

A Common European Identity for European Citizenship?

By *Andreas Follesdal**

A. Introduction

Over the past two decades, authors, many of whom are included in this volume, have addressed several salient foundational issues concerning citizenship in Europe. Others in this volume address some of these issues—such as the relationship between national and European citizenship regarded as multilevel (Rainer Baubock and Ulf Bernitz), the relationship between citizenship and legal human rights (Samantha Besson), the relationship between citizenship and political rights in particular (Agustin Menendez and Jo Shaw), and citizenship and social rights (Stefano Giuboni).

This essay elaborates on the need for shared values among those who share citizenship in Europe, as either citizens of Member States engaged in multilevel governance or as Union citizens. The European crisis has increased the call for such values, and also shows that people contest these values. The issues include: What is the responsible exercise of political rights in national elections with repercussions for EU governance, how to trust authorities at all levels concerning human rights, the extent of cross-border solidarity at the risk of free-riders, and the trust that the political and legal order will remain responsive to the best interests of all affected.

To invoke a slightly different issue, what sort of shared European identity is required for Union citizenship to represent part of a sustainable, just European political and legal order? Which substantive values and beliefs should be shared? And is there a need for “unique” values and beliefs, exclusive among those who share citizenship?

This essay addresses the following issues: Section B affirms the need for some shared values; Section C explores aspects of European citizenship such as a shared identity; and Section D denies the need for a shared “thick” cultural identity. Likewise, Section E questions the need for unique values. Finally, Section F points to several challenges concerning identity and citizenship in a Union with asymmetric federal elements, especially when subjected to asymmetric shocks.

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B. The Need for Some Shared Values

There are several reasons to create and maintain some shared values—a collective identity—among Union citizens. Three merit mention here.

I. Policies Require Union Citizens to Restrain Their Self-Interest for the Sake of Other Europeans

Ordinary Union citizens must sometimes refrain from benefits in order to support other members of the Union. For example, the Common Agricultural Policy (CAP, European Commission 2012)¹ gives a large part of the EU's budget to farmers and rural development. Such transfers benefit citizens of some states at the expense of others. The net “givers” must curb their self-interest for the sake of foreigners, and others must trust they will not do so in the future.

II. The Losers in Majority Decisions Today Must Obey, and Trust that Future Losers will Comply when Tables are Turned

In majoritarian decisions, those who find themselves in the minority will not get their will done. Yet, they are expected to comply. Belief that the system is fair could motivate them to comply, as could the belief that they may get their turn when others lose. Others must generally trust the “losers” to follow this motivation, at least as long as the burdens are not too harsh.² One way to prevent unreasonable burdens is to have institutions in place that protect human rights.

III. Crafters of Legislation and Treaties Must Consider the Interests of Europeans Other than Their Own Electorates

Individuals must trust EU treaty negotiators, legislators, and domestic and EU officials to not only promote the interests of their own constituency unbridled, but also to consider the interests of other Europeans. Such complex motivations must operate not only when crafting legislation and policies, but also when negotiating treaties. The authorities—and the citizens who vote them into office—must remember other entities' values and commitments. Trust of this commitment highlights a crucial necessity for general compliance.

¹ EUR. COMM'N, THE COMMON AGRICULTURAL POLICY: A PARTNERSHIP BETWEEN EUROPE AND FARMERS (2012), http://ec.europa.eu/agriculture/cap-overview/2012_en.pdf.

² BRIAN BARRY, *Is Democracy Special?*, in DEMOCRACY AND POWER: ESSAYS IN POLITICAL THEORY 24, 42 (Brian Barry ed., 1991).

To ensure citizens trust each other to the requisite degree, there may have to be some “meta agreement” that constrains political disagreements, framing even those disagreements that concern “constitutional essentials.” For example, about the polity, such as Turkish membership or aspects of the European regime, and the extent of supranational governance.

This meta agreement may find an agreed meta ideology—a consensus of sorts—at least about some procedural aspects, about the values of democratic decision-making, and human rights. But more may also seem desirable. Leaving such details aside, the shared European identity at present appears quite meager. Indeed, insofar as people share few frames of reference in the form of agreement about the polity, we may ask whether a meager identity would suffice. A central question then becomes, of course, suffice for what? Also, what should the base line of comparison be?

For our purposes, it seems especially helpful to draw lessons from comparative federalism on the assumption that the EU will maintain several salient federal, multilevel features.

From the point of view of federal political theory, the EU has several federal elements.³ One of the central challenges of such political orders is how they merit and facilitate trust and trustworthiness among citizens committed to uphold a normatively legitimate political order. Comparative studies of federalism warn of a higher level of ongoing contestation concerning the constitution and its values and interpretation than in unitary political orders.⁴ Stabilizing mechanisms are more important in order to prevent the disintegration of the political order and citizen disenchantment. These stabilizing mechanisms may also have to accommodate and correct great imbalances and conflicts of various kinds. Among the most contentious conflicts are typically the objectives of the federal level. For example, witness in the EU disagreements among Member States about how “deep” the Union should be with regard to such matters as social rights, foreign policy, and monetary and fiscal policies. Ironically, the grounds of shared values and goals may be especially weak in federations, given their frequent genesis as solutions to intractable problems otherwise resolved by a unitary political order. In particular, many scholars underscore the need to develop an overarching loyalty to the federation as a whole, in order to ensure the political order does not disintegrate.⁵

³ Andreas Follesdal, *Towards a Stable Federal Finalité with Federal Features? The Balancing Acts of the Constitutional Treaty for Europe*, 12 J. Eur. Pub. Pol’y 572, 572–74 (2005).

⁴ MIKHAIL FILIPPOV, PETER C. ORDESHOOK & OLGA SHVETSOVA, *DESIGNING FEDERALISM: A THEORY OF SELF-SUSTAINABLE FEDERAL INSTITUTIONS* (2004); JONATHAN LEMCO, *POLITICAL STABILITY IN FEDERAL GOVERNMENTS* 3 (1991).

⁵ JUAN J. LINZ, *Democracy, Multinationalism and Federalism*, in *DEMOKRATIE IN OST UND WEST* 382, 383 (Wolfgang Merkel & Andreas Busch eds., 1999); FILIPPOV, *supra* note 4, at 331.

C. Some Fragments of a Shared European Identity for Political Trust

For trust among European citizens, I contend it must reside upon three sets of commitments.

I. Commitment to Defer to Authorities—and Laws and Regulations—that Citizens Believe are Legitimate

First, citizens must have a commitment to their institutions and the decisions and rules that their officials make. In practice, this means that they must generally abide by the laws and other rules that apply to them. In this way, they respect the legitimate expectations of those around them who depend on their compliance.

Citizens must also have reason to believe that others will continue to comply in the future. Such trustworthiness—essential for stability—can be maintained by a publicly-known, generally-shared commitment to comply, for what each person regards as good reasons.

II. Commitment to Principles of Legitimacy for the EU as a Multi-Level Political Order

Such principles of legitimacy—duly worked out for multi-level political orders—serve several roles in accounting for stability. One role is to provide critical standards for assessing existing, concrete institutions. Another role is to secure some shared bases for compliance with just institutions, since these principles provide justification for such existing institutions.

III. Commitment to Some Premises for Such Principles

Citizens must also share a third commitment: A commitment to some of the premises that support such principles of legitimacy in turn. That is, a stable political order would seem to first require agreement on a vague conception of citizens as political equals, as equal members of the multi-level political order. To illustrate this commitment, consider John Rawls' suggestion that people should regard social institutions as a system of cooperation among individuals regarded for such purposes as free and equal participants.⁶ That particular conception is insufficient for the challenges facing us under globalization, or for the European Union. A second premise may thus be to regard the EU as a complex system of cooperation for mutual advantage among citizens.

A third commitment required to maintain assurance among citizens may be standards for allocating authority among states and EU bodies. State, regional, and global institutions somehow split and share sovereignty. A shared conception of the proper responsibilities of

⁶ JOHN RAWLS, A THEORY OF JUSTICE 15 (1971).

states, regional authorities, and global institutions seems necessary to structure discussions about how to allocate powers between them. One candidate for such allocation is a suitably specified principle of subsidiarity: There is a presumption of local allocation of power, so that the burden of arguments rests with those who want to centralize power.

1. *Why Such Commitments?*

To include such more theoretical principles may seem an unnecessary call by theoretically-inclined philosophers. Although there are two reasons for this third kind of commitment. A consensus to support existing institutions and principles of legitimacy presents an insufficient reason to convince others of one's trustworthiness regarding future compliance with these procedures. A person's present compliance and support does not by itself give us reason to trust that he or she will continue to respect the principles of legitimacy. We also need assurance that others regard themselves as having reasons to continue to comply in the future.

Moreover, citizens also need to trust those who will create and modify institutions. That is, citizens must have the ability to trust each other not only when applying shared rules and following existing practices, but also when establishing such institutions, for example when they craft treaties or constitutions. Such tasks must be guided and trusted by others to find guidance in a sense of justice, including a commitment to a shared conception of the equal standing of individuals within the multi-level global political order.

D. A Shared Thick European Identity?

Are these three commitments—including the commitment to international human rights norms—enough of a basis for the sense of community required to sustain a legitimate and sufficiently democratic European order? Critics have worried that it is unrealistic to believe individuals across Europe will act on feelings of solidarity and charity across hundreds of miles.⁷ The European-shared culture and common heritage seems too thin to support the required trust, especially when compared to the national heritages bolstering compliance within, say, the European welfare states.⁸ There is no “demos” in Europe, no shared sense of destiny, common culture, or broad set of values.

⁷ Ulrich K. Preuss, *Problems of a Concept of European Citizenship*, 1:3 EUR. L.J. 267, 276 (1995).

⁸ DAVID MILLER, ON NATIONALITY 67–73 (1995).

I. Not Necessary for Trust

Trust does not need a “thick” common basis of shared beliefs, values, and traditions. Most states today are too large to sustain feelings of sympathy even among citizens. There are states whose citizens lack a “thick” shared values and sense of community. Indeed, the search for a common ethnic or cultural base for “belonging” has worried many Europeans in discussions of the desirability of a “Union Citizenship,” due to the memory of past wars based on such grounds.

Instead, a satisfactory account of European citizenship need not build on a broad base of common identity, culture, and history.

The shared motivation may instead be a shared sense of justice and more limited commitments to the equal dignity of all individuals, motivated by either a sense of justice or “a desire . . . to arrange our common political life on terms that others cannot reasonably reject.”⁹

In this view, the motivating force is not a feeling of altruism but rather a sense of justice—a preparedness to comply with those just institutions that apply to us.¹⁰ The duty to honor the legitimate expectations of others, and the sense of justice as it binds us to the institutions that surround us, requires day-to-day compliance with laws and other commands. This is a different motivation for individuals’ compliance than “sentiments of affinity”—the emotional bonds between individuals.

A critical question is whether this inherently “abstract” sense of solidarity based on universalistic principles of social justice can motivate—and be sustained—over time. This worry should be alleviated by considering that existing Nation States are usually too large to foster empathy and sympathetic concern for the well-being of all others.¹¹ Still, many such states enjoy support from their citizens. The account I sketch assumes this more “impersonal” motivation: A sense of justice and an interest in doing our moral duty and expressing respect for others, rather than a sense of community, “thick” identity, or empathy.

⁹ JOHN RAWLS, *POLITICAL LIBERALISM* 124 (1993).

¹⁰ John Rawls, *Kantian Constructivism in Moral Theory*, 77 *J. PHIL.* 515, 540 (1980).

¹¹ Craig Calhoun, *Identity Politics and the Post-Communist Societies*, in *IDENTITY FORMATION, CITIZENSHIP AND STATEBUILDING IN THE FORMER COMMUNIST COUNTRIES OF EASTERN EUROPE*, 1, 3 (ARENA Working Paper No. 20/96, 1996); Robert Goodin, *What Is So Special About Our Fellow Countrymen?*, 98 *ETHICS* 663, 675 (1988).

E. The Need for Unique Values Shared Only Among Citizens?

Some prominent contributors to democratic theory insist that the members of the citizenry must share some features unique to them, to the exclusion of others. For example, a national public culture generally shared only by the members.¹² In the European setting, the quest is for shared and unique markers of a European identity. Jürgen Habermas and Jacques Derrida famously dismissed some values and norms central to Europeans, because they had become broadly shared elsewhere:

Haven't the most significant historical achievements of Europe forfeited their identity-forming power precisely through the fact of their worldwide success? And what could hold together a region characterized more than any other by ongoing rivalries between self-conscious nations? Insofar as Christianity and capitalism, natural science and technology, Roman law and Code Napoleon, the bourgeois-urban form of life, democracy and human rights, the secularization of state and society have spread across other continents, these legacies no longer constitute a *proprium*.¹³

They instead list some alternative candidates: The French Revolution, skepticism about market efficiency, trust in state capacity, caution about the role of the state vis-à-vis religion, and the welfare models now secured by European states.¹⁴ In this interpretation, Habermas and Derrida seek unique values or norms, shared only by Europeans. Note that Habermas holds that this interpretation of the text is a misunderstanding. He insists that he is not a "liberal nationalist," but instead defends "the extension of collective political identities beyond the borders of nation-states."¹⁵ This interpretation of Derrida and Habermas does not hold that they defend liberal nationalism, but finds it difficult to interpret Habermas in any other way than that he indeed looks for norms or values that are uniquely the possessions of Europeans. Considering the nominees for alternative exclusive values, two comments are relevant. First, the nominees may be challenged on

¹² Calhoun, *supra* note 11, at 3; Goodin, *supra* note 11, at 675.

¹³ Jürgen Habermas & J. Derrida, *February 15, or What Binds Europeans Together: A Plea for Common Foreign Policy, Beginning in the Core of Europe*, 3 *CONSTELLATIONS* 291, 294 (2003).

¹⁴ *Id.* at 295–96.

¹⁵ Jürgen Habermas, *The Concept of Human Dignity and the Realistic Utopia of Human Rights*, 41:4 *METAPHILOSOPHY* 464, 475 (2010).

historical accuracy and normative significance.¹⁶ For instance, surveys such as the European Social Survey show wide divergence among citizens of European and other states as regards trust in their own governments.¹⁷ This trust varies across states and political affinities.¹⁸ Likewise, there is no shared and uniquely European welfare state model distinct from those of Japan, New Zealand, the United States, and other states which Europeans will agree is worth establishing and keeping. Second, it is unclear why these features need to be unique in order to build trust among Europeans. Why should Europeans trust each other more because other citizens do not share certain values?

F. Challenges Concerning Citizenship in the European Union, Considered as a (Quasi) Federation

Federal arrangements face more constitutional contestation than unitary political orders.¹⁹ These topics of contestation include: Which competences should be enjoyed by central authorities, how Member States should influence such decisions, and sometimes questions of which member units to include in the polity. Insofar as the EU maintains federal features, such constitutional frames will likely remain more contested than in unitary political orders. One example is how to ensure that the European Central Bank remains sufficiently independent in relevant ways, yet under sufficient indirect democratic control. It is not only in the EU that leaders tend to transform and re-frame some policy issues into constitutional ones. This is typical in other federations as well.²⁰

The comparative study of political orders with federal features shows that one of their central challenges is to be self-sustaining. They must create and maintain political loyalty among the citizenry both toward their own member unit and overarching loyalty toward the federal level institutions, officials, and citizens.²¹ In the EU, one important task is to ensure that Union citizens and political authorities maintain dual political loyalties, both toward compatriots and authorities of their own Member State and overarching loyalty

¹⁶ Andreas Follesdal, *Universal Human Rights as a Shared Political Identity: Impossible? Necessary? Sufficient?*, 40 *METAPHILOSOPHY* 65, 72–73 (2009).

¹⁷ European Social Survey, ESS 1–5, European Social Survey Cumulative File, Study Description, Norwegian Social Science Data Services, Data file edition 1.1 (Bergen, 2012).

¹⁸ PIPPA NORRIS, *CRITICAL CITIZENS: GLOBAL SUPPORT FOR DEMOCRATIC GOVERNMENT* (1999).

¹⁹ JONATHAN LEMCO, *POLITICAL STABILITY IN FEDERAL GOVERNMENTS* (1991); HERMAN BAKVIS, GERALD BAIER & DOUG BROWN, *CONTESTED FEDERALISM: CERTAINTY AND AMBIGUITY IN THE CANADIAN FEDERATION* 3–9 (2009).

²⁰ FILIPPOV, *supra* note 4, at iii–x.

²¹ Raymond Breton, *Identification in Transnational Political Communities*, in *RETHINKING FEDERALISM: CITIZENS, MARKETS, AND GOVERNMENTS IN A CHANGING WORLD* 40, 55 (Karen Knop, Sylvia Ostry, Richard Simeon & Katherine Swinton eds., 1995); Richard Simeon & Daniel-Patrick Conway, *Federalism and the Management of Conflict in Multinational Societies*, in *MULTINATIONAL DEMOCRACIES* 338, 362 (Alain G. Gagnon & James Tully eds., 2001).

toward the Union citizenry and authorities as a whole. The challenge of building such an overarching loyalty is difficult in many federations but is especially demanding in the EU, which is regarded as a political order with federal elements.

I. Such "Coming Together" Federations Have Some "Standard" Challenges

Several joining members have strong and plausible alternatives to agreement, which enhances their national identity and bargaining positions. First, the EU consists of well-established Member States that could, in principle, exist independently, and who have been prepared to bargain even harder about many particular choices.²² Second, a European party system which can foster cross-cutting loyalties and identities is still underdeveloped at best.²³ Third, a high number of veto points in a complex decision system risks deadlock and a lack of problem-solving ability; thus, the system loses legitimacy in the long run. Fourth, adding to the problem of stasis, in federations, leaders tend to transform and reframe some policy issues into constitutional ones.

For our purposes, we must underscore two central points. "Constitutional contestation" and the lack of a shared political identity will remain high in the EU. Indeed, it may well remain higher there than in "other" federal political orders for several reasons. A further source of potentially destabilizing constitutional contestation is Article 50 of the Treaty of the European Union,²⁴ which explicitly recognizes Member States' right to withdraw from the Union—unusual in political orders with federal features. With highly relevant foresight, Stepan noted in 1999 that:

The fact that since the French Revolution no fully independent nation-states have come together to pool their sovereignty in a new and more powerful polity constructed in the form of a federation would seem to have implications for the future evolution of the European Union. The European Union is composed of independent states, most of which are nation-states. These states are indeed increasingly becoming "functionally federal." Were there to be a prolonged recession (or a depression), however, and were some EU member states to experience very high unemployment rates in comparison to others, member

²² Simeon, *supra* note 21, at 315.

²³ Simeon, *supra* note 21, at 321. *But see* SIMON HIX, WHAT'S WRONG WITH THE EU AND HOW TO FIX IT (2008).

²⁴ Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community art. 50, Dec. 13, 2007, 2007 O.J. (C306) 1.

states could vote to dismantle some of the economic federal structures of the federation that were perceived as being “politically dysfunctional.” Unlike most classic federations, such as the United States, the European Union will most likely continue to be marked by the presumption of freedom of exit.²⁵

Note that this has some implications for the choice of a baseline to assess the requisite European identity: It is not a zero-sum game vis-à-vis national identity and it is not obvious that either should be dominant overall. Indeed, many citizens in many federal political orders hold dual identities.²⁶ Perhaps we should not expect all conflicts between these to fade; some tensions may remain between segments of Union citizens.

The second particular source of instability is that the EU is “polycentric” with variable geometry. In such asymmetric federations, political parties correctly disagree about the objectives of the Member States and the central authority. In these federal arrangements, member units have pooled different competences. Citizens and authorities of different member units are correct to claim that the objectives of the central unit are different across the member units. This has been discussed in the study of European integration as a polycentric or variable geometry feature of the EU. One implication is that the conception of European—and EU—identity may well legitimately be different depending on whether the persons’ states are members of Schengen-Europe or of Euro-Europe. This creates different legitimate expectations of solidarity and intervention across Member States, and debates about who must bear the burdens of responses to the Euro crisis. Consider the debates about the root causes of the present Euro crisis and whether solutions should focus on internal adjustment in some Member States or on ways to restructure the *modus operandi* of the European Central Bank.

These comparisons with political orders with federal elements bring both good news and bad news. It is good news because this phenomenon of political instability is not so unique to the EU; in fact, it is typical of political orders with federal elements. The bad news for those concerned with stability is that federal orders also suffer a higher risk of two kinds of instability: They tend toward fragmentation or complete centralization. In short, we should expect the same sort of constitutional contestation for the EU. The asymmetric nature of the EU regarded as a federation—and the asymmetric economic shocks it suffers— increase the need for a shared European identity and shared values, but challenges the prospects of shared conceptions of the objectives of the Union. It is an open question what the shared European identity should consist of and how to assess spreading Euro-scepticism in the Europeanized public spheres about precisely such issues. The Euro regime

²⁵ Alfred Stepan, *Federalism and Democracy: Beyond the U.S. Model*, 10 J. DEMOCRACY 19, 33 (1999).

²⁶ Simeon, *supra* note 21, at 362.

is a particularly vexing challenge, since some—but not all—Member States are directly subject to it, while non-Euro Member States are also drawn into the discussions and may become part of agreed solutions, more or less willing.

Contestation about constitutional frames for the EU is only to be expected. A shared identity and shared values may remain out of reach for a long time, precisely when Europeans need them most.