is no pragmatic or ideological political connection between original drafting of legislative acts and member-state citizens.

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9 An excellent and extremely detailed account of this can be found in *The Great Deception: Can the European Union Survive*, by Christopher Booker and Richard North.

It is precisely because member-states cannot opt out of such legislative acts which exemplifies how EU power lies above and independent of the nation-state: the legislative acts it passes are legally and *pragmatically* more powerful than the sovereignty of member-state parliaments. In addition to parliamentary input into legislative creation being minimal at best, the nature and hierarchy of EU power is seen by the three ways in which the parliament is taken into account in passing such proposals, by the Commission. The first is co-decision whereby the Commission's proposals go to the Parliament and the Council to be looked at and amended if they see fit. What is key is that the parliament amends previously created legislative proposals, and this is the most common form of passing legislation. The second form is assent, whereby the parliament must give the ok to a proposal by simply accepting or rejecting it (giving a straight yes or no answer). The final form is by consultation. Consultation is exactly that – the Commission informs Parliament that it has created a new law with no need for parliamentary consent to it. Therefore, the degradation of the role of parliament in the EU political system is clear.

In then returning to the foundational democratic principle of the citizen being the source of power and right to govern, nothing could seem further away. This is firstly because there is no political tie between the creation of legislation and member-state citizens, and secondly because there is only one democratically-based institution, all other institutional powers cannot be sourced directly from the citizen by default. Therefore, there is no real democratic legitimacy – just a sprinkling. Furthermore, the concept of governmental parliamentary majority cannot exist, because the legislature exists separately to the parliament. Therefore, in stating that “parliament thus expresses the democratic will of the Union’s citizens (more than 490 million people) and represents their interests in discussions with the other EU institutions”<sup>10</sup>, we can see how the other institutions which are more powerful than the parliament have no inherent obligation to adhere to the interests of the 490 million citizens. The flipside of this is that representation of the citizens’ interests does not have the innate power itself to be an actively part of legislation creation, which runs in direct contradiction to the nature of democratic power.

As the parliament has the only link to the democratic political marketplace, it becomes important to frame this in terms of voter turn-out, as this is the pragmatic product of its interaction. The average voter turn-out for the 2009 European elections was 43%, which has steadily decreased from the first (1979) elections with a 61.99% turnout<sup>11</sup>. The International Institute for Democratic and Electoral

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10 [http://europa.eu/institutions/inst/parliament/index\\_en.htm](http://europa.eu/institutions/inst/parliament/index_en.htm)

11 [www.europarl.europa.eu/parliament/archive/elections2009/en/turnout\\_en.html](http://www.europarl.europa.eu/parliament/archive/elections2009/en/turnout_en.html)

Assistance (IDEA) found that voter turnout for national elections across all states that are now EU member-states has historically averaged at 83%<sup>12</sup>; 3% off double that of the last European Parliament turnout. This in itself raises serious questions about the EU's interaction with its citizens, which are answered in looking at its structure and interests, and is indicative of why the grass-roots democratic political marketplace needed to create a result to the contrary is not an inherent objective of a closed legislature.

Fundamentally however, the parliament's description of promoting the will of the Union's citizens avoids an actual public mandate for the power to do so in the first place, and by default the mandate for the EU system of governance. In going back to the fundamentals of democratic power, this acts in direct contradiction to them because the nation-state is not there to outsource the power invested in it by its people to any other body, and specifically so without their consent. However, coming from the nature of EU parliamentary power towards the legislature (the Commission), it does not have the legal power to control the legislature, only supervise it<sup>13</sup>. Furthermore, whilst individual Commissioners can be sacked by the parliament it has no say in who exactly are to be appointed in the first place; as this is the role of the Council of Ministers who have taken an oath to put the interests of the EU above their member-states<sup>14</sup>. This sums up the nature of EU parliamentary power – post fact.

## **The European Commission**

The product of power is legislation. Therefore, the nature of legislation is not just reflective of its power source, but is also a reflective of the governmental system in which it is produced, and its underlying values and principles. Therefore, the democratic legitimacy of legislation is directly related to the strength of the relationship between the legislature and the citizen.

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12 [www.idea.in/publications/voter\\_turnout\\_weurope/upload/Full\\_Reprot.pdf](http://www.idea.in/publications/voter_turnout_weurope/upload/Full_Reprot.pdf)

13 Hence its self-defined capacity as 'democratic supervision' as stated at [http://europa.eu/institutions/inst/parliament/index\\_en.htm](http://europa.eu/institutions/inst/parliament/index_en.htm)

14 In being appointed a European Commissioner, the inauguration includes the swearing of an oath to act in the interests of the European Union as a whole above that of the member-state. Therefore the prospective Commissioner becomes legally bound to demote the interests of the member-state and therefore its citizens and promote the institutional interests of the EU.

The Commissioners recite an oath to “swear to put the interests of the EU as a whole above the interests of their country.<sup>15</sup>” Therefore, this is underlying principle upon which the selection of European Commissioners must be based. This is inherently anti-democratic because it is the epitome of the outsourcing of power invested in a government by its citizens to another (unelected) body without the required public mandate to do so. Any power said to be democratically legitimate by relieving oneself of the primary responsibility towards one’s nation, and furthermore replacing that with responsibility to the nature of a structure like the EU, is a contradiction in terms.

The European Commission is where legislation is created, produced and motioned, and therefore is the embodiment of EU power. In terms of its power relationship with the Parliament, it is very much the bread-winner firstly because it actually produces legislative acts which the Parliament then post-fact may have the opportunity to give its input, and secondly because it dictates which of the three available parliamentary decision-making options outlined above will be used. The European Commission exists fairly independently from the parliament and has no direct link to member-state citizens because it is unelected. It is a second-hand connection which by definition defeats the purpose of democracy. In going back to the nature of democratic power, because it has no direct link to the peoples of Europe, it cannot legitimately be accountable or representative of them. This becomes a cyclical (and self-fulfilling) process because the preceding ideology and structures that would require it to be otherwise do not exist. In terms of legislative production, the European Commission receives recommendations from internal EU agencies and committees which all have the pre-defined primary aim of looking at how to harmonise member-state policies in their given areas. These recommendations form the bases for legislation because these are what the Commission use as research to create it. Therefore, the nature of EU interests, as referenced to throughout this paper, immediately replace those of the citizen because they are predefined by institutional bureaucracy.

In terms of how the Commission is created, as it is not publicly elected, Commissioners are selected by the Commission President (nominations from member-state governments), the list of which must be approved firstly by the Council and after that down to the Parliament<sup>16</sup>. At no point is the citizen included and parliament comes last in the hierarchy. The role of the Commission is to

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15 [www.europarl.org.uk](http://www.europarl.org.uk)

16 As stated at [http://ec.europa.eu/atwork/basicfacts/index\\_en.htm#process](http://ec.europa.eu/atwork/basicfacts/index_en.htm#process) and [http://europa.eu/institutions/inst/parliament/index\\_en.htm](http://europa.eu/institutions/inst/parliament/index_en.htm)

represent the “common European interest”<sup>17</sup>. Therefore the definition of ‘interest’ is the creation of institutional bureaucratic political ideals (and is therefore specifically drawn from EU treaties) as it does not have any fundamental base in the citizenry. Therefore, the common European interest has no democratic legitimacy because they cannot be traced back to the citizen, directly or otherwise. However, after legislation is passed in parliament, the European Court of Justice (ECJ) along with the Commission perform their fundamental roles to certify and enforce that all legislation passed is implemented uniformly across all member-states. Therefore, all legislation that is put to the parliament is purely a product of internal and predefined EU guidance and vision under the role of the Commission and the ECJ in the capacity of “guardian of the Treaties”<sup>18</sup>. If the Council decides that a member state is not implementing a legally binding EU legislative act, then the ECJ has the power to impose penalties on the member-state in question, which is the absolute and clearest example of independent supranational power.

A current example of this is the Commission currently looking into France’s expulsion of the Roma. If it is not satisfied that France is adhering to the 2004 EU Directive on the Freedom of Movement, and the Charter of Fundamental Rights, France will be fined via the ECJ.

However, as self-interest is the foundation of human nature, the point of national interests are to benefit the nation-state. In a democracy they are inherently intertwined with the benefit of its population. The EU as an independent body is no different – the point of “the common European interest” is to solely benefit the EU institutions and particularly so due to the overwhelmingly unelected nature of the power that they hold. Because there is no electoral link between legislative power and the member-state citizens, EU interests have no obligation to go any further than, or be representative of, anything other than the institution itself. This is an important point to bear in mind for part three of this paper in covering the EU in the international system. However, in order to round off the nature of EU political power, its third political institution, the Council of Ministers, is the next to be put against the democratic template of part one.

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17 [http://ec.europa.eu/atwork/basicfacts/index\\_en.htm#process](http://ec.europa.eu/atwork/basicfacts/index_en.htm#process)

18 [http://europa.eu/institutions/inst/comm/index\\_en.htm](http://europa.eu/institutions/inst/comm/index_en.htm)

## The Council of Ministers

The Council of Ministers is the final piece of the puzzle that is EU political power. The ministers in the Council act on behalf of their member-state by being 'empowered' to make decisions on behalf of their government. The democratic legitimacy as described by the EU is that they are then answerable to their member-state government<sup>19</sup>, despite their primary loyalty being to the EU and the "common European interest". Furthermore, most of the Council's responsibilities fall under areas in which "member-states have [already] decided to hand over their sovereignty and award decision-making powers to the EU institutions"<sup>20</sup>. In terms of democratic legitimacy then, the Council works in primary loyalty to the EU without a public mandate to do so, in areas that have been outsourced to Brussels without a public mandate to be outsourced. Nothing could be further from the nature of democratic governance of part one.

An example of this is EU Fishing quotas, or Total Allowable Catches (TACs) which are proposed by the Commission under the Common Fisheries Policy (CFP), and is also under the mandate of the Council's regulation on fixing fishing opportunities<sup>21</sup>. Due to this, national governments do not control the fishing in their own waters and other member-state fleets are allowed to fish foreign waters under the guiding principle that EU fishing grounds are a 'common resource'<sup>22</sup>. This is a case of the EU having direct material control over member-state territories. Having grown up in the North East of Scotland I have seen the disastrous effects of this anti-democratic principle on local economies through the years.

However, the general principle of the above three institutions of keeping the citizen directly out of the political process is indicative of the wider nature of EU power, and one does not need to dig deep to find this.

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19 [http://europa.eu/institutions/inst/council/index\\_en.htm](http://europa.eu/institutions/inst/council/index_en.htm)

20 *ibid*

21 [http://ec.europa.eu/fisheries/documentation/publications/cfp\\_factsheet/tacs\\_en.pdf](http://ec.europa.eu/fisheries/documentation/publications/cfp_factsheet/tacs_en.pdf)

22 A good overview of this can be found at [www.civitas.org/eufacts/FSPOL/AG5.htm](http://www.civitas.org/eufacts/FSPOL/AG5.htm)

## The Wider Nature of EU Power

In terms of financing, the EU has its “own resources”<sup>23</sup>, which are collected by member-states on behalf of the EU through national taxation systems and then transferred to the EU budget, i.e. indirect taxation. Interestingly, in terms of funding, it is in the description of the role of the ECJ where the EU refers to its funds as coming from the taxpayer whereby “The Court’s job is to check that funds, which come from the taxpayer...” are spent properly<sup>24</sup>. This is an explicit reference to taxation without representation, which is the very antithesis of democratic governance.

Therefore, EU funding runs in the same vein as its take on power and representation: the citizen by extension of the state. In terms of the figures, however, 12% of its budget comes from import duties on goods coming from outside the EU. 11% of its revenue comes from a harmonised amount collected straight from member-state VAT resource, which is a more explicit direct taxation as it is in fact a cut of VAT. However the big money, 76% of the budget, comes from a harmonised percentage of member-state Gross National Income (GNI), or funds from the taxpayer as stated above. Therefore, having at least 87% of its “own” resources coming from the pockets of member-state citizens, it is indirect taxation with the smallest level of representation available in any European state. This is fundamentally contradictory to democratic governance and legitimacy, and is a poignant means by which to characterise the nature of EU power.

This top-down approach to governance is also characterised by the EU Parliament offices throughout Europe. For example, the EU parliament office in Scotland is a classic information office. It “assists and advises the European Parliament and its United Kingdom office on matters relating to Scotland”, “aims to increase awareness of the parliament and the impact of its activities in Scotland, as well as “highlighting the work of the six Scottish Members of the European Parliament”<sup>25</sup>. There is no mention of two-way interaction with the Scottish population in its list of duties<sup>26</sup>, which are characterised in a political advisory capacity to various institutions and media outlets, and is naturally, unelected.

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23 A breakdown of this can be found on [http://ec.europa.eu/budget/budget\\_glance/where\\_from\\_en.htm](http://ec.europa.eu/budget/budget_glance/where_from_en.htm)

24 [http://europa.eu/institutions/inst/auditors/index\\_en.htm](http://europa.eu/institutions/inst/auditors/index_en.htm)

25 <http://www.europarl.org.uk/scotland>

26 [http://www.europarl.org.uk/sites/all/modules/tinymce/tinymce/jscripts/tiny\\_mce/plugins/filemanager/files/regional\\_posters/Scotland\\_MOD.pdf](http://www.europarl.org.uk/sites/all/modules/tinymce/tinymce/jscripts/tiny_mce/plugins/filemanager/files/regional_posters/Scotland_MOD.pdf)

If the state is the representation of the citizen, and the EU is a representation of the state, then logic goes that the EU is then a representation of the citizen. But this intentionally misses out the fundamental way by which to distinguish democratic governance from undemocratic governance – a direct line between the governed and the governing which enables representation of the citizen and their interests, and accountability to them due to the right to govern coming directly from them.

The three blatant examples of this style of governance and the nature of its guiding interests are the ratification of the Lisbon Treaty, the preceding European Constitution and the introduction of the euro, which are also the recent key milestones towards EU political union. With the ratification of the Lisbon Treaty, only people of Ireland have accepted the enactment of this by public mandate, after having voted against it a first time (which is exactly why there was a second). This in itself defies democratic logic and principles. No other peoples of any member-state have been afforded this opportunity – it has all been ratified by the heads of member-states; the incarnation of the very outsourcing of the power and right to govern which this paper has explained. Only four states had a public referendum on the previous Constitution: France and the Netherlands voting against, and Spain and Luxembourg voting for. Despite all 27 member states needing to ratify the first (and the consequent second by default), the Lisbon Treaty nonetheless came into effect on 1st December, 2009 across the EU. Thirdly, the euro. Only Denmark and Sweden held referenda on the Euro, both rejecting it (Denmark, France and Ireland having already held referenda on the preceding Maastricht Treaty). Nonetheless, 16 member states now have this as their national currency. These are classic examples of the surrendering of sovereignty without the public mandate to do so as accorded by the principles of democratic governance and legitimacy.

## Conclusions

What immediately sets the EU apart from the democratic tradition is firstly that its legislative body has no direct link to the member-state citizens as it is completely independent of any public election, which therefore means its ability to perform its duties and what these duties entail and the rationale behind them have absolutely no obligation to be tied to the member-state citizens, or be representative of their interests. Secondly (and subsequently), there is *only one* publicly elected institution, the parliament, which has very limited influence in the EU political process and system of governance as seen by its powers and duties outlined above. Thirdly (and therefore), due to the closed nature of all other institutions, and particularly due to the default situation whereby the remaining unelected institutions hold power,

the interests driving the power they hold cannot be structurally or ideologically traced back to the citizen because the citizen is not the source of power, or right to govern. Because the democratic bond is therefore broken at the beginning, the source of power and right to govern comes from independent decision-making by member-state governments, ministers who are legally obliged to demote national interests in preference of “the Common EU interest”, and unelected EU bureaucrats who hold power within the unelected power-holding institutions.

It is this nature of EU power which illustrates the nature of its underlying interests (particularly in terms of political union) as anti-democratic. Governmental interests are democratically legitimate when government and legislature are politically tied to an electorate. If this political tie does not exist and the electorate has no substantive capability, and furthermore legislation is produced by predefined goals of internal agencies set up by the legislature itself, interests become the desires of bureaucracy. What repels public interest even further is that the manifestation of EU interests are the treaties which have created EU power itself, and these treaties have been created behind closed doors. This suppresses public interest by default and therefore cannot democratically legitimate. This is why the simple passing or rejection of such legislation by an elected chamber becomes irrelevant to any characterisation of democratic legitimacy. The power-interests relationship in the EU can therefore be characterised as an in-house cyclical process of self-fulfilling prophecy. Finally, the democratic political marketplace has not yet been roused and, due to the nature of EU interests and closed governmental practice, the EU does not have the normative practice, theory or ideology that it must meaningfully interact (through accountability and representation) with its citizens anyway.

At best the link between the governed and the governing in the EU is characterised as the citizen by extension of the state, and at worst is characterised as actively anti-democratic. In characterising the citizen as an extension of the state, the citizen is relieved of their status as (primary) source of power and right to govern, which strangles democracy right at the outset. The nature of EU power is consequently an un-mandated outsourcing (or pooling of sovereignty) of the power invested by member-state electorates in their national governments. Therefore, the source of power is government itself, not the citizen, and the institutions which hold this power are overwhelmingly unelected, and therefore unaccountable and unrepresentative of the member-state citizens. The democratic normative behaviours do not exist because neither does the structure, theory or ideology that must precede it. Therefore, there is no comparable meaning of the word ‘electorate’ because the product of power, legislative creation and production, circumvents the citizen.

Therefore, any argument that the EU is a democratic form of governance (and particularly so if it is because the member states which make up are) misses the very point of democratic legitimacy, and more so has been shown to be inadequate. Bureaucracy cannot sprinkle features of democracy over a form of governance which circumvents its people and then market it as democratic, and even more so when the nation-state itself short-circuits the link between the governed and the governing. Metaphorically speaking, if the shepherd speaks well of the wolf, the sheep are in trouble.

### **Part Three: The EU in the International System**

In light of the nature of the EU structure and power examined in part two, it is important to briefly look at the EU in the international context because it is precisely this nature of internal centralisation which creates an inevitably need to consider its position on the international stage.

In terms of power politics, which the international system is based on, the EU can be characterised by hard power projection internally and soft power projection externally. Hard power can be played internally because there is no situational requirement for military capability, which is partly why the EU is not a natural political entity, and partly why it can be characterised as a post-modernist bubble in the international system. This also helps to explain why political and civil freedom can be separated as outlined in part two. However, the pooling of sovereignty and centralisation of power inherently creates the outward propensity for power projection and its structural and institutional requirements. Furthermore, as the nature of internal EU power is not democratically legitimate, neither is the power that it projects into the international system. It is at this point where the “common European interest” becomes important as this is what replaces national interests on the international stage. As national interests are the tools of power politics, the “common EU interest” becomes the basis for the EU’s international toolkit.

Without a consolidated internal power base, the interests of the body cannot be projected externally. This can be seen by the regular dysfunction, and customary inability of the United Nations Security Council (UNSC) to deal with hard security issues, and its resolutions tending to be left to the natural forces within the international system.

National interests are highly difficult to translate into a collective due to the differing nature of the interests themselves, and subsequent differences in threat perception, and it is this which characterises the nature of inter-governmental cooperation.

Therefore this is why the “common EU interest” favours pooled sovereignty over inter-governmental cooperation: because it pragmatically contradicts the propensity for political union and therefore the EU’s ability to (inevitably) project single unit power. The ability to play internal hardball is the prerequisite to project power. This is simply power politics at play.

In coming back to the nature of EU power, the capacity to do this is embodied in the Commission and Council. Both have a mandate to act first and foremost in the common European interest, which has no democratic political relationship to the interests of member-state citizens. The Council has the power to “conclude international agreements” between the EU and other states and NGOs in “broad areas such as trade, co-operation and development or they may deal with specific subjects such as textiles, fisheries, science and technology, transport etc”<sup>27</sup>. Therefore the European Council acts as the mouthpiece for the EU on the international stage. However, the Commission does likewise in its capacity to negotiate international agreements, and as stated on its website, “enables member states to speak with one voice in international forums such as the World Trade Organisation”<sup>28</sup>. The president of the Commission holds a seat at the G8, and through the Lisbon Treaty an EU seat at the United Nations is being searched for, and particularly so at the Security Council. The parliament, which is the closest to representing the people, has no place on the international stage. It is in this bilateral dealings and negotiations that the EU pragmatically takes on the role as a supranational state, because such work is, precisely, bilateral<sup>29</sup>.

This is an example of the EU taking on characteristics of a nation-state through its internal centralisation of power. However, the only (and vital) part of this which it misses is its own military capability, which is why it can only currently project limited soft power. However, the seeds of its own military capability are found in the Common Foreign and Security Policy (CFSP) and the nature of the Rapid Reaction Force, and the new EU diplomatic corps. These represent the three facets of power projection in their infancy: a political framework for foreign policy conceived within the foreign policy itself, a military capability and a diplomatic entity with which to represent its interests. It is important to remember here that foreign policy is the protection and projection of national interests in the international environment – it always has been and always will be. To paraphrase Richard Hass, foreign policy

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27 [http://europa.eu/institutions/inst/council/index\\_en.htm](http://europa.eu/institutions/inst/council/index_en.htm)

28 *ibid*

29 In line with this, also note the 12% of its budget coming from import duties from countries outside the EU as outlined in part two.

is not a form of therapy; it is all about protecting your national interests. Therefore, again we come back to the nature of EU interests, and therefore must have digested its comparison to the nature of democratic nation-state interests. Therefore, the job of national security and protection cannot be held by the EU as it does not have the capability to do this yet. Therefore it is still held by the nation-state, which is another reason as to why people have difficulty in understanding how the EU is a form of government – because it does not have the independent capability to be the physical guarantor of the protection and defence of its citizens. The primary objective of the nation-state is to protect its people, and this comes from the protection and defence of its national borders.

It is this lack of independent military capability which goes some way to explaining the EU as a post-modernist bubble in the international system. The very first practical objective of an EU military capability was not to protect its citizens; it was symbolic projection of power. In addition to this, EU bureaucracy is firmly rooted in the avoidance of conflict and so has a natural aversion to its use, hence the “ever closer union of the *peoples*”. This is characterised by political union coming around through the dissolving of sovereignty not through force but through politics itself. Therefore, in the progression of centralisation of power and dissolving (pooling) of national sovereignty, the EU has rejected the Clausewitzian trinity and notion that war is the continuation of politics by other means, because politics and war have no inherent need to be related. What makes it a post-modern bubble rather than a post-modern structure, then, is that the EU itself has created an internal situation which simply cannot be translated into the wider international system or context, yet it has taken on, and has always needed, characteristics of the traditional nation-state in its ability to look outwards.

Many parallels can easily be drawn between EU structures and these traditional facets and characteristics of a traditional nation-state. A state must have an autonomous legal structure with an autonomous legislative body and government, and sovereign borders (which the EU has by default through its member states) over which the legal and legislative bodies have legally binding authority. Furthermore, a nation-state must have an autonomous central bank with own currency used within these borders, and an organised police which enforces the internal rule of law. The EU has all these, perhaps bar Europol. However in addition to Europol, the wider nature of crime and justice is regulated by the Justice and Home Affairs committee in terms of dealing with cross-border crime and crime related security issues and the protection of EU external borders. Therefore the aim of the Justice and Home Affairs Council is to ‘create a single area of freedom, security and justice within the EU’s borders’, which, importantly, is backed up by the ECJ and the Commission.

This is why harmonisation is the EU's key to political union. However, what is absolutely essential for any of the above to exist in the first place is a common identity coupled with self-determination – this is the cement with which a nation-state is built. This is why the seeming triviality or novelty of EU cultural proposals and identity-related facets are by no means trivial or novel. In the creation of a single European identity, there is a creation of a cultural glue with which to reinforce and consolidate EU structural and political power, because this foundation has not yet been made concrete. This is exemplified by the nature of the democratic political marketplace outlined in parts one and two, and in the details of voter turn out to European Parliamentary elections.

Therefore on the international stage, the EU is a curious political beast as it is missing the cornerstones of statehood: a common identity (which is why Jacques Delors recently stated that Europe needs a soul) and military capability. Yet, due to its internal attrition and centralisation of political power, it naturally creates a place for itself on the global stage, and essentially before its time. However, the most troubling aspect of this, in showing the trail of EU power right from its very base and through its internal structures, is that the power projected out into the international system is without a direct political link to the 490 million people that it claims to speak for, and is therefore inherently anti-democratic.

## THE BRUGES GROUP

The Bruges Group is an independent all-party think tank. Set up in February 1989, its aim was to promote the idea of a less centralised European structure than that emerging in Brussels. Its inspiration was Margaret Thatcher's Bruges speech in September 1988, in which she remarked that "We have not successfully rolled back the frontiers of the state in Britain, only to see them re-imposed at a European level...". The Bruges Group has had a major effect on public opinion and forged links with Members of Parliament as well as with similarly minded groups in other countries. The Bruges Group spearheads the intellectual battle against the notion of "ever-closer Union" in Europe. Through its ground-breaking publications and wide-ranging discussions it will continue its fight against further integration and, above all, against British involvement in a single European state.

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