



The European Union as a Democracy

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THE EUROPEAN UNION AS A DEMOCRACY: REALLY A THIRD WAY?

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Keywords:	Democracy, Political Theory of the European Union, Federalism, Intergovernmentalism, Republicanism, Domination of states, Freedom as non-domination
Abstract:	<p>Should the EU be a federal union or an intergovernmental forum? Recently, democrats have been arguing that there exists a third alternative. The EU should be conceived as a democracy, namely a "Union of peoples who govern together, but not as one (Nicolaidis)." The demoi of Europe recognize that they affect one another's democratic health, and hence establish a union to guarantee their freedom qua demoi – which most democrats cash out as non-domination. This is more than intergovernmentalism, because the demoi govern together on these matters. However, if the union aims at protecting the freedom of the different European demoi, it cannot do so by replacing them with a "superdemos," as federalists want.</p> <p>This paper argues that democracy does possess distinctive normative features; it claims, however, that an institutional choice between intergovernmentalism and federalism is necessary. Depending on how we interpret what the non-domination of demoi requires, democracy will either ground a specific way of practicing intergovernmentalism or a specific form of federalism. It cannot, however, ground an institutional model which is genuinely alternative to both.</p>

THE EUROPEAN UNION AS A DEMOCRACY: REALLY A THIRD WAY?

Miriam Ronzoni, Manchester

1. INTRODUCTION

Should the EU be a full-blown federal union or merely an intergovernmental forum of fully sovereign states? This is a central question in EU scholarship across several disciplines. Similarly central is the question around the EU's alleged "democratic deficit," namely its imperfect democratic accountability to those to whom its rules and regulations apply. The two debates are largely intertwined, with federalists and intergovernmentalists often taking opposite views on what, if anything, is democratically wanting about the EU.

Recently, however, a still fairly self-contained (yet rapidly expanding) literature has been arguing that the choice between a Europe of states and a European "Superstate" (Morgan 2007) is based on a false dichotomy, *and* that this is due to a misunderstanding about the *kind* of democratic ideal that the EU should embody.¹ According to such a body of literature, there exists a viable alternative to both institutional models. What is more, this alternative not only constitutes a desirable ideal in and of itself, but is also a more faithful reconstruction of the original motivation behind the project of European integration as well as of its ongoing aspiration. The idea, in a nutshell, is the following: the EU is – and its performance should be normatively assessed as that of – a *demoicracy*, namely a "Union of peoples [not *a* people] who govern together, but not as one (Nicolaidis 2013, 351)." The *demoi* of Europe recognize that they unavoidably affect one another's democratic health in problematic ways, and that this generates reciprocal obligations. They therefore establish a union to guarantee their joint and reciprocal freedom *qua demoi* – which most *demoicrats* cash out, in a republican spirit, as *non-domination*. This is much more than intergovernmental multilateralism, because the *demoi* genuinely *govern* together on the matters that concern their reciprocal freedom. However, the institutional model that stems from this must be faithful to what the *demoicratic* union is a union *of*. If the union aims at protecting the freedom of the different (and inherently diverse) European *demoi*, then it cannot permissibly do so by *replacing* them with a European "superdemos." On the contrary, it must protect their diversity and their democratic self-determination. Thus, *demoicracy* is a genuine *third way* (Nicolaidis 2003 and 2013) – or, according to the insightful metaphor used by Nicolaidis (2013), a decision neither to remain on the northern bank of the Rubicon nor to cross it, but to navigate its waters instead. It is a third way in institutional terms, because *demoicracy* is a proper governing union (not an intergovernmental forum), but it is inescapably different from a traditional federal union. It is a third way in democratic terms, because it is a form of democratic government (hence the EU can be the kind of body which can have a democratic deficit problem), but one where the democratic equality that must be achieved

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3 is that among the different demoi or peoples, rather than individuals, of the EU. Demoiocrats
4 therefore reject the assumption that each democracy needs its own demos: a specific form of
5 democracy *can* be upheld by a plurality of (interdependent, yet sovereign) demoi. The alleged
6 democratic deficit of the EU must hence be assessed according to this demoiocratic standard.
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8 Is demoiocracy really a third way, however? In this paper, I critically assess the claim that it
9 is and issue a mixed verdict.ⁱⁱ I argue that demoiocracy does possess distinctive *normative* features.
10 However, an *institutional* choice between intergovernmentalism and federalism must be made in
11 order to realize those very features. When we try to settle the question of what institutional shape
12 the normative ideal of demoiocracy should take, we must specify what it means for different
13 demoi to not dominate each other. And depending on which choices we make on that front,
14 demoiocracy will either ground a very specific (and specifically demanding, or rich) way of *practicing*
15 intergovernmentalism, or an equally specific (and specifically cautious, or thin) form of
16 federalism. It cannot, however, ground an institutional model which is genuinely alternative to
17 both.
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20 The argument is structured as follows. Section 2 introduces some distinctions and makes
21 some conceptual points. In particular, it a) distinguishes between the problem of the EU's
22 democratic deficit and that of its institutional form; and b) reflects on the interplay between
23 empirical and normative claims in both debates. Section 3 attempts to reconstruct the very ideal
24 of demoiocracy, by both offering an exegesis of the current literature and filling some of its gaps.
25 Section 4 contends that, depending on how one interprets the republican ideal of non-
26 domination, the reciprocal non-domination of interdependent peoples, which demoiocracy aims to
27 realize, will necessarily imply a choice for either a federalism or an intergovernmentalism of sorts.
28 Demoiocracy constitutes, therefore, a distinctive way of capturing the ideal of equality between
29 different yet interdependent peoples, but cannot ground a fully distinctive institutional model of
30 multi-level polity (i.e. one that is neither federal nor intergovernmental). Yet, it can offer guidance
31 to steer either intergovernmental or federal instruments in specific directions, so as to better
32 embody the idea of democratic equality between demoi. Section 5 concludes by making two
33 partial concessions.
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44 2. TWO DEBATES, AND THE NORMATIVE-EMPIRICAL INTERPLAY WITHIN THEM

45 In order to understand what the demoiocratic proposal is, and whether it succeeds in the aims it
46 sets for itself, we must first have a clearer grasp of the debates to which it seeks to contribute. As
47 mentioned in the introduction, two interdisciplinary debates dominate EU scholarship. The first
48 concerns the federal or intergovernmental nature of the EU; the second its alleged democratic
49 deficit. Doing full justice to these long, incredibly rich and multi-disciplinary debates here is
50 simply impossible; I shall limit myself to sketching the kernel of the problems that sits at the
51 centre of each of the two respectively.
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55 The question asked in the first debate, in a nutshell, is whether we should envisage the
56 EU as a forum of sovereign states or as a federal union of sorts. Federalists advocate an EU
57 some of whose rulings apply to EU citizens directly and trump domestic laws and regulations. In
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3 other words, the EU should have some sovereign powers of its own. In a federation, states
4 relinquish full control over the possible developments and implications of their cooperation –
5 and in so doing, they may turn out to be obliged to do things against their preferences as it is not
6 in their power to stop decisions (Nugent 2006). Federalism thus takes inter-state relations beyond
7 cooperation into integration, and thereby involves some loss of national sovereignty. Diagnostic
8 or empirical advocates of EU federalism typically argue that the EU already has some such
9 features (and, often, that it should acquire even more); normative advocates that it should. The
10 reasons why it should, in turn, may vary. Some may be purely strategic (e.g., enhancing the
11 geopolitical power of the European region) or problem-solving (e.g., establishing a fiscal union
12 capable of delivering important social services in a context where this is increasingly difficult for
13 states). Others may be based on the solidaristic aim of strengthening a European identity, thus
14 overcoming nationalism. For the EU to be a federation, it needs to be able to take some
15 decisions without the unanimous consensus of its member states, who therefore should not have
16 veto power over *all* matters (i.e., they should relinquish full control). For those who argue that the
17 EU already *is* a federation, this is already the case in some areas where qualified majority voting
18 applies – and these are sufficiently “core” areas to warrant a federal interpretation, although more
19 integration of this kind is welcomed.

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21 Intergovernmentalists contend, instead, that the EU should be conceived of as a “Europe
22 of states” whose governments cooperate to offset negative policy externalities as well as to
23 enhance their internal problem-solving capacity (Moravcsik 1993), whilst retaining full control
24 over the conditions and consequences of their cooperation. Again, empirical arguments point out
25 that this is what the EU is, as any accurate analysis of its institutions and laws shows it not to
26 have any meaningful sovereign powers of its own. It is true that qualified majority voting applies
27 in several areas, but as long as member states are free to leave, their not doing so can be taken as
28 an expression of their overall preferences. Normative arguments for intergovernmentalism, in
29 turn, are based either on its virtues (since international coordination can augment, rather than
30 restrict, the ability of governments to achieve domestic goals (Moravcsik 1993)) or on the
31 inappropriateness of federal conceptions for the European context. It is argued, for instance, that
32 Europe lacks a *demos* with the shared public culture that is necessary to sustain a federal union.
33 Alternatively, the claim is put forward that when the institutions that govern over us as so high
34 up and remote from us, the risks of technocratisation and bureaucratisation are prohibitively
35 high. Normative intergovernmental arguments can sometimes even acknowledge that some steps
36 towards a more federal state of affairs have already been taken, and advocate their undoing
37 (Streeck 2014). Predictably, intergovernmentalists argue that consensus should be the norm for
38 most or all decision-making within the EU. Federalists often argue that intergovernmentalism
39 fails by its own standards. Its main aim is to allow states to solve common problems and thereby
40 amplify their internal problem-solving capacity; however, uncoerced consensus is often hardest to
41 achieve precisely on those issues where a solution is most needed, as crucial interests often
42 diverge. When this occurs, the risk is either to agree on highly suboptimal solutions, or for
43 multilateralism to degenerate into power politics.

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3 The debate on the democratic deficit consists in a cluster of different complaints about the lack
4 of democratic legitimacy of the EU. These are related to one another but only up to a point:
5 there is, in other words, no single definition of what the democratic deficit is to begin with.ⁱⁱⁱ The
6 first set of complaints points to the increase in executive power and a decrease in national
7 parliamentary control in the EU area, whereby the increase of executive power occurs both at the
8 member-state and at the EU level, with the two being of course mutually reinforced. A key aspect
9 of this phenomenon at the EU level is the power to initiate legislation which the European
10 Commission – an unelected and arguably unaccountable body – possesses. A key aspect of this
11 first set of complaints is that the EU drives a wedge between EU citizens and those who govern
12 them – both in terms of perceived distance of the former from the latter and in terms of a “drift”
13 of implemented policies from actual democratic preferences. Other complaints concern the
14 weakness of the only properly democratic institution of the EU, the European Parliament,
15 because of its highly limited legislative competences and because of the absence of genuinely
16 “European” elections (EU elections may have spectacularly low turnouts; campaigns focus on
17 national issues more than on EU ones; etc.). Some further complaints identify consensual
18 decision-making as the chief *modus operandi* of the EU, and lament its undemocratic nature –
19 for a consensus among governments may well go against what the majority of EU citizens want.
20 Others still are preoccupied with the “no demos thesis:” a jurisdiction without a demos cannot
21 take democratic decisions worth the name. Only the presence of a demos – through the
22 mechanisms of public deliberation, debate, and preference formation that can uniquely occur
23 within it – can confer democratic legitimacy to processes of decision-making. A further, crucial
24 concern is the lack of spaces of political contestation within the EU (Follesdal and Hix 2006):
25 democracy occurs, not when policies simply “happen” to match citizens’ preferences (and even
26 that might not occur anyway; see the first set of complaints) but when they do so because they
27 are responsive to them in a way that is allowed by genuine mechanisms of contestation. Finally,
28 some complaints are more specifically concerned with the anomalous structure of the EU. It is
29 argued, in particular, that both equality among EU member states (as embodied in the Council
30 and in all consensual decisions taken by the EU) and equality among EU citizens (as embodied by
31 the European Parliament and qualified majority voting) could, in principle, constitute a form of
32 democratic legitimation – and that the democratic problem of the EU lies in the fact that it
33 currently combines elements of both in contradictory and sometimes mutually defeating ways.^{iv}
34 This is what is sometimes called the “structural” democratic deficit of the EU.

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Often enough, the two debates are considered to be one and the same thing. Advocates
of “more” democracy within the EU often argue in favour of a stronger role for the European
Parliament as the voice of the European people, and are therefore usually perceived as defenders
of *both* democracy *and* supranational sovereignty or federalism. The case for federalism is taken to
be a case for democracy writ large, capable of implementing decisions that are taken by, and
binding for, all European citizens. Federalists often argue that transforming the EU into a proper
federal polity would also settle the question of its democratic accountability – for EU citizens,
like citizens of any federal union, would finally be able to exercise democratic control over the

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3 institutions that apply to them through the normal channels of any liberal democracy.
4 Intergovernmentalists, instead, typically take two routes. Some contend that the EU has no
5 democratic deficit problem to begin with (Moravcsik 2002) - largely because (like any other
6 intergovernmental forum) it is not an organization apt for democratic accountability; it is the
7 governments of its member states that are accountable to their citizens for the kind of foreign
8 policy they pursue within it. Others argue instead that its democratic deficit lies precisely in its
9 having problematically moved beyond its intergovernmental vocation (for instance, on matters of
10 foreign or monetary policy), because, in so doing, it has unduly limited the room for democratic
11 self-determination of its members states. The disagreement between federalist and
12 intergovernmental conception of the EU seems therefore to be largely about the role and place
13 of democracy within it. Thus, both camps often end up suggesting that their favoured solution to
14 the institutional shape of the EU is *also* a solution to its democratic deficit. The “structural
15 democratic deficit” thesis seems to further strengthen the idea that the two debates are about the
16 same issue. This thesis suggests that the lack of democratic legitimacy within the EU is due to the
17 fact the EU is neither a supranational union proper nor a pure intergovernmental organisation. If
18 it were the former, the democratic principle of equality among citizens would have to prevail; if it
19 were the latter, the same would be true for the (intergovernmentally democratic) principle of
20 equality of all states – and it would be the business of each and every state to respect the
21 democratic equality of all its own citizens. By having a mix of both, the EU is trapped in a system
22 whereby, because of the unclear and sometimes conflicting nature of the two principles, some
23 actors and constituencies are systematically underrepresented and other systematically
24 overrepresented (Bellamy and Kröger 2013).

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34 Finally, it is worth highlighting a striking feature of the literature on the institutional shape
35 of the EU: we are not facing two completely parallel debates – one on whether the EU *is* and one
36 on whether the EU *should be* federal or intergovernmental. Empirical scholars mainly attempt to
37 offer a *diagnosis* of what kind of polity the EU is – but, in so doing, they usually also make claims
38 about the *desirability* of certain institutional features and reforms. They reflect on what the current
39 key institutional aspects of the EU are and attempt to reconstruct, interpretively, its historical
40 trajectory. In so doing, however, they almost always provide assessments on which further
41 institutional developments it would be wise and/or desirable to pursue (or not).
42 Intergovernmentalists typically claim that it *makes sense* for the EU to be or remain
43 intergovernmental;^v warn against not sufficiently thought through processes of further integration
44 (Scharpf 1999); and even pledge for the undoing of some of its steps (Streeck 2014). A similar
45 intermingling of empirical and normative arguments prevails among federalists. Historical
46 arguments about the original mission of the EC/EU are used in order to push for a
47 reinvigoration of the process of integration during sluggish phases; or the diagnostic claim is
48 made that certain contradictions within the current structure of EU can only be solved if the
49 already advanced process of integration is “completed.” On the other hand, normative political
50 theorists working on the EU usually refrain from developing normative standards that are
51 parachuted on the EU from a Platonic realm of ideals. On the contrary, they are almost always
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3 motivated by the idea that one should critically assess the EU by employing, as much as possible,
4 the standards that the EU has *set for itself*. For instance, they typically point out that their
5 normative recommendations rely, among other things, on an interpretation of the original
6 mission of the process of European integration, of the will of the European people (or peoples),
7 or both.^{vi} Thus, for instance, normative federalists often lament the slowness of the process of
8 integration largely because, among other things, they think that it is a betrayal of the very mission
9 of the EU. Nicolaïdis, in arguing for demoi-cracy, also embraces this intermediate standpoint,
10 and calls it “normative inductivism” (2013, p. 357): a normative-inductive approach is one which
11 tells us how the EU ought to be on the basis, not of first principles alone, but also of “the deep
12 texture of European history, law, and politics (*ibid.*)” In a language more familiar to political
13 theory, we might say that most normative theories of the EU are to some extent *practice-dependent*
14 (Sangiovanni 2008): they ground an account of what the EU should be on, among other things,
15 an interpretation of its point and purpose from the point of view of its participants. As long as
16 such point and purpose is *not* independently objectionable – as long as it is not, for instance,
17 incompatible with independent and relatively uncontroversial moral principles, such as minimal
18 ideas of equal concern and respect for all moral agents (Sangiovanni 2008, p. 163) – it should be
19 the guiding criterion to formulate normative and institutional recommendations. This seems to
20 reflect the conviction that Europe *belongs* to Europeans - their history, their commonality, and
21 what they fundamentally want to make out of the European project. If, say, we cannot reasonably
22 detect a grain of federal spirit in the “deep texture of European history, law, and politics,” then
23 our theories of EU justice, legitimacy or democracy should reflect that. This, of course, does not
24 mean that the EU should be what the (majority of) Europeans want it to be at a given time,
25 period. An institution can fail to be faithful to its point and purpose on grounds of, for instance,
26 weakness of the will or a temporary prevailing of sheer selfish interests on the part of its
27 members.

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29 Democrats vindicate the democratic ideal in the same practice-dependent or normative-
30 inductive spirit, i.e. as something which constitutes the original mission as well as the ongoing
31 shared goal of the process of European integration – albeit one which Europeans have failed
32 time and again.^{vii} Since the democratic literature shares this feature with the broader debate on
33 the institutional nature of the EU, I shall also work within this paradigm.^{viii} My claim shall be that,
34 even if democracy is the right practice-dependent ideal – i.e., even if it captures the “spirit” of
35 the EU correctly – realizing it might necessitate a choice between an intergovernmental and a
36 federal institutional form. As such, the argument of this paper might leave unmoved those who
37 think that normative and institutional ideals should be completely independent of such
38 interpretive considerations, and only mirror independent moral principles.

3. THE IDEAL OF EU DEMOCRACY

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40 The previous section has established two points: 1) both intergovernmentalists and federalists
41 claim that their favoured institutional proposal is also a solution to the democratic deficit of the
42 EU; 2) both debates are characterised by the interplay between normative and empirical claims in
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3 a normative-inductive or practice-dependent spirit. The advocates of democracy follow the lead
4 of the debate with respect to both (1) and (2), but make a crucial further move: they argue that
5 both intergovernmentalists and federalists are wrong about what institutional form the EU
6 should take, *because they misinterpret the type of democratic ideal that the EU should aspire to embody*. In
7 other words, they fail in their interpretive exercise. The EU should neither be the expression of
8 the equal democratic power of all European citizens, nor a forum for multilateral cooperation
9 which leaves all meaningful democratic questions at the domestic level. Instead, it should be
10 conceived as the project to achieve a “Union of peoples who govern together, but not as one
11 (Nicolaidis 2013, 351).” And Nicolaidis is adamant that this is not just a disembodied normative
12 ideal, but a claim based on the rich history of the process of European integration. The creation
13 of a “Union of peoples who govern together, but not as one” is the most plausible reconstruction
14 of the point and purpose of such integration process.
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20 What does this mean, however? As has been noted before (Lacey 2015), whilst the
21 democratic ideal as the appropriate model for the EU has been getting some traction as of lately,
22 the concept as well as its institutional implications remain largely vague – due in part to the fact
23 that the term is not used in an identical way by all its advocates.^{ix} In this section, I provide an
24 account of the democratic ideal which attempts to remain faithful to the motivations of its
25 advocates – and indeed largely draws on their work – but offers a more unified and
26 comprehensive vision of what it constitutes and aims to achieve. In so doing, the present section
27 offers not only a description, but also an active reconstruction of the concept of democracy,
28 which partly draws on exegetic works, partly attempts to fill conceptual gaps in the current
29 debate.
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34 As the unconventional name suggests, a democracy is a proper union with governing
35 features (*a keratos*), but its “citizens” are the macro-agents constituted by the different peoples (or
36 *demoi*) of Europe, rather than EU individual citizens taken as a unified European demos. A
37 democracy, unlike an intergovernmental organisation, is a *keratos* proper, but one that is jointly
38 held by the different democratic *peoples* of the EU. The *demoi* of Europe, under this
39 interpretation, do more than merely pursue mutually beneficial multilateral strategies through
40 their governments/states. They instead reciprocally acknowledge that they 1) have mutual
41 obligations to respect one another’s freedom *qua demoi*; and that they 2) unavoidably affect one
42 another (*qua demoi*) in problematic ways. They recognize, in particular, that their internal
43 democratic processes might have problematic *democratic externalities* for each other: some decisions
44 taken by a demos might undermine the capacity of other *demoi* to exercise their own internal
45 democratic self-determination.^x They thus acknowledge, not only their mutual interdependence
46 broadly speaking, but also their *democratic* interdependence – namely, that they have the power to
47 affect the health of one another’s democratic nature and that this generates reciprocal obligations.
48 This initial definition already points out two important differences between democracy and
49 traditional liberal intergovernmentalism. First, democracy is more than enlightened self-interest.
50 It does not stem from the realization that mutual benefits may come from cooperation, and that
51 it therefore *makes sense* to cooperate (Moravcsik 1993); it is instead grounded in the recognition of
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3 mutual responsibilities. A demoicratic EU is not a forum where different state actors come
4 together to bargain, even if in a multilateral way. It is instead the place where more stringent and
5 binding reciprocal commitments between the peoples of Europe ought to be *entrenched* (Nicolaidis
6 2013). Although the ground upon which the demoi of Europe have these mutual obligations is
7 not always unpacked in the demoicratic literature, it is fairly clear that it is based on the idea that,
8 when peoples are constituted as demoi, i.e. when they give themselves democratic institutions,
9 then they are owed respect as collectives by other actors. When a people is also a demos, it is
10 owed respect – and, in particular, its democratic decisions are. Again, although the point is hardly
11 ever explicitly made, it is evident from discussions that this is due to the fact that, when a
12 collective organizes itself democratically, respecting it also means respecting the individuals which
13 form it – hence respecting it does not mean making a choice between the freedom of collective
14 agents and that of individuals.^{xi} Second, whereas demoicracy shares with intergovernmentalism
15 the premise that the EU should achieve the equality of certain collective agents, rather than of
16 individual European citizens, it has a distinct account of which collective agents are at stake.
17 Demoicracy advocates the equality of European *peoples* at the EU level, as distinct from both the
18 equality of European citizens and the equality of member states. The aim of the EU is not merely
19 to foster the problem-solving capacity of its member states, but the democratic capacity of its
20 peoples. Therefore, the governments of member states should not be taken at face value if they
21 do not suitably channel the voice of the people they represent. Thus, even if demoicrats believe
22 that the EU should be respectful of the sovereignty between the polities which constitute it, this
23 is compatible with the EU imposing demands on the quality of domestic democratic processes.
24 Thus, both differences highlight the importance of the quality of domestic democracy for
25 demoicrats.
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36 In this spirit, EU demoi establish a union to guarantee their joint and reciprocal freedom
37 qua demoi, i.e. their joint capacity to *be* demoi in a proper sense. It is crucial to point out at this
38 juncture that this reciprocal commitment is cashed out by several demoicrats (Bellamy 2013,
39 Nicolaidis 2013) in distinctively *republican* terms: the kind of freedom which the EU demoi aim to
40 obtain is not their reciprocal non-interference, but their reciprocal *non-domination*.^{xiii} Republicans
41 define freedom as the condition of not being subject to the arbitrary or uncontrolled power of
42 another agent – they object to what they call *alien* control, not to *any* control or interference at all.
43 Domination occurs when the power between two agents is deeply unbalanced, to the effect that
44 there are no effective constraints on its exercise: the dominating agent can act with impunity and
45 without being accountable to the agent upon whom such power can be exercised (Pettit 1993 and
46 1997). Crucially, an agent dominates another if she is in such a position of asymmetrical power
47 regardless of whether she *decides* to exercise it or not. Thus, interference can occur without
48 domination, and domination can occur without interference.^{xiii} EU peoples realize that their
49 democratic interdependence is such that may enable some of them to dominate others in their
50 democratic capacity. This, for demoicrats, reflects both the history of the European region –
51 where some peoples have been able to subjugate others over and again – and its present set up,
52 where high levels of interdependence put some democratic collectives in a position that enables
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3 them to exercise alien control over others.^{xiv} Demoicratic institutions should enable the European
4 demoi to regain control over the quality and health of their own domestic democratic institutions.
5 For domination to be avoided, however, some non-arbitrary interference will be necessary. Non-
6 domination is obtained when agents enjoy the guarantee that others cannot exercise alien control
7 over them – and this typically occurs when a system of binding, justified and democratically
8 authorized rules is in place. Thus, alien control of some demoi over others is avoided by
9 establishing a form of joint and equal control over the conditions that allow their reciprocal non-
10 domination. This resonates quite nicely with the idea that EU demoi are a Union of people who
11 *govern* together, even if not as one. This is much more than intergovernmental multilateralism,
12 because the demoi genuinely govern together on those matters – but on those matters only. In
13 Nicolaïdis’s own words, demoi must enjoy “institutional and legal safeguards at the centre”
14 (Nicolaïdis 2013, 363). However, if it is the reciprocal non-domination *of demoi* that must be
15 guaranteed, the relevant system of rules and the kind of union that will follow from it must be
16 faithful to what the union is an union *of*. If the union aims at protecting the reciprocal non-
17 domination of the different (and inherently diverse) European demoi, then it cannot permissibly
18 do so by *replacing* them with a European “superdemos.” On the contrary, it must protect their
19 quality as different and diverse demoi, including, crucially, their entitlement to democratic self-
20 determination.

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22 If this occurs, demoicrats argue, demoicracy is a genuine *third way* to both
23 intergovernmentalism and federalism. It is a third way in institutional terms, because demoicracy
24 is a proper governing union (not an intergovernmental forum), but it is inescapably different
25 from a traditional federal union. And it is a third way in democratic terms, because it is a form of
26 democratic government, but one where the democratic equality that must be achieved is that
27 among the different demoi, rather than individuals, of the EU. To understand this point bit more
28 precisely, it might be helpful to point out that the advocates of demoicracy understand their ideal
29 as *jointly* providing an answer *both* to the democratic deficit problem *and* to the question whether
30 we should have an intergovernmental or a federal Europe. It is an answer to the first because it
31 tells us that, whereas the EU is highly imperfect from the point of view of accountability, it is to
32 the demoi of Europe, rather than to the European demos, that it should be made accountable to.
33 It could well be that the EU currently fails even by this standard – indeed, several demoicrats
34 think it does, although with different degrees of gravity depending on the author.^{xv} However, it is
35 according to this standard that the alleged the democratic deficit of the EU must be assessed. It is
36 an answer to the question of the institutional form of the EU because it constitutes a departure
37 both from “supranationalist traditions that perceive the need for and expect the emergence of a
38 European demos and from intergovernmentalist understandings that postulate limited powers for
39 European Union (EU) institutions based on delegation by the national demoi (Cheneval *et al.*
40 2015, p. 2).” The national demoi do not delegate, but govern, together – however, they do so on
41 matters that concern demoi, rather than EU citizens directly.

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43 At this point, one might legitimately ask what it actually *means* for the demoi to govern
44 together, albeit not as one. Unsurprisingly, this is where the demoicratic literature strikes many
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3 readers as being both less precise and less cohesive. Institutional recommendations are both fairly
4 sketchy and relatively diverse. However, at closer scrutiny, some important elements can be
5 identified. First, it is argued (particularly by Bellamy (2013) and Bellamy and Weale (2015)) that
6 the key institutions of EU democracy should be neither the Commission, nor the Council, nor
7 the European Parliament, but rather *domestic* parliaments. Demoicrats think that this is not a
8 paradox. If the EU is not a federation, it is not the Commission or the European Parliament that
9 ought to be strengthened in order to tackle the democratic deficit. However, if it is not an
10 intergovernmental forum either, we cannot take governments at face value (as we tend to do with
11 the Council); we must look, instead, at what happens *inside* the member states of the EU.
12 Demoicracy is democracy among demoi, not states taken at face value – and as such, it is a
13 precondition for it that the demoi of each member state, via their legislatures, actually *participate* in
14 EU law and policy making.^{xvi} Domestic parliaments should be in the business on scrutinizing,
15 deliberating on, and wherever possible even initiating EU legislation. They should be actors
16 proper of EU policy and law-making. This also clarifies why the standards of accountability for a
17 demoicracy are higher than those of an international organization: the EU is accountable to its
18 demoi, not to its member states. It is not enough that states be represented equally in the EU; we
19 additionally need instruments to ensure that it is the actually different demoi that are thereby
20 represented. As Bellamy and Weale (2015) put it, “when governments make commitments to one
21 another about their future behaviour, they simultaneously need to be responsible and accountable
22 to their domestic populations in order to retain their political legitimacy” (2015, p. 259). On the
23 one hand, this makes individual states highly responsible for their own fate in a demoicracy, for
24 they each must ensure that their own demos take an active role in this respect by being involved
25 in EU policy and law-making.^{xvii} On the other hand, however, this is not enough. First, the Union
26 is also to be held accountable if and when it creates obstacles to this dynamic – as it does, for
27 instance, if and when it is impatient towards careful and lengthy scrutiny of EU politics by
28 different domestic publics. Second, each state has an obligation to acknowledge that *other* states
29 also have obligations to ensure domestic deliberation. Governments must acknowledge that
30 being fair to each other means allowing each of them to undergo high-quality internal democratic
31 processes at each stage of the relevant EU-level decision-making (Bellamy and Weale 2015, p.
32 260). Thus, the strengthening of the role of domestic parliaments in EU affairs in the name of
33 demoicracy imposes responsibilities on the demoi with regard to themselves, on the institutions
34 of the EU, and on the demoi with regard to other demoi.

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48 More detail on which principles ought to govern the institutional shape of a demoicracy is
49 offered by Cheneval and Schimmelfennig (2013), who argue that demoicracy requires indeed
50 supranational institutions, but such that guarantee the freedom and equality of all its peoples (not
51 merely states). If we were to draw on a domestic analogy – and therefore consider demoi in a
52 supranational settings to be *relevantly like* individuals in a national setting – we might conclude at
53 this point that the freedom and equality of demoi is in principle compatible with a federal union.
54 Only die-hard anarchists believe that citizens are unfree simply because they are subject to a
55 sovereign legal and political order from whose authority they cannot escape. The consensus is
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3 that they are not unfree provided that the sovereign order in question has certain features – i.e.,
4 that it respects their fundamental rights and is under their democratic control. Why should this
5 not be true for peoples, as well? This line of argument, however, seems to disregard the
6 fundamental difference between citizens and demoi, and therefore to betray the very ideal of
7 demoicracy. The freedom of an individual citizen must mirror her nature as an individual person,
8 and this (anarchists excluded) is widely considered to be compatible with the presence of a
9 coercive and non-optional political order, provided that it has certain features. Actually, most
10 republicans would point out, in a Kantian spirit, that it *requires* such an order, for only political
11 authority can establish the kind of regulatory framework and legal certainty that are necessary to
12 avoid domination among individuals (Kant 1999[1797]). At the level of demoi, one might argue
13 that things are different. The default understanding of sovereignty – again in a Kantian spirit – is
14 that a legitimate state may not be subject to coercion, because it is *itself* the authoritative source of
15 coercive rules (*Ibid.*). In a democracy, a state is legitimate when it is democratic. This means that
16 the demoi are the source of ultimate sovereign power. Respecting the freedom of a demos,
17 therefore, *means* respecting the sovereign rule it establishes. This means that, for a supranational
18 institution to be a demoicracy, it must respect all the demoi which constitute it *qua* ultimate
19 sources of “pouvoir constituant,” i.e. the power to constitute a political order and to give
20 themselves a constitution (Cheneval and Schimmelfennig 2013, p. 342). If democratic peoples are
21 not recognised as ultimate sources of pouvoir constituant by a supranational political order, they
22 are disrespected *qua* peoples. The supranational institutions of the EU therefore do not have
23 pouvoir constituant in and of themselves, but rely on that of its member peoples. Therefore, a
24 demoicracy can have supranational institutions (which do way more than facilitate multilateral
25 negotiations), but only such whose basic conditions are ultimately under the control of the
26 different demoi. Crucially, the demoi must have ultimate control on entry, exit, and some other
27 basic rules: no demos may be obliged to “join or stay in a demoicratic order by the decision of a
28 branch of government only, by majority decision of a group of states, by majority decision with
29 the participation of citizens that are not members of the democratic state in question” (Cheneval
30 and Schimmelfennig 2013, p. 342). Note how this resonates with Bellamy and Weale’s argument:
31 it is the ultimate source of sovereign power within a democratic state, i.e. its legislature or
32 parliament, which retains authority over demoicratic matters. Thus, we can conclude that neither
33 intergovernmentalism nor federalism respect demoi qua demoi: the former unacceptably takes
34 governments at face value, whilst the latter disrespects demoi qua sources of pouvoir constituant.

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48 Finally, it is worth noting that, whereas I think this to be the most plausible
49 reconstruction of the demoicratic ideal, some advocates of demoicracy think that it is a mistake
50 to put too much emphasis on specific questions of institutional design. Nicolaïdis, for instance,
51 suggests that demoicracy is an attempt to be faithful to the ideal of non-domination between the
52 peoples of Europe rather than a specific institutional crystallization. The same EU, with the same
53 institutions, has been more or less capable of measuring up to the demoicratic ideal at different
54 historical junctures. Demoicracy is an expression of mutual solidarity between the peoples of
55 Europe who, however, simultaneously also acknowledge their inescapable differences as well as
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3 their potential to constitute a threat to one another. It is this solidarity *cum* difference that defines
4 democracy from intergovernmentalism and federalism. As such, democracy is “*normatively*
5 *antithetic to both*” institutional forms even if it may “*empirically borrow*” from either or both at a
6 given time (Nicolaidis (2013), p. 353; emphasis in the original).^{xviii}
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10 4. CAN DEMOCRACY BE A THIRD WAY?

11 The last section has put forward an interpretation of the democratic ideal. In light of this, is
12 democracy, so construed, a genuine third way? In tackling this question, I shall grant a series of
13 points to the democratic camp. I shall grant that normative and institutional ideals for the EU
14 should be formulated in a normative-inductive or practice-dependent manner. I shall grant that
15 different *demoi* can value their own independence and yet recognize that they produce
16 democratic externalities, and that this can only be addressed by establishing a form of joint
17 governing of sorts. Finally, I shall grant that the republican ideal of non-domination is the best
18 way to cash out this aim. Admittedly, I find this easy to do as I agree with democrats on all of
19 these points; however, my aim here is to isolate one conceptual question, namely whether
20 democracy constitutes a *distinctive ideal*. This section argues that democracy does have distinctive
21 normative features – but that, when it comes to pinning down how it should be *institutionally*
22 realized, a choice between (rich) intergovernmentalism and (thin) federalism must be made.
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28 The first building block of the argument is the following: democracy is, first and
29 foremost, an answer to the democratic deficit problem, *not* to the issue of the institutional form
30 of the EU – and the two, unlike what most participants in the debate assume, are *not* one and the
31 same thing. The democratic deficit thesis argues that the institutions of the EU are not
32 democratically legitimate – or not to a sufficient degree. Whereas the thesis is most vocally
33 advocated by federalists in order to push for a strengthening of the European parliament and the
34 transformation of the EU into a federal democracy, the issue is, as we have seen, more complex.
35 A better system of democratic accountability within the EU *can* be achieved by creating forms of
36 direct EU-level accountability to European citizens, where the latter are conceived of as members
37 of a single European people (and *demos*). However, it can also be tackled by making sure that
38 each and every existing national democratic public (and not just their governments) has the last
39 word on every important piece of EU law-making – in other words, the aim can also be reached
40 through less, rather than more, integration. Conversely, advocating federal integration need not
41 entail advocating EU democratization. Just to take the most obvious example, the European
42 Commission and the European Parliament fare equally well from the point of view of their
43 federal or supranational pedigree, but very differently by democratic standards.
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51 The democratic ideal is an attempt to show that the current framing of the debate on
52 democratic deficit is misguided, because it presupposes that democratic legitimation can only
53 occur through the legitimation of binding norms by one *single demos*. Therefore, one should either
54 create one such *demos* at the EU level, or stick to a Europe of national democracies. *Tertium not*
55 *datur*, because democracy requires a *demos*. The ideal of democracy, instead, tells us that it is
56 possible for a *plurality of demoi* to govern together democratically over their reciprocal
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relationships, rights, and obligations. In other words, demoicracy gives us an alternative story about *which agents* ought to be in mutual relationships of freedom and democratic equality within the EU – demoi, not individual citizens. This means that it is possible to have a democracy without a single demos, namely a democracy regulating the joint democratic government of inescapably different yet also inescapably interdependent demoi. This is what demoi-cracy means: a democracy where the demos is a demos of demoi, not individual citizens. Yet, the idea that the demos is constituted by separate demoi is to be taken seriously: thus, demoicracy will necessarily be a form of democratic government which respects the right of each demos to its own internal process of democratic self-determination. To sum up:

- 1) Demoicrats care about the freedom and equality of the different demoi (not citizens) of Europe,
- 2) which should be cashed out in terms of republican non-domination, and
- 3) the main threat to which is constituted by their democratic interdependence (which leads to problematic democratic externalities),
- 4) and which can therefore only be restored through a form of proper joint government on these matters.

1-4 give us indeed a distinctive normative ideal of obligations beyond borders, and a distinctive ideal of democratic equality in particular. With respect to the former, it claims that the European peoples (not member states, not European citizens) have mutual obligations which arise from their capacity to dominate each other, and which they must honour by entrenching protection against such capacity. This is how the peoples of Europe express mutual solidarity whilst recognizing their inescapable difference.^{xix} With respect to the latter, if 1-4 hold, democratic legitimation can occur at the EU level, but it can occur without constituting a single demos. It can occur by instituting the joint democratic government of demoi on the matters which concern their joint and reciprocal non-domination qua demoi.

Democracy, thus characterized, has indeed distinctive *normative* features which contribute to an ideal of democracy and solidarity among the (democratically organized) peoples of Europe. It does not, however, constitute a wholly distinctive ideal through and through because its most suitable *institutional incarnation* remains a largely open question – one which raises, in particular, issues concerning what it *means* for different demoi to be in reciprocal relations of non-domination. Depending on how we settle the question of what non-domination means, I suggest, the institutionalization of demoicracy is either drawn towards very moralized and rich conceptions of intergovernmentalism, or towards meaningfully limited and thin forms of federalism – but not towards a third and fully distinct institutional construct. Thus, not only is demoicracy open to different institutional incarnations; what is more, these incarnations are variations of either intergovernmentalism or federalism, rather a genuine third alternative in institutional terms.

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3 To understand this point, a brief reflection on what the non-domination of *demos* might
4 mean is necessary. Republican non-domination is typically conceived of as being best protected
5 when both democratic control and institutionally sanctioned guarantees (for instance, in the
6 forms of the rule of law and/or constitutional rights) are in place. The former ensures that the
7 people exercise control over the *kind* of interference that is exercised over them (recall that non-
8 domination is not the absence of interference), whereas the latter ensure that certain forms of
9 interference that are incompatible with any understanding of non-domination, or certain forms of
10 protection that are necessary for any understanding of non-domination, be in place at all times
11 (say, freedom of expression or the right to strike). However, depending on the relevant brand of
12 republicanism, different emphasis will be put on either side. Under a certain understanding of
13 republicanism, democracy is the central value: no “guarantee” can be such *sub specie aeternitatis* –
14 only the people can determine whether this is the case or not (Bellamy 2007). Solid forms of legal
15 and constitutional protections which aim at determining what non-domination requires
16 substantively are valid safeguards against non-domination only if they enjoy democratic
17 legitimation and can be democratically revoked. Anything else, especially in the face of
18 inescapable disagreement on these matters, means creating a de facto unaccountable class of
19 “experts” – be they policy-makers, judges, or both. Thus, whereas a liberal society (i.e. one which
20 subscribes to liberal rights) without democracy is in principle possible, republicanism can only
21 occur if the conditions that set the terms of the joint and reciprocal non-domination of all are
22 always under the control on whom they apply. This brand of republicanism delivers distinctive
23 policy recommendations at the domestic level (such as the rejection of strong constitutional
24 review and of constitutions which cannot be democratically revoked in a meaningful way), but is
25 also more inclined to have a specific understanding of what non-domination between *demos*
26 might mean. Democracy plays the lion’s share in protecting against domination both at the inter-
27 individual/domestic level and at the inter-*demos*/international one. Under this democratically
28 demanding reading of republicanism, a *demos* is non-dominated when it can decide for itself,
29 period. The *demos*ic story is still true, in that European *demos* might acknowledge that they
30 affect each other’s democratic nature in problematic ways, and should recognise that they have an
31 obligation to cooperate with the explicit purpose of avoiding that. However, the norms which
32 this cooperation establishes have a republican pedigree if and only if the ultimate authorization
33 comes from each of the *demos* on an ongoing basis. This brand of republicanism, in other words,
34 puts forward a specific account of what is special about a democracy among different *demos*. If
35 such democracy is to respect the nature of its “citizens” qua *demos*, it must respect that they and
36 only they are the ultimate source of “*pouvoir constituant*.” This means that the EU-level “*demos*
37 of *demos*” cannot have supremacy over the single *demos*. The point is to create an association
38 which guards against “the domination of one people by another by preserving the capacity of the
39 associated peoples for representative democracy” (Bellamy 2007, p. 499). This is a form of
40 intergovernmentalism through and through. Bellamy (2013) and Bellamy and Weale (2015)
41 unapologetically recognize that: *demos*icracy is thus equated to a form of *republican*
42 *intergovernmentalism*. Republican intergovernmentalism “promotes [...] the possibility for all
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3 individuals to live in representative states that possess democratic systems where collective
4 decisions are made in ways that show them equal respect and concern through being under their
5 public, equal control” (*ibid.*, p. 507). In other terms, republican intergovernmentalism is a
6 particularly robust, and indeed moralised, form of *practicing* the intergovernmental game. It
7 recommends that people associate to achieve certain moral goals and obligations, rather than
8 win-win situations of mutual benefit. Under this understanding, democracy clearly is not an
9 institutional third way – it is rather an exhortation to practice intergovernmentalism in a particular
10 way.
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14 The brand of republicanism which is usually identified as neo-roman, instead, puts a
15 much stronger emphasis on the rule of law and on robust guarantees which are resilient to what
16 (arguably volatile) majorities might want at a given time. Philip Pettit has developed a version of
17 this brand of republicanism where democracy arguably plays a fairly modest – merely “editorial,”
18 rather than “authorial” – role (2004, 2013). In editorial politics, the emphasis is on the capacity of
19 citizens to *contest*, but not necessarily *make*, the law. Authorial politics is the more creative realm
20 of political activity – but is also the one where populism and irrational political instincts
21 (including tyranny of the majority dynamics) prevail. Editorial politics, instead, is the realm of
22 critical contestation of specific policies and laws – it is more reactive, but also more reflective.
23 One does not need to go this far – and might be way more sympathetic to authorial democracy
24 than Pettit – to point out that the more radically democratic variant of republicanism might be
25 too cavalier with respect to legal and possibly constitutional guarantees. Domination occurs
26 where I have no control over the rules that apply to me, but it also occurs when the democratic
27 quality of my polity is generally high, and yet genuine democratic majorities take decisions that
28 allow forms of what might be reasonably called “arbitrary” interference. In other words, a strong
29 concern for the risk of a “tyranny of the majority” is and should remain a central republican
30 concern. If my right to practice my religion is constantly threatened by democratic majorities, I
31 am exposed to domination. And the same is true if it is simply exposed to democratic volatility.
32 Thus, for neo-roman republicanism, the rule of law and some constitutional guarantees are
33 central indeed (even if not necessarily with the same disregard for authorial politics which Pettit
34 exhibits). Republican freedom requires democracy *and* robust unconditional guarantees of certain
35 fundamental rights: both are necessary to “be one’s own master.” This has important and fairly
36 self-explanatory implications at the domestic level, but it also has some equally central and not
37 so obvious ones when it comes to non-domination among *demos*. If *demos* retain strong opt-out
38 clauses on all important matters, there is a sense in which upholding conditions for the non-
39 domination of the different *demos* is up to the good will of all and each of them. This, however,
40 might be seen as somewhat of a contradiction in terms. It is true that the non-domination of a
41 *demos* must exhibit some form of respect for it being an independent polity, and that this is what
42 we ultimately want to protect. However, we want to protect it because *demos can dominate each other*.
43 And if each *demos* is potentially capable of dominating others –and by definition it is, for this is
44 what triggers the demand for a democracy to begin with – then the *demos* should *entrench* some
45 *constraints* on their capacity to do so. This cannot be up to their own good will: as we have seen,
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3 domination is matter of power, not intention, and non-domination consists in depriving certain
4 actors of their *capacity* to exercise arbitrary power or alien control, not in them being benevolently
5 inclined towards not using their power whilst still retaining it. If the demoi of Europe recognize
6 that their capacity for reciprocal domination and for the production of mutual democratic
7 externalities is a reality, and if they acknowledge that they have an obligation to address this, then
8 addressing it means *binding* each other in meaningful ways. Obviously, these binding rules should
9 not be something which an unaccountable EU bureaucracy decides and administers at will; they
10 should, instead, be the product of a joint democratic government of the peoples of Europe, who
11 decides on those rules without merging into a single demos. But such rules should be binding.
12 This is what “institutional and legal safeguards at the centre” (Nicolaidis 2013, 363) means.
13 Nicolaidis seems to acknowledge this point when she argues that “Germans and Greeks should
14 not only have the right to put the problems they create for each other’s democratic health on
15 each other’s political agenda, but should *entrench* institutional mechanism to address them” (2013,
16 p. 356; emphasis added). This, however, does require some form of federal union, even if one
17 whose *only area of competence* is that of ensuring the necessary pre-conditions for the joint and
18 mutual non-domination of EU demoi. A demand for entrenchment is a demand for the relevant
19 demoi to bind themselves to a superior authority – even if that superior authority will only have
20 very limited scope, and even if the whole point of this authority will be to guarantee the
21 democratic health, diversity, and freedom of all demoi. It is a very thin form of federalism – but it
22 is federalism nonetheless. It is worth noting that this form of binding is deeply in tension with
23 some of Nicolaidis’s other claims – and in particular, with her suggestion that, regardless of the
24 specific institutions in place, the EU can fare better or worse in democratic terms depending on
25 what it chooses to do with at some critical junctures. This suggestion that EU institutions are
26 what its members make of them seems to involve a level of discretion that is incompatible with
27 non-domination understood in these terms. Non-dominating each other, under this reading,
28 seems again to be a matter of good will.

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31 I therefore conclude that democriacy is a distinctive and arguably appealing normative
32 ideal – but that, institutionally speaking, democriats must still choose between intergovernmental
33 and institutional variants. The specific understanding of republican non-domination that one
34 endorses has implications for the kind of institutional structure that the democriatic ideal should
35 take. The radically democratic understanding of republicanism must be committed to the view
36 that, for democriacy to be distinctive, it must consider demoi to be the ultimate sources of
37 sovereign authority – and this means that only form of joint governing between independent
38 demoi can be intergovernmental in kind. For those who believe, instead, the non-domination
39 requires robust guarantees, the democriatic level of governance must be able to enforce at least
40 the most fundamental terms of mutual non-domination on the member demoi. Under this
41 understanding, democriacy is still different from democracy in a single demos, but this difference
42 is largely (although not exclusively) quantitative: it must respect that it is democracy over
43 independent demoi, and therefore it must be suitably *thin*. Within those narrow boundaries,
44 however, it will enjoy the supremacy of a federal union. However, this choice also means that, at
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3 closer scrutiny, the bifurcation between intergovernmentalism and federalism is inescapable after
4 all.

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6 Before I conclude this section, I would like to address one possible demoicratic rejoinder.
7 Arguably, the variant of demoicracy put forward by Cheneval and Schimmelfennig (2013) is the
8 closest to an institutional ideal that is neither recognizably intergovernmental nor recognizably
9 federal. In their view, demoicracy has supranational institutions proper, but the demoi retain
10 ultimate control on entry, exit, and some other basic rules. Supranational institutions do govern *as*
11 *long as* the demoi stay in the Union, but demoi retain, for instance, a right to leave the Union at
12 any point. Whereas it is true that this variant constitutes the strongest challenge to my claim, I
13 think that it ultimately fails. *If* (and it is a big if) the right to exit is sufficiently strong and robust, I
14 fail to see how this does not collapse into intergovernmentalism, although a particularly thick one
15 – one according to which, as long as one stay in the association, one accepts a thick web of
16 supranational rules, although the possibility to no longer accept them remains meaningful at any
17 time. The ongoing justification for supranational institutions is intergovernmental – each and
18 every demoi has the last word on their participation in them. This is incompatible with the
19 second understanding of non-domination I have described. It is not compatible with the first, but
20 the first brand also explicitly subscribes to demoicracy qua republican intergovernmentalism.
21 Again, one might object that claiming that demoi can bind themselves in a way that allows for no
22 return is a self-contradiction, for a demos who does that ceases to be a demos qua source of
23 “pouvoir constituant.” I would argue, however, that this is an objection to the very idea that the
24 second understanding of non-domination is applicable to demoi, not to my claim that demoicracy
25 must decide between intergovernmentalism and federalism. If the objection were correct,
26 republican intergovernmentalism would be the way to go, for the only form of non-domination
27 which can possibly apply to demoi would be the radically democratic one. If that were the case,
28 my claim that demoicracy is not a distinctive institutional ideal still stand. I also think,
29 however, that there is hope for thin demoicratic federalists to address that objection. Doing it lies
30 fully beyond the scope of this paper, but it is clear that the objection is based on a very specific
31 understanding of sovereignty –namely, as an all or nothing deal, as something which you either
32 have or do not have. The possibility to divide different sovereign competences is, however, the
33 subject of many complex and long-standing debates in law, political science, international
34 relations, and philosophy. The jury is clearly still out on whether it is possible to relinquish some
35 sovereignty without relinquishing it all. If it is possible, then it is possible for the demoi of
36 Europe, as well. And whereas demoicracy, under this reading, would ground an importantly thin
37 form of federalism – a very different one from the model which traditional European federalists
38 advocate – it would still be a recognizably federalist union.

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The point of this paper is therefore vindicated: whereas demoicracy has distinctive
normative features, it does not constitute a wholly distinctive institutional form: the
demoicratic ideal must be translated either into a specifically moralised way of practicing the
intergovernmental way or into a particularly thin federal union.

5. CONCLUSION

The previous section has argued that democrats must choose between intergovernmentalism and federalism – even if between particularly rich and moralized versions of the former or particularly thin versions of the latter. I would like to end this paper by making two partial concessions. I have argued that, *if* the necessary conditions for the joint and reciprocal non-domination of EU demoi must be robustly guaranteed through “safeguards at the centre” (and we have seen that it is a big if even within the republican camp), there must be a sense in which the EU is the ultimate source of authority over those conditions – and therefore a sense in which it must be a federal union of sorts, if a very thin one. Some of its rulings must be binding and ultimate, and claiming that demoi must retain a strong right to exit at all times is in stark tension with this requirement. If (and again it is a big if) non-domination is understood in this way, when a demos acknowledges that it might dominate other demoi and enters the EU as a result, it binds itself in a way that is incompatible with a strong right of exit.^{xx} Hence the demoi relinquish full control over the conditions of their cooperation.

However, if the point of the EU is the equal respect of all demoi, two important qualifications must be made. First, it does indeed remain an open question whether the conditions that guarantee the joint non-domination of all demoi must be decided upon by consensus or by majority decision-making –and, if the latter, majority *among whom*. As far as this paper is concerned, the possibility that unanimity must be required on certain or even many issues remains entirely an option – and if it turns out to be the right option, the EU will differ from other federal unions in a very crucial matter of decision-making, and not just in terms of its thinness. What I have argued is that, *if* non-domination is interpreted in this specific way, a commitment to a Union of peoples does have an element of no return and unconditionality to it; but this leaves open the question of how the union should work if it is to be a union of demoi, rather than individuals. It could be that a federal democracy requires consensus on a much higher number of crucial matters than a traditional federal union. Settling this issue lies entirely beyond the scope of this paper, but it is clear that the combination of no (easy) right to exit and consensual decision-making on many issues would be rather unusual.^{xxi} If that were to be the right way to interpret and institutionalize democracy, there would be a thin sense in which democracy is a third way.

Secondly, if a demos is a source of *pouvoir constituant*, it is quite plausible that the acknowledgment of a duty to form a union of non-dominating demoi may only permissibly come *from each demos* itself. Hence, the acknowledgment is an acknowledgment of a duty of no return, but no demos can be *forced* to acknowledge this duty and enter the Union. Hence, even if we think that a EU democracy should be a federal union of sorts, the process of its *formation* must be more like that of Switzerland than like that of the USA.^{xxii} Saying that the recognition of a duty to establish joint non-domination is a duty to form a federal union (with an element of no return) does not necessarily mean that demoi can be forced into it.

These two concessions (and the first in particular) do point to two senses in which democracy might be different from more familiar federal unions. However, leaving those aside,

the argument of the paper still stands: democracy is a distinctive ideal of democratic equality and solidarity beyond borders, but it does not constitute an alternative between intergovernmentalism and federalism in institutional terms. This might well be what Nicolaïdis means when she claims that democracy is a model of inter-demoi solidarity rather than a specific institutional crystallization. However, from a practice-dependent perspective, it is not *entirely* consistent to put forward a normative ideal without clarifying at least its most fundamental institutional implications (such as whether member states of a democracy will enjoy absolute sovereignty or not). If we do not know what such an ideal commits us to, it is not clear that we can fully grasp what it is, and whether we should subscribe to it or not (Banai *et al.* (2011), 54-55).^{xxiii} Therefore, granting that democracy is only a distinctive normative ideal cannot leave democrats entirely satisfied.

Using Nicolaïdis's metaphor, navigating the Rubicon is not an option: we can either stretch our arms as much as possible towards the other bank, whilst still avoiding jumping into the water; or we can perform a very minimal crossing, which involves simply reaching the other bank and staying put rather than venturing into the valleys in front of us. But choose between one of the two banks we must.

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49 ⁱ See, in particular Nicolaïdis (2003, 2004, 2012, 2013); Cheneval and Schimmelfennig (2013); Cheneval *et al.* (2015);
50 Bellamy (2013); Bellamy and Weale (2015); and Lacey (2015). Bohman (2005) and Besson (2006) also use the term
51 democracy to refer both to the EU and to forms of global democratization; however, they take the term to identify a
52 different institutional model, namely a decentralized and deterritorialized version of democracy (one where, for
53 instance, the contours of the demos may vary depending on the decision at stake).

54 ⁱⁱ I here refer to democracy as an alternative to the two EU models because this is where the fleshing out of the
55 democratic ideal (especially in institutional terms) has gone into most detail (in particular in Cheneval and
56 Schimmelfennig (2013)) – and also because the avoidance of inter-demos domination, which the ideal wants to
57 realize, is arguably a particularly pressing issue at the EU level. I therefore follow the lead of the current shape of the
58 debate. However, most of what I have to say about EU democracy applies, *mutatis mutandis*, to the global realm, as
59 well.

60 ⁱⁱⁱ In cashing out the different complaints, I shall here largely follow Follesdal and Hix (2006).

^{iv} For some, of course, this concern both for individual citizens and peoples *is* what makes the EU distinctively valuable, albeit this twofold ideal might be imperfectly embodied in its institutions (Cheneval 2001; Scherz and Welger 2015; Habermas 2015).

^v This argument was, of course, already being powerfully made about the European Community (EC) before the establishment of the EU (Moravcsik 1993 and 1994).

^{vi} See, for example Bellamy (2013) or Sangiovanni (2013).

^{vii} Nicolaïdis (2013) in particular, puts particular emphasis in the mutual commitment of the peoples of Europe to overcome their historical tendencies to try and dominate each other.

^{viii} While I am also independently sympathetic to the practice-dependent approach (Ronzoni 2009, 2012; Ayelet et al. 2011), this is not relevant for the argument I make here.

^{ix} Another unclear point in the literature is whether the terms “democracy” and “multilateral democracy” should be taken as synonymous (see, for instance, Cheneval (2011) and Scherz and Welge (2015)).

^x Some forms of international tax competition might constitute an example of this dynamic. In circumstances of high economic interdependence and capital mobility, if a number of demoi decide to pursue policies of low corporate and income tax with the aim of attracting both corporations and extremely wealthy individuals, it might become virtually impossible for other demoi not to do the same even if this is not what their citizens want. Alternatively, they might be forced to agree to multilateral strategies of tax harmonization with other constituencies, which might constitute a way to stop crude races to the bottom but which nevertheless severely limit the capacity of national demoi to take discretionary and flexible decisions on a number of fiscal matters. Both the empirical contours of the issue and the proposed solutions are highly controversial – I simply mention the policy case here for pure exemplary purposes (for an in depth treatment, see Genschel (2002); Dietsch (2011); Rixen (2011) and Ronzoni (2014)).

^{xi} It is fairly clear that this point has some initial intuitive appeal, but it is equally clear that it is open to important objections – it is not self-evident that individuals within a democracy are respected by the democratic process. However, addressing this issue would take us too far from the topic of the paper, which is not primarily concerned with *vindicating* the democratic ideal.

^{xii} Cheneval and Schimmelfennig (2013) and Cheneval *et al.* (2015) adopt a more markedly Rawlsian perspective, but their focus on the key role of the “pouvoir constituant” of the people – which I illustrate later in this section – makes the approach congenial with a republican perspective of non-domination as self-government.

^{xiii} The classical republican example to explain this phenomenon is the relationship between a mistress and her slave. The mistress need not interfere with the slave at any given time to get him to do what she wants – the knowledge that she can exercise arbitrary control over him whenever she wants is enough. A relevantly similar example in international politics is constituted by a powerful corporation which can get a state with weak regulatory capacity to adapt its policies to the corporation’s interests simply via the threat to relocate somewhere else – or indeed, simply because the government of said state *knows* that that threat is possible (Buckinx 2010).

^{xiv} Of course, it is very important to point out that, if EU integration occurs in the wrong way, EU institutions may amplify, rather than constrain, the capacity of some demoi to dominate others – the increasing talk of renewed German hegemony and the debate around the Greek bail-outs are but the most prominent example in this respect (on this point, see also Laborde and Ronzoni 2015).

^{xv} Cf. Cheneval and Schimmelfennig (2013); Nicolaïdis (2013); and also Bellamy and Weale (2015) on the European Monetary Union in particular.

^{xvi} This resonates with John Rawls’s justification for speaking of peoples, and not states, in *The Law of Peoples* (1999) – it is also worth reminding that Cheneval and Schimmelfennig (2013) put forward a model of democracy that is clearly inspired to the Rawlsian paradigm.

^{xvii} This is also stressed by Cheneval and Schimmelfennig (2013).

^{xviii} Lacey (2015) also attempts to offer an institutional characterization of democracy as a complex interplay between a weak EU demos and the different, thicker national demoi.

^{xix} This is compatible with EU democracy also displaying a “weak” Pan-European demos (Lacey 2015) and entrenching some limited rights and obligations which affect European citizens directly (such as the very concept of European citizenship and the four freedom of goods, capital, services and peoples as entrenched in the Lisbon Treaty).

^{xx} Of course, making this point is fully compatible with the claim that, even in sovereign polities, there should be a fairly permissive right of secession, and legal channels to initiate processes of secession. However, a right to secession, however defined, would plausibly be different from a right of exit – both in substantive and in procedural terms. For obvious reasons of space, the issue cannot be addressed here. What should be noted, however, is that this would be in deep contradiction with the current constitutional set up of the EU, which – through the Lisbon Treaty – assigns a strong and explicit right of exit to member states.

^{xxi} Interestingly, this institutional mix would have very specific implications for the incoming Brexit referendum. On the one hand, one such referendum would simply not be possible. On the other hand, however, if (and it is yet another big if) the set of issues which motivate the UK demos to question its membership were judged to be part of those on which unanimous consensus is called for, the UK would be justified, not in holding a referendum, but in

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calling for phase of EU-wide constitutional crisis and renegotiation – which is precisely what the UK-EU negotiations preceding the declaration of the referendum date tried to avoid.

^{xxii} I am here only referring to the process – it is obvious that a EU democracy will be an enormously thinner federal union than both.

^{xxiii} I am grateful to Rob Jubb for reminding me of this point.

For Peer Review