

Forthcoming in: European Political Science (2008)

ENVISIONING A LESS FRAGILE, MORE LIBERAL EUROPE¹

Vivien Schmidt

Department of International Relations, 152 Bay State Road, Boston MA 02215, USA.

vschmidt@bu.edu tel: +1 617 3530192; fax: +1 617 3539290

Abstract

Member-states' ideas and discourse about what the EU's 'liberal project' is or ought to be divide over whether they envision the EU project as mainly about market, community, rights, or global action. Can these be reconciled? Perhaps, but only if the EU itself is reconceptualized as a '*regional state*' made up of overlapping policy communities, and reformed to allow graduated membership. This could facilitate enlargement in the periphery plus closer cooperation for an inner core, with democracy enhanced by allowing all members institutional voice in the areas in which they participate.

Key words Democracy, European Union, liberalism, discourse

NEW WAYS OF ENVISIONING THE EUROPEAN UNION

For Paul Magnette, the fragility of liberal Europe is made evident by the triumphalist views of its (in particular French) detractors who, in the wake of the rejection of the Constitutional Treaty, portrayed the European Union (EU) as the product of an elite conspiracy intent on imposing a narrow (economically) 'liberal' project based on the law and the market which sweeps aside national political will and social commitments, leading to a 'crisis of meaning.' We can now add to this the views of Irish detractors in the wake of the rejection of the Lisbon Reform Treaty. Against such views, Paul Magnette offers an alternative historically-based narrative. The EU was born out of necessity rather than idealism, in response to the threat of decline and in the desire to restore competitiveness in an increasingly globalized world economy. It has developed incrementally, through political compromises among member-states with differing aspirations for Europe, as they sought to share sovereignty in order to rescue 'bruised nations,' not to jettison the state. The EU is no neo-liberal superstate sweeping everything in its wake and it has no plans to become a supranational 'democracy' replacing the national ones. Instead, as a set of institutions, the EU is a hybrid mix of supranationality and intergovernmentalism; as a global actor, it provides for a different, softer kind of 'civil power' in the world; and as a market, the EU is completing a process of European economic integration which has been going on for centuries. This integration, pushing freedom of movement of peoples as well as capital, goods, and services, brings about transformation not only in national economic policies but also in states and in national identities. And this transformation produces gains rather than losses in state capacity and national identity—even though it also generates on-going political tensions where EU policies are contested because they are seen to encroach on nationally-cherished principles. Such contestations, along with the more general ones related to member-states' differing aspirations for the EU, Magnette concludes, are part and parcel of the EU, and at the very crux of

its wide (politically) liberal project. This is because the EU's liberalism is embodied not only in its policies of market opening, its emphasis on rule of law, and its principles of civil, human, and social rights but also in the very pluralism of its principles—political, social, and economic.

Maurizio Ferrera, also concerned about the fragility of the EU's liberal project, begins where Paul Magnette leaves off. He develops an extensive discussion of the philosophical richness of liberalism in an effort to reinforce that project and to provide further legitimation for Magnette's narrative. As a historically developing political philosophy, liberalism is much more varied than most assume. It can be seen as a tree with a liberal trunk emphasizing rule of law and individual rights which has grown many branches. These include not only the branch focusing on the economic principles promoting free markets, private property, and competition, with offshoots into methodological presuppositions about individuals' interest-based motivation focused on *homo economicus*, which is linked most closely to the European integration project. Liberalism also grew branches that promote liberal democratic principles emphasizing citizen participation, representation, and equality (through J. S. Mill) and that accommodate the social solidarity and social justice concerns of today's welfare states (through John Rawls). The problem for the EU, as Ferrera then goes on to note, is that its liberalism is multilevel, split between the economically liberal ideas attached to the EU project and the politically and socially liberal ideas at the basis of national projects. The multilevel nature of the EU has put the supranational level at a disadvantage by comparison with the national, as the EU economic project has increasingly come to be seen as in competition with rather than as complementary to the national political and social project. This not only undervalues the EU project, it also makes it appear to be on a collision course with the national project. By suggesting that a deeper and broader reading of liberalism be added to Magnette's narrative restatement of the origins and development of the EU, Ferrera seeks to provide the philosophical underpinnings for a less fragile, more liberal view of the EU project. He concludes with a plea for a less technical, more imaginative language of liberalism with which to speak of a new liberal Europe which safeguards rights by controlling and limiting power at all levels, promotes political citizenship and representation at the EU level, and reinforces social welfare as it improves individuals' 'life chances' at the national level.

This article, equally concerned with the fragility of the EU's liberal project, begins where the two previous authors leave off. While Paul Magnette developed a historical narrative about what the EU is as a liberal project and Maurizio Ferrera added further philosophical grounding for the EU's liberal project to that narrative, I address the question of how to build upon such a philosophically-grounded historical narrative in order to construct a more prospective set of ideas and discourse about the EU's liberal project from now into the future. This requires two further strands of argumentation. The first is about how the member-states actually conceive of the EU's liberal project, that is, their ideas and discourse about what the EU is and ought to be. Here, I suggest that the member-states may adhere to one or more of four different visions for the EU, which divide over whether the EU project is primarily about market, community, rights, or global action. The second is about how and whether the EU is able to reconcile these differing visions, which brings us back to the question of how to envision what the EU is and what it may become as a liberal project. Here, I respond to both Paul Magnette's call for a pluralism of principles embedded in the EU's liberal project and Maurizio Ferrera's call for greater imagination in the liberal language of the EU by proposing a new set of ideas and discourse about the EU that could serve to redefine its liberal project for the future while accommodating all four visions of Europe. By reconceptualizing the EU as a '*regional state*' made up of

overlapping policy communities, with the single market, democracy, and respect for human rights as the underlying unifiers, membership can otherwise be seen as a matter of degree rather than all or nothing. This makes room for all four visions of the EU: some member-states can belong mainly to the market, or also participate in global action, while others may move toward deeper communities of values in one or another range of policy areas. The EU is already in large measure a regional state, just as it is already a pluralist liberal project. It just doesn't recognize this as yet.

FOUR VISIONS OF WHAT THE EU IS AND OUGHT TO BE

The member-states have very different visions of what the EU should be institutionally, how it should regulate the economy, how far it should enlarge in terms of territory, and how it should act in the world. These tend to be captured by European leaders' discourses, which can be loosely divided into four very different visions of the EU (see Schmidt 2009): a pragmatic discourse about the EU as a borderless problem-solving entity ensuring free markets and regional security; a normative discourse about the EU as a bordered values-based community; a principled discourse about the EU as a border-free, rights-based post-national union (following Sjursen, 2007); and a strategic discourse about the EU as global actor doing international relations differently (following Howorth, 2007).

The discourse focused on the EU as problem-solving entity tends to be pragmatic, with membership seen as a question of efficiency and utility, and often linked to arguments about extending the free market or, more recently, to reinforcing security. It tends to envisage the EU as optimally without borders, opening to successive countries when and if they meet the criteria of membership, thereby expanding free markets as well as ensuring regional security. Thus, enlargement to Turkey, the Ukraine, Georgia, and more would be welcome. This is the view stereotypically ascribed to the UK, but also to the member-states of recent enlargements, in particular the Central and Eastern European countries (CEECs) as well as to some extent the Scandinavian countries. Leaders in all member-states, however, use at least the problem-solving free market elements of this discourse at different times to some extent, and the UK among others in any case never uses this kind of discourse exclusively.

For the French detractors of the EU mentioned by Paul Magnette, as well as many on the left across member-states, this pragmatic vision of the EU as borderless free market is anathema, is associated primarily with the UK, and conjures up what they are most afraid of, an EU that is an engine of soul-less economic liberalism (Schmidt, 2007). On top of this, many Continental Europeans on the right as much as the left see the argument for no fixed borders and unending enlargement as a cynical ploy by the British to destroy the EU as a values-based community and/or future political union.

The discourse focused on the EU as a values-based community has little to do with pragmatic interests about markets or security, and instead derives from ethical and moral commitments that assume a specific kind of community held together by feelings of solidarity or 'we-feeling.' Such solidarity can be generated by common action, as in the EU's building a community of peace and prosperity, of tolerance and mutual respect, but also by identity, as when the 'we-feeling' is seen as resulting from a common history, fought through civil wars, or even religious tradition (Sjursen, 2007). This normative discourse tends to justify actions in terms of the common good, and allows for uneven distribution of the costs and benefits of membership—as in the case of Germany footing a large amount of the bill for European

integration. It is also connected to projects focused on making of the EU a ‘political union,’ as opposed to only a free market. It therefore tends to envisage the borders of the EU as stopping before Turkey—and excluding the Ukraine and Georgia as well. Limits to enlargement may be supported either because such countries are not seen to fit the notion of a values-based community or because ‘deepening’ Europe, creating a ‘political Europe,’ is assumed to be only possible within the confines of 27, or 33/34 at most (whenever the countries of the Balkans are ready). This kind of discourse has stereotypically been attributed to Germany, but also to France and Austria.

For the British in particular, this normative discourse of a values-based community and/or political union is tantamount to declaring in favour of a superstate. They worry, moreover, that it will stop enlargement, while too much deepening will produce too much juridical rigidity, therefore also negatively affecting the free market (Schmidt, 2006b). For others, however, such as Poland under the Kazynski twins, the problem may be that the ‘wrong’ values may be emphasized in this values-based community.

The discourse focused on a rights-based post-national union evokes legally entrenched fundamental human rights and democratic procedures rather than feelings derived from culture or history. This principled discourse, then, is all about the constitutional order of the EU and its universalistic commitment to human rights, justice, and democracy. It tends to be supported by ‘liberal’ or ‘cosmopolitan’ elites across Europe as well as by European Union level officials, and is exemplified by the arguments of Habermas (2001) and Beck and Grande (2007). The EU Commission discourse of accession has been squarely located here, in the emphasis on conditionality, and letting countries in only once they have democratized as well as liberalized sufficiently, with respect for human rights the primary issue. This began with the Mediterranean countries and then the CEECs, and thus it could similarly be applied to Turkey, depending upon Turkish fulfillment of the conditions for membership in terms of democratization and respect of human rights. Many supporters of enlargement, including those in the UK, legitimate the ‘no borders’ argument not so much on grounds of its pragmatic utility and efficiency as of the rights-based post-national union. They fear that setting borders will in fact destroy what the EU has done best, in enlargement after enlargement, which has been to ensure the democratization of its ever-expanding borders through its extremely strong ‘power of attraction’ (Leonard, 2005).

Finally, the discourse focused on the EU as global actor is all about the EU’s role in the world, and how it may further its strategic interests. These interests, however, need not necessarily be defined only in terms of the pragmatic, utility-maximizing entity that promotes free trade or regional security. They may just as easily be defined in terms of the norms of an EU values-based community or of the commitments to human rights and democratization of an EU rights-based post-national union. This vision of the EU may be just as much about bringing the CEECs in to the EU to stabilize its borders as about the EU exercising its ‘civilian power’ (Telò, 2007) or its ‘normative power’ (Manners, 2002; Laïdi, 2008). The humanitarian discourse about the EU as a global actor is all about its doing international relations differently—in particular by contrast with ‘sovereign’ nation-states like the US—by engaging the world through multilateralism, by emphasizing peace-keeping and the Petersburg tasks, by promoting democracy through conditionality and the EU’s power of attraction in its neighborhood, and by linking trade more generally to conditionality and the respect for human rights. In terms of the EU’s active engagement with the rest of the world, moreover, this discourse is for the most part focused on humanitarian intervention and nation-building, and emphasizes the gradual move to a post-Westphalian order based on the rights of individuals as much as the rights of states

(Howorth, 2007). Thus, it is primarily about creating a values-based community on global humanitarian intervention in a post-national, rights-based order. As Tony Blair said in his April 1999 Chicago speech, "...through humanitarian intervention, interests and values become inextricably intertwined."

RECONCILING VISIONS?

Although these visions developed separately over time, they have increasingly been coming together in national and EU leaders' speeches about what the EU is. This is appropriate, since it reflects the reality of the EU, which is already much more than a market, with values, rights, and international presence. In their speeches, despite continued divisions, in particular between their positions on the free market vision and the values community vision, leaders all pay homage to the human rights vision while they have increasingly shifted their focus onto the fourth global action vision of the EU. The British and French discourses are particularly illustrative of the differences.

Despite the fact that British leaders have in mind primarily a borderless problem-solving free market when they speak of Europe, they have increasingly referred to the EU's common values, its importance for human rights, and its role as a global actor. This was most evident in Prime Minister Blair's rousing speech to the European parliament subsequent to the rejection of the Constitutional Treaty in France and the Netherlands (23 June, 2005), when he insisted that the EU was a 'union of values, of solidarity between nations and people, of not just a common market in which we trade but a common political space in which we live as citizens... I believe in Europe as a political project. I believe in Europe with a strong and caring social dimension. I would never accept a Europe that was simply an economic market.' Moreover recently, although Prime Minister Brown has spoken little about the EU, his foreign secretary, David Miliband claimed, in a speech at the College of Europe in Bruges (15 November, 2007), that he sought to wrest the EU from the 'demons' of Euroskepticism and the chimera of the 'superstate' when he called the EU a 'model regional power' notable not only for its 'openness' (as a free market) but also for its 'triumph of shared values' which, he went on to suggest, made it ideally placed to share its values even more widely, with no end to potential enlargement, which in turn would only enhance the EU's role as global strategic actor focused on international law and human rights, engaged in humanitarian intervention and environmental leadership.

Most recently, French leaders have similarly been mixing the visions, albeit with a different spin. Although they continue to have in mind a bordered values-based community when they speak of Europe, they accept that the EU is a free market open to globalization with a major role to play as a global actor. Once elected president, Nicolas Sarkozy in a speech to the European Parliament (in Strasbourg, 2 July 2007) promised that France was back in Europe, to promote a 'political Europe' defined by what it does, which is about 'projects' rather than 'process.' Moreover, he reiterated declarations made during his election campaign: that the borders of the EU were not infinite and that they stopped before Turkey; that the EU was not a future nation-state and certainly not a superstate but rather a 'Europe of nations exercising their sovereignty in common and decided to stay themselves.' Moreover, by calling Europe 'a project of civilization' as opposed to 'just procedure,' he suggested that it was to preserve its values-based and rights-supporting heritage involving centuries of civilization and of European humanism. As a global actor doing international relations differently, moreover, the EU was to do all good things regarding defending itself against terrorisms, mastering immigration, engaging

in projects focused on energy, space, civilian protection, judicial cooperation, and a ‘Mediterranean Union.’ But it would not promote ‘pure competition which banishes all voluntarist politics’ because Europe ‘refuses globalization without rules’ and ‘opens itself to globalization and free trade but only in reciprocity.’

Significant differences remain in British and French visions, then, but speaking of the EU as a global strategic actor seems to sing from a very similar hymn book. This can be generalized across the EU. Of late political leaders across Europe have sought to reinsert some dynamism into the EU since the calm after the Constitutional Treaty storm by speaking of the EU as a global strategic actor. The EU is now all about ‘projects’ rather than ‘process,’ involving concrete proposals for remedying world problems by fighting climate change and protecting the environment, creating a common foreign policy that speaks with one voice and a security policy that provides an effective response to terrorism and failed states in the neighborhood, working on poverty in Africa and the world, dealing with the challenges of globalization, working out a common immigration policy, and more. Although there are certainly differences among leaders on how to solve these problems—in particular on whether to try to regulate global forces or not—there is at least agreement that these are the problems, and a willingness to sit down at the table to deliberate about them. Moreover, because for the time being the enlargements to Turkey, the Ukraine, and Georgia are still years away, and depend upon these countries’ ability to meet the requirements of conditionality related to the Copenhagen criteria—democracy, open economy, *acquis communautaires*, and rule of law—the issues of borders is moot. And the enlargement debates, so divisive in the run up to the Constitutional Treaty, have therefore been conveniently taken off the table by all and sundry.

One question remains: is it possible to reconcile these four different visions of Europe with regard to the future development of the EU? Or, if we cannot reconcile them, can we at least conceptualize the EU in ways that would allow for the co-existence of different visions of Europe—borderless problem-solving entity, bordered values-based community, border-free rights-based post-nation union, and global strategic actor—all at the same time? Can we maintain a sense of the ‘we-feeling’ of values-based community without giving up on the rights-based post-national union? Can we at the same time meet the needs of the utility-maximizing problem-solving discourse linked to trade and security? And can these three seemingly conflicting visions fit with having an effective EU global actor doing international relations differently?

There may be one way: if we think about the EU in just the ways that Paul Margette and Maurizio Ferrera suggest. The liberalism in the EU’s more liberal project is one that should by definition be able to accommodate a pluralism of principles, which are embedded in the different visions of what the EU is and can be. All four visions, to begin with, fit the definition of the EU’s more liberal project, as defined by Ferrera. The first market-based vision is more narrowly focused on the economic branch of liberalism; the second values-based vision combines the liberal democracy and social justice branches; the third rights-based vision also grows out of these two branches. And the fourth? This is the liberalism of the 21st century, represented by action in the world to promote liberal values and ‘life chances.’ But how can we conceptualize this concretely in terms of what the EU is and will be? By adding to Paul Margette’s discussion of how the EU has come to be what it is with a discussion of what the EU is and where it is going.

THE EU AS 'REGIONAL STATE'

For Magnette, the EU is a mix of supranational and intergovernmental decision-making, ensuring that it will never be a superstate but also conferring on it all sorts of state-like qualities.

Moreover, while the EU is definitely an economic market place, it also involves a lot of politics, just not the politics of a nation-state. It has transformed the states of its members as well as the identities of their citizens, and a lot more. The only thing this conceptualization lacks is a name.

My name for it is '*regional state*' (see Schmidt, 2004, 2006a). I call it a region because of its territorial reach, from the UK through Central and Eastern Europe, and possibly beyond. I call it a state to emphasize the state-like qualities of its actions, whether these are the result of supranational decisions in areas such as competition policy, monetary policy, and European Court of Justice (ECJ) rulings, intergovernmental decisions in foreign and security policy, joint-decisions in more everyday policies involving the single market and environmental policy, or even the 'soft law' of the Open Method of Coordination in employment and social policy. But I mainly use the term to highlight how different the EU is from that to which it is most often compared. As Magnette and just about everyone else has insisted, the EU is not a future nation-state, nor a nation-state *manqué*. Rather, it is the first of the 'regional states,' to be joined over time by other regional unions of nation-states like Mercosur, Asia-Pacific Economic Cooperation (APEC) or its successor, the African Union, possibly even the North American Free Trade Association (NAFTA).

As a regional state, the EU's sovereignty is shared with its constituent member-states and is contingent both on external recognition by other sovereign nations and on internal acceptance by its members, policy area by policy area. Moreover, far from having a monopoly on the use of force, as in the classic definition of a state, the EU depends upon its member-states for coercive power, whether national armies reorganized into European battle groups for rapid reaction outside the EU, national police and special forces drafted into action within the boundaries of the EU to fight crime and terrorism, national bureaucracies prompted to implement transposed EU directives, and national judges primed to administer and enforce EU law. In addition, the EU will not and cannot substitute itself for the representative democracy of the kind found at the national level, as Magnette reminds us, given the lack of a collective will or 'we-feeling.' The EU is more a 'government of governments,' in Fritz Scharpf's (2007) words, and would lose in governing effectiveness if it were to have the kind of politicization present in national democracies. But this lack of politics at the EU level does have a number of deleterious effects (Mair, 2006). In particular, the *policy without politics* at the EU level leads to a *politics without policy* at the national level, as more and more policies are decided at the EU level while politics goes on primarily at the national. The danger here is that citizens will feel increasingly disenfranchised because unable to speak to EU policy decisions directly, and may therefore express their frustration with this by saying no in Treaty referenda, whatever the question, as they did to the 2005 Constitutional Treaty in France and the Netherlands (Schmidt 2006a, 2007), and as they have done in the 2008 Irish referendum on the Lisbon Treaty.

Given all of these characteristics, anti-federalists at least need not worry, the EU is not nor will it become a 'superstate.' Institutionally, as a highly compound polity in which governing activity is dispersed among multiple authorities at multiple levels in multiple ways (Schmidt, 2006a), it is extremely weak, suffers from a 'joint-decision trap' among other limits to effective governing (Scharpf 1988; 1999), and at its best resembles the compound system of the USA,

stripped of its other attributes of nation-state power (see Fabbrini, 2007). This is not to say, however, that the EU does not have strong superstate-like powers in certain areas, or that the resulting decisions are unproblematic. Much the contrary, since the EU's supranational powers as a 'regulatory state' (Majone, 1998) may exceed those of nation-states, given the lack of countervailing 'political' power to reign in the regulatory. These supranational powers have been contested recently in areas like the European Central Bank's (ECB) monetary policies, as countries like France and Italy today (but Germany a few years ago) criticize the ECB's inflation-focused, tight money policies. They have been a matter of concern in the ECJ decisions in which the upholding of market-based rights of free movement are seen to undermine national education and health systems by imposing undue costs—e.g., Austria's resistance to the voiding of its admission restrictions on German medical students, Luxemburg's concerns about reimbursement for medical products purchased in Belgium in the eyeglasses case; Britain's worries about reimbursement for medical services provided in France in the hip-replacement case. And they have also raised serious problems in ECJ decisions in which the defense of freedom of movement jeopardizes national industrial relations systems with autonomous bargaining by limiting social rights such as the right to strike—e.g., the Scandinavian countries' objections to the decisions in the cases of Viking and Laval (see Reich, 2008).

Another defining characteristic of the regional state is the variability of its boundaries. Whereas nation-states have a certain finality as a result of (notionally) fixed boundaries, the EU's regional state has, for the moment at least, little finality, given that its borders have been continually shifting. Will it stop at the Balkans? Turkey? Georgia and the Ukraine? Continue through to Vladivostok? Add the other side of the Mediterranean? The variability of the EU's boundaries needs to be understood, however, not just in terms of territory but also in terms of policy, in areas other than those related to the Single Market. Schengen borders do not encompass the UK and Ireland or Bulgaria and Romania but include non-members like Iceland, Norway, and most recently Switzerland. Denmark is not a member of the European Security and Defence Policy but all members can opt in or out of missions. The eurozone encompasses 15 of the EU 27, with some member-states outsiders with official opt-outs (i.e., the UK and Denmark), others only temporary outsiders (i.e., the CEECs with the exception of Slovenia and soon Slovakia). Freedom of movement of workers, moreover, excludes Romania and Bulgaria for the next few years, and also the 2004 accession CEECs for a bit longer, except for travel to the UK, Sweden, and Ireland. Equally importantly, boundaries are eroding as a result of the process of nation-state boundary 'de-differentiation' spurred by EU policy integration (Bartolini, 2005) not only in areas designated by the treaties but also in areas where the EU was explicitly left out of the treaties, as in the case of the welfare state (Ferrera, 2005).

Within the EU, such boundary variability is likely to increase if and when the Lisbon Reform Treaty goes into effect, through 'permanent structured cooperation' in the defence and security policy arena and 'enhanced cooperation' in all others. 'Permanent structured cooperation' will allow for the greatest variability, since it enables any number of EU member-states to agree to deeper integration of their military capabilities and engage in joint military operations subject, of course, to their obligations under the various EU and Nato Treaties. 'Enhanced cooperation' as it is currently conceived is a less promising vehicle for variability, since it requires at least nine participant member-states, with authorization by the Council to be 'a last resort' decision when the Union as a whole cannot attain those same objectives within a reasonable period (Treaty of Lisbon, 2007/C 306/22/2). Nonetheless, enhanced cooperation could produce some important advances in the eurozone, enabling nine or more of its members

to go ahead with further harmonization in fiscal policies despite opposition from some member-states inside (e.g., Luxemburg, Ireland) and outside the eurozone (e.g., the UK). Immigration policy is another potential area. The attempt to come up with a common immigration policy is likely to produce a lowest common denominator solution for all EU members, given the differences among countries on immigration, asylum, and citizenship policies. But here more specialized ‘immigration zones’ could be implemented as part of enhanced cooperation, say, between continental and Nordic Europe, the CEECs, and/or even the Mediterranean countries. It would be more difficult but not inconceivable for such ‘deepening’ also to occur in pensions policies or health care systems for similar kinds of welfare states—say, those relying on high-quality public services, if the Scandinavian social-democratic welfare states teamed up with France—but only if the threshold number of countries were to be lowered through a future treaty negotiation. The first instance of enhanced cooperation under the ECM (enhanced cooperation mechanism) of the Nice Treaty was launched in July 2008 by eight EU member-states on the issue of divorce laws, in response to frustration with the obstruction of liberal countries like Sweden and conservative countries like Malta (which does not recognize divorce). To succeed, it will need the European Commission’s agreement and a qualified majority of all 27 members.

On the periphery of the EU, the concept of boundary variability in a ‘regional state’ could help us out of the clash of visions between those who desire to close the borders in view of deeper integration in a values-based community and those who wish to keep them open either to maintain the EU’s democratizing rights-based power of attraction or its free-market problem-solving ability. If membership were to come to be thought of in terms of bordering countries’ participation in particular EU policy communities, as a question of ‘in which areas’ or ‘out of which areas’ instead of an all or nothing proposition, boundary variability could facilitate the membership process at a time when this has become a major source of division among member-states.

Membership in the EU’s regional state could come to be seen as a gradual process of accession, policy area by policy area, once certain initial conditions were met related to democratic practices, respect for human rights, and internal market reforms. This means, in effect, that states entering the Union would have to accept as much of the established mix of visions as do the current member-states, including community values related to democratic practices, rights-based post-national union related to human rights, and problem-solving free market.

For Turkey, for example, over a period of, say, ten or fifteen years, this would primarily mean membership in the Single Market and European Security and Defence Policy (in which it already participates), by which time it could be seen as a perfectly acceptable partner even to Austria and France, having been socialized into the consensus-building democratic decision-making process of EU institutions. This would help avoid the ‘big bang’ of membership (or rejection) in fifteen or twenty years, and the likelihood that Turkey would become completely turned off even before this by the non-democratic, hard-bargaining accession process, the possibility of veto, the ever-growing number of *acquis communautaires* negotiated without it, and the fact that its workers would in any case be excluded from the ‘freedom of movement’ protections of the Single Market.

Some might respond that setting up this kind of partial membership would not be very attractive. For countries in the EU’s periphery, why try to meet the criteria demanding significant democracy and market opening for a partial membership when neighborhood policy allows entry into the European market with criteria that are more exhortatory than real with regard to

democratization? Similarly, for countries like Norway, Iceland, or Switzerland that are already part of European Free Trade Association (EFTA) or the European Economic Association (EEA), and already participate in the Single Market in myriad ways, where is the value-added? The value-added, the attractiveness, is in a further, and necessary, privilege of membership: institutional participation, with voice and vote on all issues in the policy areas in which a partial member would participate.

A reform allowing for institutional participation is a *sine qua non* condition if this kind of boundary variability is to work. Institutional voice and vote is necessary not only to make certain that the policy decisions are accepted as the right ones—because all participants would have a seat at the table to air their concerns and vote their preferences—but also to ensure the ‘democratic’ legitimacy of the decision-making process and the continued democratizing power of attraction of the EU. How this would function institutionally in detail would of course have to be worked out—and the Treaties would certainly have to be amended to allow this. Doing so would help reduce the existing democratic deficit for those European countries which have chosen for different reasons not to join the EU. Norway, for example, contributes large amounts of funds to the EU in exchange for being part of the internal market, and has to implement all regulations without having any vote (although it does attend meetings).

This notion of graduated participation in a ‘regional state’ made up of overlapping policy communities could also open the way for inter-regional cooperation. We already see something like this in the interaction between the EU and the US with regard to the harmonization of regulatory standards. It is the very essence of the Bologna process in higher education, which is outside the EU and yet sustained by it, and includes a large number of non-EU member-states alongside EU members. But this overlapping of constituencies and jurisdictions could also be a way of conceiving of the interrelationship of the EU and the newly-proposed EU-Mediterranean Union.

ENVISIONING THE MORE LIBERAL EUROPEAN PROJECT AS ‘REGIONAL STATE’

This conception of the EU as a ‘regional state’ made up of overlapping policy communities, in which we abandon the absolute demarcation line between who is ‘in’ and who is ‘out,’ has a range of advantages. Outside its borders, the EU is likely to be able to continue to exert its ‘power of attraction’ with regard to its neighbourhood, and to promote continued democratization in its periphery. It will be able to enhance its reach as a global actor, by deepening inter-regional as well as intra-regional cooperation. Moreover, inside the EU, it is also likely to enable countries to fulfill their differing visions of the EU’s liberal project.

Envisioning the EU as a ‘regional state’ could accommodate at one and the same time countries which think of themselves mainly as part of a borderless problem-solving entity focused on markets and security and which would therefore prefer a future in which they would be loosely connected in the EU through participation in the larger free market and only one or two other sectors; countries thinking of themselves as part of a values-based community and/or of a rights-based union and which would therefore favour closer connections through participation in most or all EU sectors; and countries thinking of themselves as members of an essential core values-based community which would choose to be even more closely connected through participation in all sectors while pursuing even deeper ties in, say, the eurozone, a pensions regime, and an immigration zone. Moreover, all members could also be seen as

contributing to the EU's activity as a global strategic actor, although some might see themselves as part of a deeper core of values-based community if they were to engage in reinforced structured cooperation for defence and security policy or a rights-based post-national union if they were to support humanitarian intervention. If we were to try to imagine what such membership would look like on a map, we would likely over time find a rather large core of deeply but not uniformly integrated members, mainly in Continental and Mediterranean Europe, including some of the CEECs, with somewhat less integration for the UK and Nordic countries, and even less as we move eastward.

In some sense this article could be entitled 'Back to the Future,' since in its early years the EU was made up of two overlapping communities. But the historical trajectory between then and now is important. The demand for unanimity in a union of six nations and the push toward uniformity by a Commission dreaming of a federal state were absolutely necessary in those early years to create a common set of policies in a free market, a sense of community with common standards and shared values, respect for human rights, and a global actor. But since the Maastricht Treaty, which introduced the principle of opt-outs in order to enable the EU to move forward with all its members, that uniformity has been breached. Moreover, with 27 members, and the prospect of more, the member-states themselves acknowledged the impossibility of uniform future development by introducing the principles of enhanced cooperation and structured cooperation.

However, impediments to progress remain. The unanimity rule for treaties now stops the treaty process dead in its tracks while the uniformity ideal chokes off further differentiated integration. Neither is necessary today. Rather, we would do better to have opt-outs in place of vetoes as the *modus operandi* for the EU and to see differentiated integration as a virtue rather than a vice. One need not worry that this will lead either to a '*Europe à la carte*,' as the free marketers might wish, or to a retreat to a '*core Europe*,' with one dish for all, as the communitarians might insist. Rather, this will produce an elaborate '*menu Europe*,' with a shared main dish (the Single Market), everyone sitting around the table, and only some choosing to sit out one course or another (see Schmidt 2008). In the EU's regional state, there will always be a smaller deep core of members present in almost all of the overlapping policy communities plus a larger group in fewer policy communities nonetheless united through democracy, respect for human rights, and membership in the internal market.

With this conception of the EU, in short, we can ensure that the liberal European project will continue to be able to accommodate not only a pluralism of principles—political, economic, and social—but also a pluralism of visions based on those principles. Accommodating different principles, however, does not mean avoiding contestation. Much the contrary, since forward movement even within the context of a regional state—as befitting any liberal 'polity'—will certainly entail the clash of liberal principles, whether the trade-offs between EU market-based rights of free movement and nationally-based social rights, the clashes over which values are to be at the basis of the EU's values-based community, the differences over whether and how far to go to protect the human rights at the basis of the EU's rights-based union both inside and outside the EU, or the difficulties involved in defining, let alone implementing, the EU's goals as a global actor.

Notes

¹ My thanks to Daniela Caruso and Fritz Scharpf for their helpful comments on the manuscript.

References

- Bartolini, S. (2005) *Re-Structuring Europe*, Oxford: Oxford University Press.
- Beck, U. and Grande, E. (2007) *Cosmopolitan Europe*, Cambridge: Polity Press.
- Fabbrini, S. (2007) *Compound Democracies: Why the United States and Europe are becoming Similar*, Oxford: Oxford University Press.
- Ferrera, M. (2005) *The Boundaries of Welfare: European Integration and the New Spatial Politics of Social Protection*, Oxford: Oxford University Press.
- Habermas, J. (2001) *The Postnational Constellation* Cambridge, MA: MIT Press.
- Howorth, J. (2007) *European Security and Defense Policy*, Basingstoke: Palgrave.
- Läidi, Z.(2008) *EU Foreign Policy in a Globalized World: Normative Power and Social Preferences*, London: Routledge.
- Leonard, M. (2005) *Why Europe will run the 21st Century*, London: Fourth Estate.
- Mair, P. (2006) ‘Political Parties and Party Systems’, in P. Graziano and M. Vink (eds.) *Europeanization: New Research Agendas*, Palgrave Macmillan, pp. 303-27.
- Majone, G. (1998) ‘Europe’s Democratic Deficit’, *European Law Journal* 4, 1: 5-28.
- Manners, Ian (2002) ‘Normative Power Europe: A Contradiction in Terms?’, *Journal of Common Market Studies* 40 (2): 235-58.
- Reich, N. (2008) ‘Free Movement v. Social Rights in an Enlarged Union: the *Laval* and *Viking* Cases before the ECJ’, *German Law Journal* 9 (2): 125-61.
- Scharpf, F. (1988) ‘The Joint Decision Trap: Lessons from German Federalism and European Integration’, *Public Administration* 66 (3): 239-78.
- Scharpf, F. (1999) *Governing in Europe*, Oxford: Oxford University Press.
- Scharpf, F. (2007) ‘Reflections on Multi-Level Legitimacy’, Speech to the European Union Studies Association, EUSA Newsletter, Vol. 30, no. 3 (Summer).
- Schmidt, V. A. (2004) ‘The European Union: Democratic Legitimacy in a Regional State?’ *Journal of Common Market Studies* 42 (4): 975-999.
- Schmidt, V. A. (2006a) *Democracy in Europe: The EU and National Politics*, Oxford: Oxford University Press.
- Schmidt, V. A. (2006b) ‘Adapting to Europe: Is it Harder for Britain?’, *British Journal of Politics and International Relations* 8: 15-33.
- Schmidt, V. A. (2007) ‘Trapped by their Ideas: French Elites’ Discourses of European Integration and Globalization’, *Journal of European Public Policy* 14 (4): 992-1009.
- Schmidt, V. A. (2008) “A ‘menu Europe’ will prove far more palatable,” *Financial Times*, July 22, p. 13.
- Schmidt, V. A. (2009) “European Elites on the European Union: What Vision for the Future?” in *European Union and World Politics: Consensus and Division* eds., Andrew Gamble and David Lane London: Palgrave Macmillan (forthcoming 2009)

Sjursen, H. (2007) 'Enlargement in Perspective: EU Identity in Perspective' Recon Online Working Paper 2007/15

URL: www.reconproject.eu/projectweb/portalproject/RECONWorkingPapers.html

Telò, Mario (2007) *Europe: A Civilian Power?* Basingstoke: Palgrave Macmillan.

About the author:

Vivien A. Schmidt is Jean Monnet Chair of European Integration, Professor and Director of the Center for International Relations at Boston University. She has published widely in the areas of European political economy, institutions, and democracy. Recent publications include: *Democracy in Europe* (Oxford 2006), *The Futures of European Capitalism* (Oxford 2002), and 'Discursive Institutionalism: The Explanatory Power of Ideas and Discourse', *Annual Review of Political Science* (2008).