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Perspectives *on* Europe

autumn 2010 | 40:2

FORUM: How are Europeans Made? Debating a National Models Approach to Immigrant Integration

Council *for* European Studies

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Editor's Note

This issue of *Perspectives on Europe* features a mini-forum on national models of integration in Europe. In both academic and popular venues, debates about European approaches to integrating immigrants typically invoke distinct national approaches or models, such as those commonly labeled 'assimilationist,' 'republican,' or 'multicultural.' The inherent presumption is that different countries exhibit distinctive approaches which reflect national values and histories. Yet the notion of models as an analytical approach has been increasingly criticized by academics as too normative, simplistic, and static.

The four essays in this forum take a wide range of views on this growing debate. The essay by Ines Michalowski, Ruud Koopmans and Stine Waibel argues that 'model' as an analytical concept needs to be made more useful through greater precision and measurement. Their essay summarizes findings from a large-scale comparative data-gathering project that seeks to refine the existing definitions of national immigration models using 42 indicators of citizenship and integration policy in ten European states. This provides a useful starting ground for thinking about the complexities involved in assessing immigration and citizenship policy in Europe.

In their essay, Jan Willem Duyvendak and Peter Scholten examine a single national model that has commanded particular interest among scholars and policy-makers: namely, the Dutch integration model, which is widely viewed as the most coherent expression of a multicultural model. While not rejecting the notion or utility of models, Duyvendak and Scholten argue against this common view with the proposition that multiculturalism is actually only one of three powerful discourses that have shaped Dutch integration policies. Their argument thus casts doubt on whether any nation can be accurately described by a single ideal-type.

Sara Wallace Goodman shares Duyvendak and Scholten's healthy skepticism about the empirical accuracy of national models but, like them, does not reject their potential utility. However, she does advance the view that models are less useful as predictors of which policies nations will pursue than as *post hoc* descriptions of their existing policy mixes.

And, in the final essay of this group, Christophe Bertossi takes up the essential idea, the same idea postulated by Goodman, that models should be seen as dependent variables to be explained, rather than as independent variables. Indeed, Bertossi takes the most skeptical view of the utility of thinking about integration policy in terms of models and asks, "What if National Models of Integration Did Not Exist?"

Altogether these four essays provide a diverse set of views and stimulating

arguments, and I would like to thank Erik Bleich of Middlebury College for taking the lead in organizing the forum.

The other essays in this issue present equally stimulating voices on a wide-range of issues. In a comparative piece, Jette Steen Knudsen takes us inside Danish and American corporations to understand why women, contrary to the image of Denmark as a paragon of gender equality, enjoy greater opportunities for advancement within American firms. Her study suggests that the gender equity promoting elements of European welfare states have less impact on female professional advancement than do diversity promotion policies and practices within firms. Thus, the key to supporting women's advancement may lie more in changing firm practices than expanding welfare state programs such as maternity leave or childcare.

In her essay on judicial interaction within the EU, Elaine Mak gives us a concise and insightful overview of the multi-level legal system that has emerged in the European Union. She poses the question: Does this model have lessons for other emerging multi-level legal orders, whether connected to regional initiatives like NAFTA or Mercosur or to functional spheres such as financial market regulation? Her essay highlights in particular the key role of dialogue between courts operating at different levels in producing a functioning governance order.

Sofia Perez's essay on financial oversight within Europe provides us with insights into the challenges and pitfalls faced by the newly created European financial regulatory structure known as the Larosière model. She draws these insights by looking at the domestic experiences of three distinct types of regulatory structure found in pre-crisis European states and helps us make sense of differences among them.

And, finally, Claudia Schrag tackles a nagging and persistent problem for the European Union: namely, how to enhance its legitimacy among Europeans. Schrag argues that an oft-overlooked dimension of the struggle for legitimacy is the socially-constructed component of legitimacy that involves the creation of inter-subjective agreement about what is legitimate, and that is a discursive process. In so doing she suggests that we need to go beyond public opinion surveys and reconstruct how discourse among diverse groups changes their views of the European Union.

In closing this note, I would like to thank Siovahn Walker, the new Director of the Council for European Studies, who has also generously taken on much of the hard work of copyediting and producing this journal. I hope you enjoy reading these articles as much as I did.

Richard Deeg
Editor

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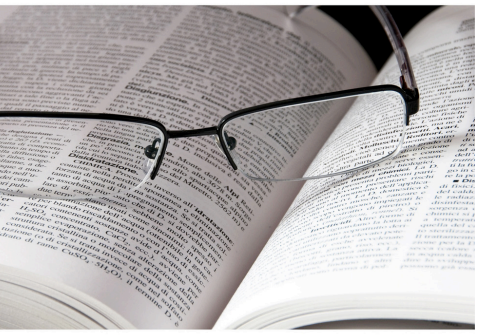

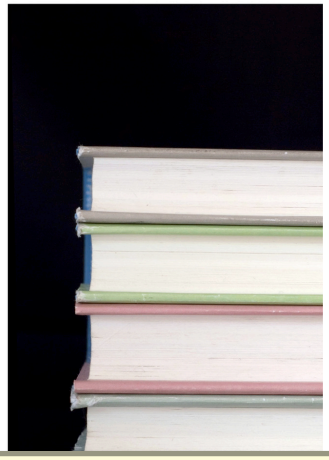

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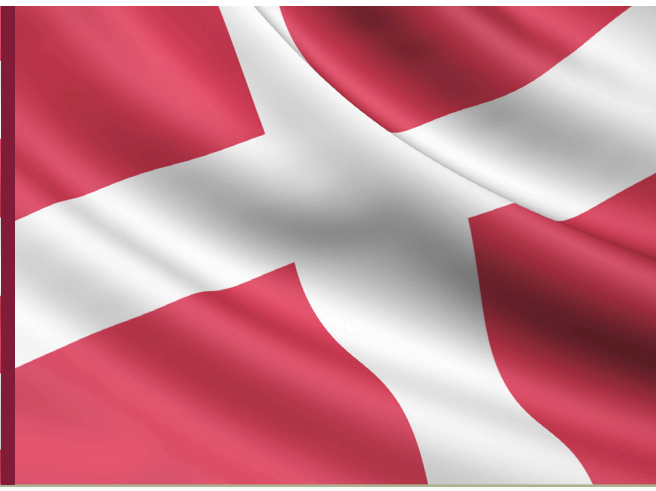

Private Sector Career Trajectories for Women in the U.S. and Denmark: Welfare State vs. Corporate Diversity Programs

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Introduction

In recent years, attracting and retaining female managerial talent has become a key focus for corporations. Institutional investors increasingly demand that corporations demonstrate a commitment to gender diversity while women's groups, such as Catalyst, lobby in favor of more female managers. Governments have also labored to take greater advantage of female talents and skills, both through awareness-raising programs and through new legislation. While there has been much progress when it comes to women reaching high level positions in the private sector, women are still in the minority in top level management. However, female corporate career advancement also varies substantially across OECD countries and explaining national differences is the key focus of this research project.

I begin with a puzzle: Why does Denmark, which is a prime example of a Scandinavian welfare state, not do significantly better than the U.S. when it comes to female career advancement in the private sector? In other words, why do we not see more women managers in the private sector in famously equitable Denmark than in the notoriously unequal U.S.? We would expect women in Denmark to outperform women in the U.S. for at least four reasons. First, Denmark is well-known for its emphasis on gender equality. For example, gender income disparity is 70 percent in Denmark but 48 percent in the U.S. measured as a comparison of female adjusted real GDP with male adjusted real GDP. Second, it would seem easier to combine a career with family obligations in Denmark compared to in the U.S. Denmark has adopted a legally mandated fully paid maternity leave scheme, while in the U.S. many employers provide only a few weeks of paid maternity leave. Furthermore, on average Danes work 226 hours less every year than Americans. Third, affordable, high-quality childcare has been a priority throughout Scandinavia while this is not the case in the U.S. Fourth, access to education is more easily available in Denmark than in the U.S.

However, all is not well in the state of Denmark from a gender equality perspective. Despite the strong governmental emphasis on gender equality, the labor market is characterized by gender-based occupational segregation, with women working in the public sector and men in the private sector. Furthermore, Danish women dominate relatively low-paid public sector jobs such as nursing, early childhood teaching and day care, and are more likely to work part-time than Danish men.

Despite the strong governmental emphasis on gender equality, the [Danish] labor market is characterized by gender-based occupational segregation...

The focus of this article is the relatively low share of female managers in the private sector in Denmark and in particular why Denmark does not do better than the U.S. According to the European Commission's European Labour Force Survey, at 24 percent the share of Danish female managers is the third lowest in the EU. The EU data includes the International Standard Classification of Occupation categories 121 (*directors and chief executives*) and category 13 (*managers of small enterprises*). In contrast, women seem to do at least as well and possibly even better in terms of career advancement in the private sector in the U.S. In a 2004 report the U.S. Equal Employment Opportunity Commission found that women represented 36 percent of officials and managers in the private sector (U.S. Equal Employment Opportunity Commission, 2004). In the U.S., focusing solely on the category *chief executive,* the percentage of women was 23 percent.

The superior performance of the U.S. compared to Denmark is also found if I compare ILO data for women in management, including legislators, senior officials and managers. Following the ILO's International Standard Classification of Occupations version ISCO-88, in 2007 the U.S. share of women managers was 43 percent while the share in Denmark was 27 percent. I have also obtained figures for Danish female managers in the private sector during the period 1995-2007 from the Danish Integrated Database for Labour Market Research (IDA Database). Even though figures have increased slightly over time, the percentage of female top managers in 2007 was only six percent.

In Europe current public and scholarly debates about the relatively poor career performance of women in the private sector have to a large extent focused on women in corporate boardrooms, rather than on women as managers. However, while poor female representation on boards remains a key issue for firms, the low proportion of female managers is quite possibly an even larger issue as top managers constitute the main pool of candidates from which board members are recruited. Therefore, we need to understand when and how women succeed as managers in the private sector, and what accounts for the differences between the Danish and American labor markets.

In this article, I will address these issues by first presenting two theoretical approaches to explaining cross-national variations in female career patterns in the private sector. One set of theories highlights societal framework conditions while the other set of theories stresses conditions internal to the firm. In the second section, I will describe my methodological approach and present finding. And, in the third section, I will discuss the theoretical and practical implications of the findings, address limitations and offer conclusions.

I. THEORETICAL DISCUSSION

Prior research has advanced three types of explanation for the relatively low proportion of women in management (Helfat et al., 2006; Powell, 1999): person-centered (e.g. individual and family factors), situation-centered (e.g. group and organizational-level factors) and social system-centered explanations that highlight societal factors such as political and governmental initiatives and structures. This article does not consider person-centered explanations but takes its starting point in societal explanations and initiatives, which to

a large extent dominate policy discussions in Denmark as well as in Europe more generally. There, discussions focus on the impact of institutional features such as welfare benefits, including parental leave schemes, and the advantages and disadvantages of board quotas. By contrast in the United States, discussions tend to focus more on anti-discrimination legislation and bureaucratic changes within firms where U.S. firms have been innovators (Milgrom and Petersen, 2006).

1.1 Societal explanations

As Waldfogel (1998) has shown, the work-family conflict constitutes a large impediment to women's success in management. In order to ease this conflict Scandinavian welfare states have been particularly generous in making a range of services publicly available. And, accordingly, one would expect the generous social benefits in Denmark including maternity leave programs and publicly funded child care to benefit Danish women relative to U.S. women. Indeed, in a passage summing up this view, Esping-Andersen, Gallie, Hemerijck, and Myles (2003: 293) write: "[A] comprehensive women-friendly policy of affordable daycare and flexible leave arrangements is a *sine qua non* in the pursuit of multiple goals: more gender equality, raising female employment to offset smaller active populations and, as an added bonus, a broadening of the tax base." According to this line of thinking we expect to find the following hypothesis confirmed:

H1a: *Welfare services ease work-life conflicts and therefore we should expect a higher proportion of women managers in countries, like Denmark, where substantial efforts have been made to ease work-life burdens.*

However, several scholars now argue that welfare services such as maternity leave can disadvantage women (Gupta, Smith, and Verner, 2008; Iversen and Rosenbluth, 2010). Their main argument is that an unintended consequence of the Scandinavian welfare state is to contribute to a decrease in the productivity of females relative to males as women are away on maternity leave, take more days off than men to care for sick children, etc. As a result women are seen by employers as less productive employees. Furthermore, the existence of a large public sector able to absorb highly skilled women and more willing to accept lower labor productivity (since the public sector does not operate on market terms), further encourages separate male and female career patterns, with men thriving in the private sector and females in the public sector. In short, a focus on societal features highlights the unintended side effects of policies put in place to alleviate work-family conflicts. According to this line of thinking we should find the following hypothesis confirmed:

H1b: *Welfare services reduce the productivity of women relative to men and therefore we can expect a lower percentage of women managers in countries, like Denmark, with generous welfare and work-life benefits and services.*

1.2 Organizational explanations

The societal level explanations proposed by scholars such as Iversen and Rosenbluth (2010) as well as Gupta, Smith and Verner (2008) gloss over responses at the company level to the alleged productivity difference between men and women. These scholars do not open up the "black box of the firm" in order to determine how companies actually perceive worker productivity. A separate literature investigates the structural arrangements *internal* to a firm, with attendant implications for individual attainment (Dobbin, 2009) and stresses mechanisms adopted by companies in order to explain the patterns of female career advancement. Specifically, Dobbin argues that in comparison with firms in strong states such as France and Germany, firms in the U.S. have played a key role in defining new ways of organizing work to promote gender equality. Indeed, Dobbin argues that it is exactly the weakness of U.S. state and federal government efforts at promoting parity that has required firms to step in and take charge in order to ensure that firms would not be seen by the courts as parties to discrimination (Dobbin 2009; Dobbin and Sutton, 1998; Dobbin, Sutton, Meyer

and Scott, 1993). This process started when in 1961 John F. Kennedy decreed that companies wanting to do business with the federal government would have to take affirmative action to end discrimination. In 1964 Lyndon Johnson signed the Civil Rights Act of 1964 outlawing discrimination in education, housing, public accommodation and employment.

The agents of change were civil rights activists and politicians, but the people who invented equal opportunity were personnel managers (Dobbin, 2009). Public officials came to define fair employment by looking at the "best practices" of leading firms, and so in the end the personnel profession defined equal opportunity through its compliance initiatives including discrimination (1970s), diversity management (1980s) and gender discrimination (1990s and 2000s). The following hypothesis follows from this literature:

So, the crucial question is: Can U.S. firms transplant U.S. approaches into their European subsidiaries and affiliates?

H2: *Firms in weak states are more likely to define ways of organizing work than firms in strong states. Therefore, we expect to see more developed human resources management programs aimed at women in the U.S.*

1.3 U.S. diversity programs in Denmark?

Societal factors are expected to explain the performance of women managers in Denmark while an organizational perspective is estimated to best account for the U.S. situation. Underlying these expectations are rival conceptions of equity based on paradigms of equality of treatment in Denmark and equality of outcome in the U.S. (Ferner, Almond and Colling, 2005). A key issue in the theory and practice of international business is the transferability of policies between national business systems where multinational companies operate (Ferner et al., 2005). However, while gender equality in the U.S. has clear roots in a domestic policy agenda (Dobbin, 2009) its applicability outside the U.S. is unclear. So, the crucial question is: Can U.S. firms transplant U.S. approaches into their European subsidiaries and affiliates? Can one discern a "third way," combining societal and organization-centered explanations—one in which, for instance, U.S.-owned firms operating in Denmark choose to combine their internal career programs (imported from the U.S.) with the more extensive welfare services offered in Denmark because U.S. human resource management programs are seen to contribute to meeting corporate strategic objectives (e.g. the business case argument)? And, if such combinations exist, do these firms have a higher share of female managers when compared to Danish-owned firms in Denmark or is there a low degree of transferability?

Focusing on the policy transfer to U.K. subsidiaries by U.S. multinationals, Ferner et al. (2005) find that the ability of actors in subsidiaries to mobilize and deploy specific power resources allows them to resist the full implementation of U.S. diversity policies resulting instead in a range of compromises. Employee preferences in U.K. subsidiaries differ from employee preferences in the U.S. headquarter regarding a range of work-related issues including the flexibility of working hours, the requirements of global training programs in terms of time and travel, etc. U.S. work requirements are perceived by the U.K. subsidiaries to be more challenging. Do we find for example that Danish women are less interested in working for U.S. companies because U.S. firms are seen as more demanding asking women to work longer hours, etc.? The following two hypotheses are possible:

H3a: *Companies from the U.S. are less able to attract female managers in Denmark because they are renowned for their demanding work requirements. Therefore, we expect U.S. firms in Denmark to have a lower share of female managers.*

H3b: *Companies from the U.S. are more able to attract female managers in Denmark because they set clear*

recruitment targets and justify these with business case arguments. Therefore, we expect U.S. firms in Denmark to have a higher share of female managers.

II. METHODOLOGICAL DISCUSSION AND EVIDENCE

2.1 Methodological discussion

In considering the hypotheses summarized above, I focused on large firms in the pharmaceutical as well as information technology (IT) and telecom sectors. Large firms are more sensitive to social and political concerns and, therefore, I expected them to be more interested in adopting diversity programs and goals directly supportive of female managers. I examined the ten largest Danish-owned IT and telecom firms in Denmark.[1] I also selected the five largest U.S.-owned IT and telecom firms in the U.S. One weakness of this comparison is that the largest U.S. firms are substantially larger than the largest Danish firms. Therefore I also studied ten medium-sized U.S. firms because, in terms of the number of employees, these firms are roughly comparable to the largest Danish firms. Using the Orbis Database I selected pharmaceutical and IT firms with at least 50 percent U.S. ownership and a minimum of 250 employees and a maximum of 3,000 employees in 2008 or 2009. The ten firms were ranked according to their number of employees starting at 3,000 employees. Since I also wished to determine if U.S.-owned firms in Denmark have more developed career programs for women and a higher share of female managers than Danish-owned firms in Denmark, I included those U.S.-owned firms in Denmark that have more than 250 employees (IBM, Microsoft and HP).

Concerning pharmaceutical firms I examined the largest Danish-owned pharmaceutical firms in Denmark with more than 250 employees (four firms). I also examined the five largest pharmaceutical firms in the U.S. as well as ten medium-sized U.S. pharmaceutical companies with less than 3,000 employees. No U.S.-owned pharmaceutical firm in Denmark has 250 employees or more and so I did not consider any U.S. pharmaceutical firms in Denmark. My methodological approach to collecting data in Denmark was case-based interviews with human resource managers regarding the share of female managers in their respective companies and internal initiatives to promote women. In the case of firms in the U.S. such data is publicly available.

1 I examined firms that have more than 250 employees. The EU Commission defines a medium-sized firm as a firm with less than 250 employees. The definition also includes thresholds for annual turnover and annual balance sheet total.

2.2 Evidence

The evidence section is divided into three parts that evaluate each of the hypotheses. Table 1 provides an overview of the three hypotheses, indicates how they were "tested," and summarizes findings and limitations.

2.2.1 The effects of welfare services on female career performance in the U.S. and Denmark

In Denmark the average share of female managers in the IT and telecom sector is 20 percent ranging from 3 percent to 38 percent. The median is 20 percent. In the U.S. the average share of female managers is 29 percent ranging from 34 percent to 21 percent. The median is 29 percent. On average the figures are somewhat comparable while I see a greater spread in Denmark than in the U.S.

The average share of female managers in Danish-owned pharmaceutical firms is 41 percent ranging from 39 percent to 48 percent and the median is 42 percent. In the U.S. the average share of female managers is 38 percent ranging from 32 percent to 42 percent. The median is 41 percent. The data shows that Danish pharmaceutical firms in Denmark perform about the same as U.S. pharmaceutical firms in the U.S. in terms of their average share of female managers. In contrast to the IT sector in Denmark, the share of female managers in the pharmaceutical sector varies much less across firms. While the numbers are too small of course to be statistically significant, the available data does not indicate that Danish firms in Denmark do better than U.S. firms in the U.S. in terms of promoting women. In sum, I do not find support for hypothesis 1a that welfare services increase the share of women managers in Denmark. This finding is in line with my general puzzle

Hypothesis	Test	Finding	Limitation
H1a: Welfare services ease work-life conflicts and therefore we should expect a higher proportion of women managers in countries, like Denmark, where substantial efforts have been made to ease work-life burdens (Esping-Andersen, et al.).	We expect a higher share of Danish women as managers compared to in the U.S.	The average share of women managers is quite similar in Denmark and the U.S. In some Danish IT and telecom firms the number of women managers is substantially lower than in U.S. firms. Welfare services do not appear to offer Danish women an advantage. (reject)	We do not know how Danish employers perceive women's productivity and how employers "manage" women. Do they for example have special programs for women? (we examine this with H2)
H2: Firms in weak states are more likely to define ways of organizing work than firms in strong states. Therefore, we expect to see more developed human resources management programs aimed at women in the U.S. (Iversen and Rosenbluth).	We expect a lower share of Danish women as managers compared to in the U.S.	The average share of women managers is quite similar in Denmark and the U.S. In some Danish IT and telecom firms the number of women managers is substantially lower than in U.S. firms –for those IT firms it could be a negative effect of welfare services but we don't know mechanism (partial support)	We do not know how Danish employers perceive women's productivity and how employers "manage" women. Do they, for example, have special programs for women? (we examine this with H2)
H2: Firms in weak states are more likely to define ways of organizing work than firms in strong states. Therefore, we expect to see more developed human resources programs in the U.S. aimed at women (Dobbin).	We expect U.S. firms to set clearer performance targets compared to Danish firms.	Large U.S. firms have all set targets and policy programs for strengthening women managers while this is less the case in Denmark. (support)	We do not know if U.S. programs are unique to a U.S. context or whether these programs could also work in Denmark. (we examine this with H3a and H3b)
H3a: Companies from the U.S. are less able to attract female managers in Denmark because they are renowned for their demanding work requirements. Therefore, we expect U.S. firms in Denmark to have a lower share of female managers.	We expect U.S. firms in Denmark to have a lower share of Danish managers compared to Danish-owned firms.	On average the share of women managers is the same but the spread in U.S.-owned firms is smaller. (reject)	
H3b: Companies from the U.S. are more able to attract female managers in Denmark because they set clear recruitment targets and justify these with business case arguments. Therefore, we expect U.S. firms in Denmark to have a higher share of female managers.	We expect U.S. firms in Denmark to have a higher share of Danish managers compared to Danish-owned firms.	U.S. firms in Denmark set clear targets for hiring and retaining women. On average the share of women managers is the same but the spread in U.S.-owned IT firms is smaller than in Danish-owned IT firms. (partial support)	

Table 1. Overview of hypotheses, tests, findings and limitations

as described in the introduction.

All the U.S. medium-sized IT and telecom companies have at least 20 percent women managers while among the Danish firms several companies (four out of nine companies) have less than 20 percent women managers. The average share of women directors and top level managers in U.S. medium-sized pharmaceutical companies is 33 percent (the numbers range from 22 percent to 49 percent and the median value is 30 percent). Like in the large U.S. pharmaceutical firms, medium-sized U.S. pharmaceutical firms have a fairly high share of women managers. Danish pharmaceutical companies have a somewhat higher share of female managers but it is important to note that these figures include Danish female managers at a lower career level than the figures in the Orbis database.

Because some of the Danish IT firms have very low shares of female managers, it is therefore possible that hypothesis 1b is correct that welfare services may reduce the productivity of women relative to men and thus make women less attractive to employers in these firms. However, we do not know the precise reasons for the low share of female managers in some firms of 3 percent and 7 percent. How exactly do employers view female productivity and how do they "manage" women employees? I turn in part to this question below when I examine hypothesis 2. In contrast, the figures for the share of women managers in the pharmaceutical sector do not provide support for hypothesis 1b. Danish pharmaceutical companies do as well as both U.S. large and medium-sized firms in terms of their average share of women managers, and the spread across companies is also small. One reason could be that the pharmaceutical sector has more female employees than the IT sector. It is therefore possible that the sector is particularly familiar with Danish women's career concerns.

2.2.2 The organization of human resources programs

Of those investigated, three Danish IT firms have adopted gender focused initiatives while six firms have not adopted any initiatives. In the U.S. all of the five large IT and telecom companies have adopted a range of gender initiatives, such as setting key performance indicators for the minimum share of female managers and making bonus systems for upper level management dependent on meeting these targets. This finding supports hypothesis 2 that U.S. companies are better at setting clear goals for managing female career progression. In the pharmaceutical sector all of the large U.S. companies have set clear targets and goals for female managers. Among the Danish pharmaceutical firms such targets are less common. An investigation of pharmaceutical firms, like those in the IT and telecom sectors, provides support for hypothesis 2, that Danish firms are less likely to set clear goals and manage compliance when compared to U.S. firms.

2.2.3 U.S. firms in Denmark

All of the three U.S.-owned firms in Denmark have adopted initiatives to promote women managers. The share of female managers/executives ranges from 21 percent to 25 percent. The average share of female managers is 24 percent. In contrast the highest share of female managers in Danish-owned IT firms is 33 percent and the lowest figure is 3 percent. The average share of female managers in Danish-owned IT firms is 19 percent. I thus do not find support for hypothesis 3a, that U.S.-owned firms operating in Denmark "scare off" Danish women because of a more demanding work environment.

Microsoft, HP and IBM must meet clear targets set in the U.S. concerning the minimum share of female managers. For example, Microsoft Denmark is striving to increase the share of female managers from 21 percent to 35 percent. Furthermore, all companies have adopted career programs for women. The companies select women who have received good performance evaluations and help them prepare for a career in management. All three companies also mentioned that they see a business case for attracting and retaining skilled women (for example, in order to strengthen market innovation). The interviewees were Danes and all emphasized that the targets set by the U.S. have helped them attract and retain female talent. I thus find support for hypothesis 3b, that U.S. firms in Denmark

may be better able to attract female managerial talent than Danish firms.

III. DISCUSSION AND CONCLUSION

I have found support for the claim that a weak U.S. state combined with the key role played by U.S. courts in punishing and deterring discrimination makes human resources professionals instrumental in developing career programs aimed at women; while in a strong welfare state, such as Denmark, the role for companies to act as gender "activists" is perceived as much less important. In short, it is likely that the Danish welfare state has some unintended consequences for women's career progression and companies do not pick up the "slack." My interviews with Microsoft, IBM and HP in Denmark indicate that U.S. companies in Denmark find a high degree of transferability of U.S. diversity programs. Interviewees agreed that this is because in Denmark the traditional focus on equality of treatment of the sexes is insufficient.

Iversen and Rosenbluth (2010) argue that in order to speed up the process of creating a gender-neutral society only two options exist: 1) to put in place public policies such as mandatory paternity leave, quotas for women on boards and management, etc; or 2) for companies to bear the extra cost of hiring women who constitute (compared to men) a less stable production input. Concerning option 2, more research is required to clarify how companies view female productivity and the conditions under which the hiring of women is seen as a significant cost. However, this article has posited that a third option may exist. The successful performance of U.S. subsidiaries in Scandinavia with respect to their share of female managers indicates that the U.S. compliance-based approach to human resources management, and in particular gender initiatives, may successfully interact with Danish welfare institutions. More research needs to be done to examine the relationship between setting clear corporate targets for women managers "U.S.-style" as a way to reduce discrimination, while at the same time allowing women to benefit from welfare services "Danish style," including subsidized child care and maternity leave.

From a practical perspective, if the setting of clear goals and the development of procedures to ensure compliance constitute important factors in driving female career advancement, public discussions about how to promote women in management should consider this option as well. At the moment public discussions focus on advantages and disadvantages of legislation, e.g. the setting of board quotas. This article primarily serves to highlight a research agenda that addresses the possible transferability across countries of corporate programs to promote women managers. It is by no means an exhaustive study. First, the study is based on only a limited number of firms. Second, more research is necessary to determine more precisely how U.S. subsidiaries in Denmark treat women. Do they expect women to take shorter maternity leave and work harder? I have encountered no evidence of this, but my evidence is only anecdotal. Third, this article only compares Denmark and the U.S. but perhaps U.S. diversity programs may also work well in countries such as Germany and France?

Women are still lagging behind men in terms of private sector career prospects, but there are signs that things are slowly improving as the share of women managers has increased slightly over the last few years (Capelli and Hamori, 2005). Furthermore, in companies with women executives the women were younger, had less company tenure and less tenure in their current positions than men. These factors suggest that many companies are aggressively hiring and promoting women into top executive ranks. Moreover, although women clustered lower down in the executive hierarchy than men, two-thirds of the women executives held positions in the two levels just below the second-in-command. Focusing on Denmark, the potential supply of skilled women ready to move into management positions has grown tremendously over the past 10 years. Whether these women will make it to the top is likely to be determined by the ability of companies to set clear targets and implement programs to support women's career aspirations.

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Perspectives on Europe

The Potential of Judicial Interaction in a Multi-level Legal System: the European Union as a Role Model?

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Introduction

Can the European Union (EU) provide a role model for economic regulation and legal guidance in changing political and social contexts? Doubts could be expressed. After all, the economic crisis has hit Europe hard and political and societal debates in the EU member states are marked by uncertainty and controversy. Nonetheless, the European model of governance arguably does have the potential to provide stable governance. Indeed, as will be shown in this essay, the potential of the European model in particular can be found in the playing field which it offers for judicial interaction among courts at different levels in this multi-level system of governance.

The role of judiciaries in providing stable governance should not be underestimated. In Western liberal democracies, the increased recognition of constitutional rights and the expansion of mechanisms of judicial review in the last decades have led to the empowerment of national judiciaries in relation to the other branches of government.[1] Of the three branches of government distinguished by Montesquieu (the legislature, the executive and the judiciary),[2] the judicial branch thus has become increasingly central in the guarantee of the rule of law, i.e. the idea that the protection of citizens against the arbitrary exercise of public power requires that all government decisions are subjected to legal rules.[3] The 'third branch of government' can now truly

1 The research presented in this essay was supported by a post-doctoral VENI-grant from the Netherlands Organisation for Scientific Research (NWO). Contact: mak@law.eur.nl. See inter alia M. Shapiro & A. Stone Sweet, On Law, Politics and Judicialization (Oxford University Press 2002); R. Hirschl, Towards Juristocracy: The Origins and Consequences of the New Constitutionalism (Harvard University Press 2004).

2 Ch.-L. de Secondat Montesquieu, De l'esprit des lois (Garnier 1973, orig. 1748).

3 Different conceptions of the rule of law are presented, for example, by J. Raz, The Authority of Law: Essays on Law and Morality (Oxford University Press 1979), p. 210-229, and by T. Bingham, The Rule of Law (Allen Lane 2010).

be considered to be the ultimate guardian of the constitutional principles of the state, and in particular the fundamental rights of citizens. Yet, the governance of states is becoming increasingly complex in the present-day context of globalization, privatization and multiculturalization. Legal orders are increasingly intertwined; regulatory power is increasingly delegated to private agencies; and societies are increasingly characterized by cultural, religious and linguistic pluralism. Thus, traditional approaches to governance need to be reconceptualized. Given the significant role of courts, the question arises: How can national judiciaries continue to fulfill their task in a globalizing context, in particular in a multi-level system such as the EU?

This essay will explore how a model of judicial interaction has emerged in the development of the supranational framework of the EU, making it possible for national legal systems to deal effectively with political, economic and societal developments. This interaction consists of an exchange of ideas and arguments regarding the solutions to specific legal questions, and it occurs both in judicial deliberations and in judgments. An exchange of ideas has developed between national courts and the Court of Justice of the European Union (ECJ), as well as between national courts in EU member states. Through this 'judicial dialogue',[4] normative changes aimed at the harmonization of laws and regulations in Europe have been integrated gradually into the legal systems of the member states. In light of the increased importance of the judicial guarantee of the rule of law, this kind of interaction is of particular significance for the effective functioning of governance in the multi-level legal system of the EU. Moreover, examples show that it has been successful.[5] Other multi-level legal systems sharing the ideology of Western liberal democracy might therefore benefit from learning about this mechanism to create stable governance.

The theoretical capacity of the European model to serve as an example for other legal systems will now be investigated. First, the origins and evolution of judicial interaction in the EU context will be described and analyzed. Then, the essay will examine which improvements are required to support the effective functioning of this model of judicial interaction and harness its contributions to stable governance.

Origins of judicial interaction in the EU

Since the second half of the last century, the growing significance of international influences at the national level has increasingly marked legal development in Western legal systems. In Europe, the emergence of the EU and the mechanism of fundamental rights protection of the European Convention on Human Rights (ECHR) have been important developments. These changes prompted national courts to take a proactive stance regarding the development of the law in their national legal systems. The national courts were obliged to apply legal rules established at the supranational level of the EU and to protect the rights codified in the ECHR. The courts also had to reconsider their own role vis-à-vis the increasingly influential European courts in Luxembourg and Strasbourg. These changes forced the national judiciaries throughout Europe to develop new visions and strategies concerning their functioning, as well as concerning their role in the national legal order.

Most importantly, the emerging inter-connections between national and inter- or supranational legal orders prompted and continues to inspire questions about how the rule of law, and in particular fundamental rights, could still be guaranteed at the national level. Indeed, the German Federal Constitutional Court's Solange judgments are proof of the initial reluctance of member states to entrust the matter of fundamental rights protection to the developing

4 Concerning the ambiguities of this term, see A. Torres Pérez, Conflicts of Rights in the European Union. A Theory of Supranational Adjudication (Oxford University Press 2009), p. 106-109.

5 See infra, par. 3.

EU legal system.[6] And in general the thought prevails among judges and policy makers that the national state, for the time being, remains the most important 'anchor' for both the national and the international legal order, especially with regard to the guarantee of the fundamental principles of the liberal democracy.[7] However, the role of the national state has acquired a new meaning: emphasis is no longer on state sovereignty, but on the state's duty as a 'hinge' in the international legal system to uphold the principles of liberal democracy.[8]

The constitutional frameworks of states catalyze the effects of inter- and supranational law by determining the validity and status of treaty law in the national legal system. Constitutional courts are competent to assess the conformity of treaty law to the constitution and other national courts interpret and apply treaty law in individual cases. Given the important role of the courts in the evolving global legal context, insight into the interaction between the constitution and the judicial function has become essential for national judiciaries to preserve their legitimacy and relevance, both at the national level and at the level above the state. A need has emerged for guidelines to help develop the critical self-awareness of national judges concerning their role, and to give direction to the broader social debate concerning the judicial function in this changing context. These guidelines can be found by combining the traditional, static perspective of the constitutional provisions regarding the judicial function, on the one hand, with a dynamic approach which integrates changing constitutional conventions,[9] on the other.

The specific quality of the European model of governance lies in its influence on the constitutional flexibility of national legal systems. In fact, the supranational model has promoted relative openness in the member states regarding the expression of EU-driven normative changes within national legal systems. The flexibility of constitutions enables the harmonization of national laws. It makes it possible to deal with long-term trends like globalization and privatization, as well as with specific incidents affecting society, such as the financial crisis. A specific legal system's degree of flexibility is dependent on its constitutional norms and the possibilities of modifying these norms through parliamentary procedures, as well as on the judicial interpretation of the constitution and the influence of international law.[10] In the EU context, constitutional flexibility enables the adaptation of national institutional arrangements to normative changes brought about by the measures developed at the supranational level. A safeguard for national standards of fundamental rights protection is provided through the explicit link which is made in the EU Treaty to "the constitutional traditions common to the member states."[11] The European model thus supports the diversity and plurality of the 'old world' of separate nation states, and simultaneously has the ability to maximize the benefits gained from the cooperation between states in the evolving global legal context. Courts play an important role in making this model work in practice.

The specific quality of the European model of governance lies in its influence on the constitutional flexibility of national legal systems.

6 BVerfG, 29 May 1974, Solange I [1974] 2 CMLR 540, 37 BVerfGE 271; BVerfG, 22 October 1986, Solange II, [1987] 3 CMLR 225, [1986] 73 BVerfGE 339.

7 Report of the Dutch Scientific Council for Government Policy (WRR), De toekomst van de nationale rechtsstaat [The Future of the National Constitutional State] (Sdu Uitgevers 2002), p. 81.

8 Ibid., p. 82.

9 P. Avril, Les conventions de la Constitution (Puf 1997).

10 E. Mak, "Justice at a New Scale: Introducing a Conceptual Framework for the Analysis of Highest Courts' Role in a Globalised Context," in S. Muller & S. Richards (eds.), Highest Courts and Globalisation (Hague Academic Press 2010).

11 Article 6 par. 3 TEU.

Evolution of judicial interaction in the EU

The capacity of the courts in Europe to adapt to changing circumstances has enabled them to consolidate their own position and to aid the development of European integration as a means for providing stable governance. In reaction to the trend of Europeanization, a paradigmatic change appears to have taken place in the role of the courts in national legal systems in the EU.[12]

Indeed, with the introduction of the European multi-level system of governance, the competition for judicial leadership became a central focus in the functioning of national highest courts in EU member states. Besides their functioning in the domestic legal system, these courts became partners in a 'dialogue' with the courts at the European level: the European Court of Justice (ECJ) and the European Court of Human Rights (ECHR).[13] With respect to the EU, the construction of the supranational model brought up questions concerning the transfer of competences to the European level and the consequences of reconciling European law with the legal systems of the member states. National courts were actively engaged in solving these issues. Where the ECJ had to claim its legitimacy and authority in the multi-level system, national highest courts had to reconstruct their 'final say' regarding the interpretation of the law at the national level. Given the supremacy and direct effect of EC law in the member states' legal systems, the highest courts—like all national courts—became potential judges of Community law and as such were considered "decentralised Community judges."[14] However, in fulfilling this new function the national courts had to take into account the interpretation given to EU law by the ECJ.

Through the years, rules of interpretation developed which have come to guide the interaction between the ECJ and the national courts. These rules include the doctrines of *acte clair* and *acte éclairé*, defining the instances in which no obligation exists to refer a question of the interpretation of EU law to the ECJ.[15] For the sake of harmonization, many courts also started looking at the interpretation of EU law by courts in other member states in concrete cases coming before them. Both through vertical and horizontal judicial interaction,[16] the national highest courts thus found a way to coordinate the application of the supranational law in their domestic legal systems.

The courts in Europe can be considered to have had a hard time at realizing structure and coherency in this multi-level system. However, their struggle for leadership and coherency in the institutional dynamics currently has its pay-offs. In fact, the interaction between the highest national courts and the ECJ has obliged both the national courts and the ECJ to reflect on their role and impact in the evolving context of the supranational legal order. The courts at both levels have been incited to defend, reinforce and adapt their attitude and working methods in order to obtain an influential position in the developing multi-level judicial system. In this way, the courts have been continuously forced to stay aware of their function and the context in which they exercise this function. The vertical and horizontal interaction between courts in the European system has enabled the growth of a nuanced dialogue, which stands in close connection to the economic, social and political reality in Europe. This awareness and dialogue is the key to the ability shown by the European judicial system to give sufficient guidance

12 M. de S.O.l'E. Lasser, Judicial Transformations. The Rights Revolution in the Courts of Europe (Oxford University Press 2009).

13 See inter alia A.-M. Slaughter, A. Stone Sweet & J.H.H. Weiler (eds), The European Court and National Courts – Doctrine and Jurisprudence: Legal Change in Its Social Context (Hart Publishing 1998); H. Keller & A. Stone Sweet (eds), A Europe of Rights: The Impact of the ECHR on National Legal Systems (Oxford University Press 2008).

14 F. Amtenbrink and H.H.B. Vedder, Recht van de Europese Unie (Boom Juridische uitgevers, 2008); M. Claes, The National Courts' Mandate in the European Constitution (Hart Publishing, 2006).

15 See P.J.G. Kapteyn et al., Kapteyn & VerLoren van Themaat's The law of the Europen Union and the European Communities: with reference to changes made by the Lisbon Treaty (Kluwer Law International 2008), p. 495-499.

16 See A.-M. Slaughter, 'A Typology of Transjudicial Communications', 29 U. Rich. L. Rev. (1994) p. 99.

in the current times of crisis.

National courts thus have contributed to the effective functioning of the European multi-level model in several ways. The judicial interaction between courts in the EU takes advantage of the potential for conflict to initiate a dialogue.[17] This judicial interaction offers a basis for the realization of better-reasoned interpretive outcomes, the participation of state courts in the construction of the European legal framework, the building of a supranational common identity, and the respecting of the pluralist framework of governance.[18] Thus, a playground is provided for inspiration and innovation as well as for the harmonization of laws. However, the practice of judicial interaction as it has developed in Europe still leaves room for improvement.

The maximization of interaction among judiciaries will thus benefit the development of a better guarantee of the rule of law...

Improvement of judicial interaction in the EU

For the European model to function optimally, two conditions have to be met. First, judicial interaction in the multi-level context needs to be maximized to cover all situations in which this dialogue is beneficial to stable governance. Secondly, a more methodological approach by courts is required to enhance the effectiveness of this dialogue.

As regards its role in the harmonization of laws, multi-level judicial interaction has a significant role to play in the improvement of the protection of fundamental rights in national legal systems. In the Treaty of Lisbon, the member states of the European Union recently confirmed that the Union is meant to "offer its citizens an area of peace, freedom and justice."[19] In this respect, the guarantee of fundamental rights is often considered to be a main goal. Through the comparison of judicial interpretations, a high level of protection of these rights can be guaranteed. However, the effectiveness of rights protection in the EU framework requires further fine-tuning in relation to the member states' constitutions and to the ECHR.[20] With respect to the institutional framework for the protection of rights, the guarantee of judicial independence and impartiality can be improved by exchanges among judiciaries. And for this reason, much can be gained through the further development of projects initiated by the EU to 'upgrade' the judicial systems in new and candidate member states.[21] The maximization of interaction among judiciaries will thus benefit the development of a better guarantee of the rule of law in the EU.

A prerequisite for the effectiveness of this multi-level judicial interaction is that sufficient opportunities exist for judges to participate in the dialogue with judges in other jurisdictions. The increasing exchanges between judges from different member states, for example through judicial networks and visits to other highest courts, help to give judges a better understanding of the decision-making of their colleagues in other legal systems.[22] Insight into the usefulness of this process

17 Torres Pérez, op.cit. (supra, note 4), p. 111.

18 Ibid., p. 112-117.

19 Article 2 TEU.

20 A recent article which addresses aspects of this topic is T. Lock, 'The ECJ and the ECHR: The Future Relationship between the Two European Courts', 8 The Law and Practice of International Courts and Tribunals (2009), p. 375-398.

21 See the Copenhagen Criteria, which required the new member states 'to have stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities', see < http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index_en.htm >. See also the EU Monitoring and Advocacy Program (EUMAP), < http://www.eumap.org/topics/judicial >.

22 See Muller & Richards, op.cit. (supra, note 10).

and access to available sources of information is provided through the analysis of the process of judicial interaction by scholars.[23] These studies will further contribute to the awareness of judges of their role in the multi-level context, and to the development of a more elaborated methodology for multi-level judicial interaction.

Conclusion

The European model of governance draws its strength from its elements of flexibility and dynamism. The model has no aspiration to complete unity and coherence. On the contrary, legal innovation is sought through the interaction of courts originating in different legal systems and different legal cultures. Because of its particularities, transplanting the European model to other legal systems will not be a straightforward job. However, this model serves as an example insofar as it shows how platforms for judicial interaction in a multi-level legal system can be developed and used as an effective tool for ensuring stable governance, in the EU and elsewhere.

23 Research in this field has been initiated by the Hague Institute for the Internationalisation of Law (HiiL). See < www.hiil.org >.

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Perspectives on Europe

Financial Regulation in Europe: Divergent Institutional Responses in the Ages of Globalization and an Untidy Compromise

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The financial origins of the recent world economic crisis have focused attention intensely on the role of financial regulation in advanced industrialized countries. In both the United States and the EU—which witnessed the largest public bail-outs of financial institutions—the crisis has raised serious questions about the adequacy of existing regulatory arrangements and prompted institutional reforms intended to forestall similar future disasters. In Europe, the EU Commission led the effort to raise regulatory authority over financial institutions to the EU level so as to match the now centralized "lender of last resort" function of the European Central Bank (ECB). Yet the effort to create any such authority at the EU level has faced important obstacles. One of these has come from the resistance of member states to cede their regulatory powers over financial institutions. Yet a different, less often recognized obstacle is financial regulatory reform involving the fundamental differences in the national regulatory models that co-exist across the EU.

As we have argued elsewhere recently (Perez and Westrup, 2010), differences in national regulatory models are not simply the result of long-running institutional legacies. They are the product of divergent choices made by EU governments as they responded to the last wave of regulatory challenges in the financial arena during the 1990s and early 2000s. In this period, some member states organized their regulatory authority into a single, unitary institution separate from their national central banks, while others divided such authority among multiple regulators leaving banking in the hands of their central banks. This divergence in national institutional models is an important constraint on efforts by EU authorities to create an effective EU-wide framework of financial supervision and regulation.

The sub-prime crisis in the United States revealed risk-linkages among financial institutions that cut across both the Atlantic and the world. It quickly became clear that those risk-linkages extended across the EU, for the exposure of institutions under UK and German regulatory authority was also found to expose institutions in other member states. The widespread failure of financial regulators throughout the member states to appreciate these new risk-linkages among their financial sectors led to calls from some experts for

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a strong, pan-European financial "super-regulator" that would have authority over institutions operating across EU member states, and which could provide leadership and gauge the level of systemic risk in the EU.

A report commissioned by the EU Commission from a small group of experts headed by Jacques de Larosière explicitly set aside this option, however, in favor of an alternative, two-layer model. In this alternative model, a "European Systemic Risk Council (ESRC)" under the leadership of the ECB would oversee systemic or "macro" financial risks, while so called "micro risk"—that attached to individual institutions—was to be left to three new EU supervisory agencies for banking, insurance, and securities markets that would set binding standards and supervise colleges of national regulators tasked with monitoring financial institutions operating across more than one EU state.[1] As for the European System of Financial Supervisors (ESFS), the report went on, it "should be neutral with respect to national supervisory structures…[because] national supervisory structures have been chosen for a variety of reasons and it would be impractical to try to harmonise them…." (p. 44).

By the time final agreement was reached among the member states in September of 2010, the Larosière model was further altered, principally (but not exclusively) to accommodate Britain—not a member of the ECB. The binding nature of decisions by the three new EU "micro regulators" was limited to "emergency situations" and a "fiscal safeguard" was further introduced, preventing the EU authorities from allocating fiscal responsibility when public funds would be required to address the financial risks posed by a cross-border institution. In addition, the ECB's chairing of the new ESRC was limited to the first five years after its inception (*Financial Times,* September 3, 5 and 7, 2010).

This new EU regulatory arrangement, which will come into effect at the start of 2011, thus provides improved mechanisms for information sharing and the harmonization of technical rules across countries. Yet, it also constitutes what many experts see as a highly untidy and potentially ineffective regulatory response that may miss the main lessons revealed by the crisis—namely, that a lack of clear coordination and leadership among national regulators and macro-economic authorities can be disastrous.[2] The outcome of the EU's reform initiative was predictable, however, not only because the creation of a pan-European super-regulator would have required a large shift of regulatory powers to the EU level, but also because the regulatory philosophy behind it conflicted with arrangements existing in many EU member states. The Larosière report acknowledged as much in rejecting the notion that the ECB should be given regulatory authority over financial institutions. "Giving a micro-prudential role to the ECB would be extremely complex," it argued, "because in the case of a crisis the ECB would have to deal with a multiplicity of Member States Treasuries and supervisors." Moreover, conferring micro-prudential duties on the ECB would be particularly difficult given the fact that a number of ECB/ESCB members have no experience or established competence in such financial supervision (Larosière Group report, p. 43). Indeed, as the following table illustrates, the regulatory structures adopted in Europe in the period following the initiation of single European market in financial services in 1992 varied substantially along two dimensions: 1) whether or not the regulation of different types of financial activities (commercial and investment banking, securities markets, and insurance) was unified under a single regulator, and 2) what role the central bank

This new EU regulatory arrangement...provides improved mechanisms for information sharing and the harmonization of rules across countries.

1 The High Level group on Financial Supervision in the EU Chaired by Jacques de Larosière, Brussels 25 february 2009. Available at http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf

2 See for instance "De Larosière report fails to tackle main issues," *Euractiv* April 6, 2009, pp. 231-32.

The Structure of Financial Supervision in some Key EU economies in 2007

Country	Single Regulator	Twin Regulators	Three Separate	Regulatory Role of Central Bank
United Kingdom	X			systemic risk*
Germany	X			secondary to BaFin
France			X	banking supervision
Italy			X	oversees banking and part of the bond market
Spain			X	banking supervision
Netherlands		X		banking and systemic risk
Belgium	X			banking and systemic risk
Sweden	X			secondary
Greece			X	banking supervision
Ireland	X			central bank is overarching regulator
Portugal			X	banking regulation

Source: Author's elaboration based on Wymeersch (2007).
*In 2010 the new Conservative government in the U.K. put the FSA under the authority of the Bank of England, turning the central bank into the single regulator.

was given in the post-1992 regulatory framework.

To understand the paradox of divergent institutional responses in an age of globalization and financial liberalization, we must pay attention to the role of political elites, and particularly, to their domestic political motivations in establishing and shaping regulatory reforms in Europe. Admittedly, pressure from sectoral actors and efforts to boost the role of one financial capital or another played a role in the decisions of governments during the last decades. Yet, politically sensitive developments—such as the shift of risk for old age income maintenance from public to private pensions—also heightened the interest of elected officials in financial market regulation and may offer a better explanation for some of the main lines of divergence in their institutional choices.

Divergent regulatory choices in the pre-crisis period

The decades leading up to the financial crisis precipitated by the collapse of the U.S. subprime mortgage market were ones of intense reform in the institutions of financial regulation across Europe. In the 1970s and 1980s, reform efforts had focused on the

deregulation of credit (principally in those countries were postwar regulatory practices were seen to hinder monetary policy operations by central banks) and on boosting capital markets as a less inflationary form of corporate finance. But in the 1990s and early 2000s, governments across Europe became concerned principally with matters of prudential regulation and with the goal of better public supervision of newly deregulated financial activities. Up until the 1980s, the norm across Europe had been one of self-regulation in the banking sector and among licensed stock brokers.[3] Yet from that decade on, governments from Spain, France, and Italy to Germany and the UK, began to create new independent agencies and government offices or, in some cases, strengthen the powers of inspection and sanction of existing state bodies.

This was the general trend. However, the institutional structure of supervision on which governments settled varied substantially across Europe. In many countries, the supervisory powers of the central bank over the banking system were strengthened in the 1990s and new securities regulators were created (or, as in Italy and France, existing regulators were newly empowered).[4] The most dramatic change, however, took place in the UK, where the Labour government in 1997 created a new single regulatory authority for the financial sector—the Financial Services Authority (FSA) —and in Germany, where the Red/Green coalition government of Gerhard Schröder similarly concentrated powers under a new agency—the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) early in 2002 (Westrup, 2007, ch. 4). In both countries, the new regulators were given responsibility for all three segments of finance (banks, securities markets, and insurance), although the FSA was organized in a more integrated manner while the BaFin was created as an umbrella agency to oversee existing securities and insurance regulators (the BAWe and BaV (Bundesaufsichtsamt für das Versicherungswesen) as well as the existing prudential regulator for the banking system (BaKred). In both countries, the introduction of the new super-regulator implied a sharp reduction in the regulatory role of the national central bank, whose powers were largely reduced to carrying out bank inspections (although the Bank of England, as Britain's monetary authority, naturally retained responsibility for systemic risk).

There are several factors that are identified in the literature to help explain the new focus on prudential standards and state supervision of finance in the early 1990s. With fully functioning money markets, monetary policy had been successfully placed in the hands of central banks, whether or not these had yet received full statutory autonomy. The goal of creating a financial infrastructure that would serve more orthodox monetary practices had thus been achieved. On the other hand, international financial integration was creating a number of new challenges. By the 1990s, the growth of cross-border operations led states to seek agreements on prudential standards (Basel I and II) through the Bank for International Settlement (BIS) and the International Organization of Securities Commissions (IOSCO) (Strange, 1996; Vogel 1998; Held et al., 1999; Simmons, 2001; Pauly, 2002). Another impetus for increased state supervision is said to have come from American institutional investors who are often credited for encouraging higher standards of transparency in corporate governance and financial regulation across Europe (Laurence, 2001; Lütz, 1998, 2004; Moran, 1991). Finally, European directives that followed from the 1992 launching of a single European financial market provided an additional impetus for more formal standards of regulation.

However, because all these factors were

3 To offer some examples, in Britain neither the Treasury nor the Bank of England had any formal legislative powers to supervise banks until the Banking Act of 1979. And although the German government created a banking supervisor, the Bundesaufsichtsamt für das Kreditwesen, in 1961, that institutions established rules only through close consultation with the large banks (Busch, 2000, and Coleman, 1996). Securities markets were also characterized by the absence of public supervision, or at least powers of sanction. In Britain, it was not until 1986 that the Securities and Investment Board (SIB) - an institution Moran (1991) characterized as a mesocorporatist body with responsibility shared between state and market actors - was created. Neither Spain nor Germany had independent securities regulators until 1989 and 1994 respectively, And in France and Italy, existing regulators (the Commission des Opérations de Bourse (COB) and the Commissione Nazionale per le Società e la Borsa (Consob)) did not have the power to enforce sanctions until 1989 and 1998 respectively.

4 The insurance sector was covered through the creation of separate insurance regulators.

systemic (i.e. would have had similar effects across countries), they do not help us understand why, in their efforts to strengthen public supervision, EU member states would choose such different institutional structures (with governments in some countries opting to create separate regulators for securities and/or insurance while leaving banking under the supervision of the central bank and others choosing to remove banking supervision from the central bank and to create new, unified financial regulators that were directly accountable to national parliaments and governments).

There was, however, another political dynamic at play that strengthened the desire of elected governments to boost financial supervision in the 1990s. Over the 1980s and 1990s, households across much of Europe significantly changed the manner in which they invested their private savings, moving away from secure assets such as bank deposits (still their principal asset in 1980) toward risk assets (including direct holdings of equity and bonds, as well as investments placed in such securities through financial institutions). Between 1980 and 2000, the total proportion of risk assets in household savings rose by substantial percentages (53 to 74 percent in Britain, 33 to 60 percent in Germany, 30 to 61 percent in France, 24 to 75 percent in Italy, and 21 to 64 percent in Spain) (Perez and Westrup, 2010).

This shift in the structure of household savings—the result of earlier policies to ease pressure on national budgets and pension systems such as the privatizations of public utilities and tax incentives to promote private savings and stock ownership—implied a significant rise in the vulnerability of large segments of the electorate to market events. As long as bank deposits dominated household portfolios (as they did until the 1990s), regulation of the financial sector was of interest almost exclusively to technocrats (central bankers and senior civil servants) but not to elected officials. When bank failures occurred, central banks carried out their lender-of-last-resort function, bringing in other domestic banks to assist in rescues if necessary, while the immediate threat to depositors was addressed through deposit insurance schemes. The rise in private pension and securities ownership by the public-at-large, however, changed the scenario. As regulatory failures now could have dire consequences for large numbers of people, this change in investment habits raised the profile of financial failures in national politics and gave elected officials a far more direct stake in the avoiding regulatory failures. For example, the private pension mis-selling scandal of the 1990s—affecting around seven million people (Banks and Smith, 2000) —and the Barings scandals in the UK were seized upon by the Labour party in its 1997 manifesto, which promised to reform the Conservatives' Financial Services Act.[5] The 1993 Banesto scandal in Spain, which affected as many as 300,000 small shareholders, set off a political maelstrom (*El Pais*, April, 26, 1994). The 2000-2001 Berlin banking scandal, involving the states regional mortgage bank and costing it billions of euros, contributed directly to the breakdown in the city's grand coalition. And, the Parmalat scandal in Italy, which affected over 85,000 small bondholders, produced a volley of recriminations between the Berlusconi government and the Bank of Italy, with Finance Minister Tremonti calling for the creation of a new, overarching regulatory agency (*Financial Times*, January 24, 2004).[6]

These examples illustrate how matters of financial supervision that had once been the purview of technocrats turned into questions of real electoral relevance. In such a context, we would expect politicians to favor an intensification of supervision. Yet contrary to systemic explanation, such as the influence of American investors or Europeanization, this domestic political dynamic was less likely to produce convergence upon a common institutional model. While voters might blame governments when market failures threaten their life savings, they are less likely to be looking for specific regulatory arrangements than either highly informed foreign investors or international technocrats. Politicians would thus have to have particularly strong motivations to want to create new, unitary regulatory agencies to opt for such an outcome.

5 Labour Party Manifesto, 1997.

6 The Bank ultimately only lost its regulatory powers over investment products offered by banks and over bank mergers following the Antonveneta scandal in 2005. Wymeersch, E.. 2007. "The Structure of Financial Supervision in Europe: About Single Peaks, Twin Peaks and Muliple Financial Superviors. *European Business Organization Law Review*, Vol. 8, pp. 237-306.

As our analysis (Perez and Westrup, 2010) of regulatory changes in five countries (Britain, Germany, France, Spain, and Italy) discusses in greater detail, the construction of new regulatory arrangements in the pre-crisis period involved considerable tensions between different state actors, in particular tension between elected elites and central banks. In both Britain and France, the introduction of new, overarching regulatory agencies with supervisory powers over banking was strongly opposed by the central bank. There are a number of important policy arguments in favor of having a single, unitary regulator for finance (including better risk-assessment of institutions that operate across what are now blurred market segments, and the efficiency gains to be had from moving to a one-stop regulator). At the same time, there are also important arguments against giving such an encompassing regulatory role to central banks which also have the function of serving as lenders of last resort, and in this sense may face a conflict of interest. Moreover, the main argument in favor of granting statutory autonomy to central banks—namely, that elected governments face a problem of time-inconsistency in setting monetary policy—does not extend to the regulatory functions that central banks have traditionally served as the default regulators for the banking system.

In both Britain and France, the introduction of new, overarching regulatory agencies with supervisory powers over banking was strongly opposed by the central bank.

We explain the different choices made by governments across the five largest EU states in terms of two factors: first, the differing level of strength of central banks within national policy-making communities in the 1990s and 2000s, and secondly, the degree of interest on the part of elected elites in placing financial supervision under a more directly politically accountable single regulator. In both the UK and Germany, the introduction of the single, regulatory model formed part of a larger economic project by left-of-center governments. As noted, the creation of the FSA formed part of the Labour Party's 1997 electoral promise and was justified largely in terms of creating a more accountable supervisory agency that would prevent regulatory failures, such as the private pension mis-selling and Barings scandals. In the case of Germany, the creation of the BaFin was backed by the large banks, but opposed by the Bundesbank and a number of important regional governments. Thus, the decision ultimately came down to Chancellor Schröeder and coincided in time with the initiation of a process of pension reform that ultimately shifted the burden of old age income provision significantly from the public pension to private individuals. Noting a cross-national pattern that also extends beyond Europe to other places (such as Japan, for instance), we suggest that where pension reforms have created such a shift, the vulnerability of large segments of the electorate to market events may increase the pressure on governments to seek to re-establish political accountability over financial regulation.

The crisis and its aftermath

As the financial crisis that spread from the U.S. to Europe in 2007 has revealed, none of the national regulatory institutions introduced in Europe during the 1990s and early 2000s proved a match for the contagious risk that new asset backed derivatives and credit default swaps had created for banks and insurance firms across the major OECD economies. Indeed, since the start of the crisis there has been one major change at the national level as the new Conservative-Liberal Democratic coalition that came to office in the UK turned the single regulator model introduced by Labour on its head, placing the Bank of England in control of financial regulation, with the FSA as an agency under its control. The move was justified on the basis that the crisis had demonstrated the need to place responsibility for systemic risk and "micro-risk" under a common authority. Yet, if the FSA had not foreseen the failure at Northern Rock in the UK, neither the central bank

led model of banking supervision maintained in the Netherlands nor the single regulator model introduced in Belgium in 2004 had prevented the collapse of Fortis.

The question of what model is best suited to an environment in which securitization and tranching of asset backed securities have rendered risk opaque can hardly be said to have been settled by the still ongoing financial crisis. Certainly, the issue of systemic risk is back and writ large. This, indeed, was the argument for creating a single regulator at the EU level that would be placed under the leadership of the ECB. For defenders of the notion that systemic risk and the supervision of individual institutions cannot be separated, the failure to arrive at such a solution is thus a primary error.[7] But given the multiplicity of arrangements and regulatory actors across the member states, there was most likely, as the de Larosière Group concluded, little chance of arriving at such an agreement at the EU level. Whether the two-tiered micro- and macro- risk model can offer an improvement over the previously existing model of information-sharing among national regulators will thus likely depend on whether improvements in information-sharing and analysis, and avoidance of regulatory arbitrage, can be significantly reinforced by the three new sectoral European Financial Authorities.

7 See for instance the memorandum of René Smits included in "The future of EU financial regulation and supervision," 14th Report of Session 2008-09, Volume 2, Evidence taken before Sub-committee A (Economic and Financial Affairs and International Trade), London: The Stationary Office, 2009, pp. 231-32.

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Council *for* European Studies

Perspectives on Europe

The Quest for EU Legitimacy: How to Study a Never-Ending Crisis

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European integration has transformed the conditions of political life in Europe. The powers of the European Union (EU), expanded progressively since the foundation of the European Communities in the 1950s, are without precedent or parallel for a political entity that is not a state. How has this power been established? How has it been turned into (relatively) legitimate authority? This essay explores the inevitable and ongoing dynamics of discursive construction and contestation involved in the exercise, establishment, and legitimation of political power.

The first section makes a case for approaching political legitimacy inductively, through interpretive, non-quantitative discourse analysis, and situates this line of inquiry in the literature. The second section provides a taste of the type of long-term discourse-historical narrative proposed, singling out a number of key positions, patterns, and shifts of the past six decades in the discourses of EU institutions and in member-state public spheres (specifically, but not exclusively, in large samples of newspaper articles covering the French and German debates on the Maastricht and constitutional treaties). The essay closes by asking what one might learn from this kind of discursive history of legitimation.[1]

Political Legitimation as Discursive Struggle

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The questions raised in this essay stem from the premise that the EU's quest for legitimacy is to a large extent a discursive contest—not only over how legitimate the EU is or is not, but also over what such a legitimacy might mean. In legitimating political power, or in questioning its claim to legitimacy, we develop and build on shared notions about the meaning of 'legitimate' power in this instance. Our convictions about legitimacy are the products of an obscure mix of beliefs, narratives, associations, passions, etc. (see Williams, 2005: 12-3). Through our interactions we constantly re-construct and re-contest this mix, determining what is plausible, what it makes sense to say, or what we consider to

1 The essay draws on material presented in a nascent monograph manuscript that tells the story of the struggle for EU legitimacy from the 1950s to the failure of the constitutional treaty in 2005.

be true, obvious, commonsense. What is it that makes political authority and in particular the EU legitimate? What kind of phenomenon is the EU to begin with, and what is the nature of the challenges to which European integration is supposed to provide answers? Our ideas regarding these questions unavoidably pre-determine the extent to which we assess the EU as legitimate.

Promoting certain understandings over others is in the interest of whoever wants to exercise, challenge, or constrain power (see e.g. Walters and Haahr, 2005). After all, a certain degree of legitimacy in the eyes of those affected by political power is indispensable, if this power is to be exercised efficiently and to find compliance without coercion. In the context of European integration, moreover, a brand new political system was built from scratch. It had to be justified in its very existence as well as in the particular institutional shape it was given, at times against significant resistance. Thus, some legitimacy in the eyes of voters as well as decision-makers has always been vital to making integration possible, and to keeping it alive.

Much of the existing scholarship disregards this contested, socially constructed, and inter-subjective side of political legitimacy. On one hand, political philosophy and certain parts of political science approach legitimacy as an objective ideal. They treat political legitimacy as a normative quality of the authority in question and one against which reality can be measured—for example, as regards so-called "democratic deficits" in the EU's institutional setup and decision-making processes, or the societal prerequisites of democracy. This type of account tends to be silent about the processes by which certain criteria rather than others come to be generally accepted as conditions of legitimacy. On the other hand, empirical social scientific accounts treat legitimacy as something in the eyes of the beholder, something people ascribe to a regime, leader, law, etc.

This kind of research is concerned with the extent to which people *de facto* accept political authority as legitimate, and the conditions and implications of this. The bulk of such work on social legitimacy looks at it in terms of crudely measured public opinion and political culture. It quantifies, categorizes, and causally explains popular attitudes, often by attributing them to specific groups of people defined, say, by socio-economic bracket, nationality, or political partisanship. The European Studies literature on public opinion, more specifically, draws principally on the Eurobarometer series, which limits it to the questions asked in these surveys. It, too, has little to say about what "legitimacy" and "European integration" *mean* to respondents, and how such meanings come about and change.

In order to explore the interactive processes of symbolic, narrative, and argumentative construction involved in the legitimation political power—what one might call the discursive politics of legitimation—we have to study EU legitimacy in a different way. We need not so much compare groups of actors and their attitudes, but explore what they have to say—their discourses or ways of representing the world and, in relation to it, the EU and its legitimacy. What did legitimacy mean in various discourses; how did these discourses represent the EU and (the conditions for) its legitimacy; and on what grounds did they make them appear in a certain light? The method most indicated for investigating these questions is not content or frame analysis, which counts and contrasts relative occurrences of coded themes (see e.g. Medrano, 2003; Jachtenfuchs et al., 1998). Better suited for identifying and interpreting discursive patterns and their interplay is the close reading or in-depth interpretative discourse analysis of an eclectic mix of sources. This essay draws on official documents and newspaper articles, but a wide range of other sources including interviews and ethnographies could also be beneficial.

The kind of interpretive, qualitative research proposed above works in the space between purely theoretical and purely empirical scholarship on political legitimacy. It builds on accounts that have tried to integrate the two through the notion that acceptability on the basis of socially shared beliefs about legitimate authority is a central condition of legitimacy. In this line of reasoning, a political entity or arrangement is legitimate not because people believe in its legitimacy, but to the extent that it can be justified in terms of their common beliefs (Beetham, 1991: 11; Beetham and Lord, 1998) or of criteria that are 'discursively

justifiable' (Habermas, 1973: 139, 73, Habermas, 1976; see also Freeden, 2005: 79, and Scharpf, 2009: 173).

Yet, both Habermas and Beetham derive the substance of such social or discursive justifiable legitimacy criteria *systematically*—that is, from what hypothetical actors would consider relevant standards and under which procedural conditions, taking into consideration philosophical or constitutional traditions. But what did EU legitimacy mean in *actual* discourses, and how did relevant discourses in various contexts evolve and interact? What explicit or implicit understandings of legitimacy were reflected, produced, and re-contested in particular debates? And, how did some come to prevail over others? These questions call for inductive, empirical rather than deductive, abstract work, and what follows is an overview of an exercise in this. It is a discourse-historical *tour de force* through a number of key discursive positions and developments in the discursive politics of EU legitimation. Particular attention is paid to how the official rhetoric of the EU institutions managed to shape discourses in the member-state public spheres—and the other way round.

Many of the discourses central to justifying the European Communities' creation and design still shape our imageries of the legitimacy of integration today.

A Discourse-Historical Narrative of EU Legitimation

Our view of the discursive quest for the legitimacy of European integration and its institutions is partly obstructed by the conventional story in the literature that up until roughly the 1990s the integration project was supported by a popular "permissive consensus," which subsequently vanished. This hypothesis has led to a long neglect of early competing visions for the course and institutional setup of integration (see e.g. Parsons, 2003). More importantly though, it raises the question of *how* this narrative, that pretty much everyone agreed on integration, could be upheld plausibly.

Many of the discourses central to justifying the European Communities' creation and design still shape our imageries of the legitimacy of integration today. Typical early legitimation patterns involved the related story lines that European integration was indispensable to securing peace and prosperity across Europe, and that there was a general consensus that it was advancing a European "common good." A central discursive technique, influenced by functionalist integration theories and a modernist belief in social progress, was to de-politicize the stakes of EU politics: to paper over potentially contentious issues as much as possible, while initially focusing on seemingly uncontroversial, "non-political," technical tasks (see Hansen and Williams, 1999; Walters and Haahr 2005).

At the same time of course, what form integration should take and to which overarching ends, was politicized early on. This politicization was illustrated dramatically by the empty-chair crisis of the 1960s, as well as in the context of the campaign for direct European elections (introduced in 1979), which put forward a much more radically democratic, federalist-inspired vision of integration originating in a democratic foundational act rather than functional cooperation (e.g. Dehousse, 1960 [1969]; see also Burgess, 2004: 32-3). The financial and economic crises of the 1970s furthermore gave a serious blow to the narrative that *economic* supranational integration of the type that had won the day, was *the* way to either prosperity or, especially given its potentially painful costs, to peace.

When the integration process seemed to come to a standstill in the 1970s and early 1980s, and popular support rates for integration and their countries' membership started dropping, the European institutions pledged to bring integration and its policies "closer to the citizens" (e.g. Commission, 1976). This motif has been a commonplace in Community official and national political rhetoric ever since. A concerted campaign

undertook to re-imagine the European Community as a "People's Europe" (see e.g. Commission, 1985, Council, 1985, European Parliament, 1984; see also Shore, 2000 and Bee, 2008). It appealed to the people not only as "market citizens" but addressed them also as culturally embedded human beings with political and citizenship rights specific to the European Community. The idea was to make Europe present in people's everyday lives through tangible benefits, symbols, and cultural policies. EU-official legitimation rhetoric henceforth hinged on "what the citizens wanted." Nonetheless, the much-referred-to will of the people played an ambiguous role in this rhetoric; it was appealed to both as both an independent source of legitimacy and an object of manipulation. The Eurobarometer was introduced to bring Community action, but also communication strategies and rhetoric, into 'dialogue' with citizen needs and desires (Rabier, 2003). Overall, the People's Europe discourses (like most post-Maastricht legitimation discourses) emphasized democratic responsiveness over democratic accountability or authorization. The people effectively remained objects and spectators, rather than authors, of EU action in these discourses.

A new act in the drama of the quest for EU legitimacy opened with the difficult and protracted ratification of the Maastricht Treaty in the early 1990s. The ratification controversies in the member-state public spheres (as reflected in the media as well as parliaments) revealed and reinforced radical changes regarding what could plausibly be said about the EU and its legitimacy. In most member-states the debates turned centrally around Economic and Monetary Union (EMU) and concerns for economic stability and strength. The French, in particular, feared the subjection of their economic and monetary policy capacities to a European Central Bank, and a newly dominant re-united Germany. The Germans for their part feared for their beloved national currency, which they stylized to a symbol of German wealth, power, and national identity—all threatened now by the European currency. On the whole, EMU and its effects continued to pose a central legitimation challenge throughout the Union and throughout the 1990s. A further key point of discussion that became firmly anchored in the discursive landscape through the Maastricht debates was whether true democracy was at all possible at a Community-wide scale. A particular discourse confining the practice of citizenship and democracy, and "the political" outright, to the nation-state moved to the mainstream of French debate (see Lacroix, 2008). In Germany, too, increasingly loud voices questioned the possibility of meaningful democracy at a level above that of the nation on the grounds that there existed no European people. This no-*demos* thesis was to spread far and wide into the German and other member-states' media and academic debates as well as to the legal spheres and continues to structure representations of the EU's (potential for) democratic legitimacy.

Already at the time, political decision-makers and commentators widely agreed that the Maastricht ratification crisis signified a fundamental legitimacy crisis for the EU. In discursively managing this crisis, especially during and immediately after the ratification difficulties, the EU institutions framed this legitimacy crisis essentially in terms of the EU's "democratic deficit." This responded in part to the French and German critiques of EU democracy. In effect, however, official rhetoric focused so much on this issue that it often failed to look any further, sidelining more urgent public concerns with economic and monetary union or with what to do with the Central and Eastern European candidate countries.

In addition, official rhetoric effectively stretched the meaning of "democracy" in several waves. First, it redefined democracy in terms of openness and transparency (e.g. EP, 1995: 1, 4, Council, 1992: 4; see also Lodge, 1994; Walters and Haahr, 2005: 73-5). Second, it hailed subsidiarity as a way of bringing EU decision-making "closer to the citizens." At times this principle of competence attribution was simply equated with 'nearness' or 'closeness' to the citizens (e.g. EP, 1995: I; Council, 1992: 5). Third, in the medium and longer term the paradigm of 'governance' claimed to project a more 'genuine' and 'authentic' mode of democracy than parliamentary representation as practiced in the member-states, where citizens had become disenchanted with and lost faith in the democratic process (e.g. Commission, 2001: 32). This paradigm focused attention on the consultation

and involvement of civil society as opposed to the people or citizens. All this served to highlight ideals like responsiveness, openness, and closeness to the citizens as well as problem-solving efficiency through the consultation of organized interests over democratic control, representation, or accountability.

A final discursive shift to be mentioned here had its heyday later on in the 1990s and early 2000s. Institutional discourses and EU policies now tended to project Union citizenship, as well as the active promotion of a sense of a collective EU identity and constitutional patriotism as solutions to the EU's democratic deficit. In response not least to the no-*demos* critique, the focus shifted to strengthening the affective bond between citizens and the EU, and to creating the symbolic conditions for a European-wide *demos* and thence EU-level democracy. These discourses, policies, and reform attempts culminated not least in the project, and name, of the "EU constitution."

The official emphasis on democracy backfired at the end of the day, as indicated by the member-state public debates on the constitutional treaty. While democracy did play a crucial role here, it did so not in the senses advanced by the masterminds of official rhetoric. Across member-state public spheres, the reading was pervasive that the citizens who resisted to the constitutional treaty were finally throwing a spanner in the works of a process that, for decades, had been proceeding inexorably above their heads. In this image, the Dutch, French, and Irish No-votes were a statement of popular sovereignty. Beyond democracy, defining issues in the constitutional debates were, in the case of France, how liberal, versus social, the draft constitution would make the EU; whether it would destroy the French and other European welfare states; and whether it would leave room for political will to master supposed economic imperatives. In Germany, unemployment and 'wage and social dumping' as well as the relationship between market forces and the welfare state played a crucial part, the 2004 enlargement having provided the previously (virtually) missing link of unemployment with European integration. Across the Union's public spheres, moreover, debates on the constitutional treaty resounded with the big *finalité* question of where the EU was or should be going, and where it would or should end.

As a whole, the debates on the constitutional and Lisbon treaties illustrated how democracy, citizenship, or a more legitimate EU continued to mean very different things in the member-state contexts than in the official parlance of the EU institutions; official discourses had failed to turn around the French, German, and other public spheres in how they used these terms. Public parlance there held on, in specific, to (incompatible) French national-republican tendencies or the democratic ideals implicit in many German critiques of the EU's democratic deficit. Besides, the constitutional project had been built on old aspirations surrounding, for example, Union-citizenship and EU-governance discourses to make EU citizens feel ownership and authorship over the EU and its actions through responsiveness to their concerns and efficient policy output. By contrast, the constitutional treaty, ratification procedures in many member-states, as well as the official rhetoric and wider public discourses around the project centered on popular participation, authorization, and control (and did so more than preceding legitimation discourses). In this sense, the constitution project's very focus on participation might have been influential in making it fail.

Structural Threads and Lessons

What lessons can be drawn from discursive legitimation histories of the type exemplified by the above examples? In terms of general patterns, structural tensions, or long-term developments underlying the outlined longstanding and ongoing struggle over EU legitimacy, four stand out with particular clarity.

First, over time representations of the EC/EU moved back and forth strategically between basing claims to its legitimacy, on the one hand, in its effective promotion of the welfare and common interest of the Europeans and, on the other, in its reflection of the wishes and preference of the citizens affected (see Scharpf, 1999). The history of EU legitimation was characterized by the constant juggling of the

mutual dependence of input and output legitimation. Those trying to legitimate integration gradually had to learn that, if efficient performance was to grant the EU legitimacy in the eyes of its citizens, it had to be the right kind of performance: people had to feel reasonably represented by and in control of the guiding goals of integration and how they were defined. The recent difficulties in making grand reforms acceptable to citizens were just another chapter in this epic.

A second key line of conflict characterizing the history analyzed above is the push and pull between the de-politicization strategies and the gradual politicization of virtually all that is at stake in EU politics. The history of the struggle for EU legitimacy is the story of how it became gradually and increasingly undeniable that the stakes of EU politics are controversial, and of how legitimating patterns struggled, more or less successfully, to deal with this fact of political life. This process, too, culminated most recently in the controversies over the constitutional and Lisbon treaties. These episodes underlined that people were acutely aware that every solution in European politics necessarily creates winners and losers (see Føllesdal and Hix, 2006; Tsoukalis, 2005), and that denying the costs and conflicts involved in EU politics did more to de-legitimate the EU than to raise its legitimacy. The rhetoric, common in official discourses especially during the first decades of integration, of harmony, consensus, and the convergence of interests in a common European good had come to seem either removed from reality or outright cynical.

This second line of conflict was closely related to a third structural tension underlying the history of EU legitimation: the balancing act between bringing the people in and keeping them out. Finding the right equilibrium between taking the people on board, gaining their approval by making them feel ownership of the project and its implications, while simultaneously preventing them from obstructing certain integration steps and processes (see e.g. Monnet, 1978: 93) has been a central challenge in legitimating the European project and its institutions. This structural tension was also reflected in the mentioned two-faced status of the popular will in the discourse of aligning the EU with "what the people wanted."

A final structural thread of the story of EU legitimation is the long-term patterns in the communication between EU-level elites and national

public spheres, or in the imposition of certain discourses on each other. Failures in this were often due to the fact that official legitimation discourses proved out of tune with what would have raised the EU's legitimacy in the minds of its citizens. There was a constant risk that the 'rulers' in EU politics justified their rule in their own eyes more successfully than in the eyes of their subjects (see Barker, 2001). In trying to shape and appeal to each other, the different discursive levels typically took up specific discourses from one another—but then twisted and redefined them in more opportune ways. Yet, there were limits to how far a voiced concern could be redefined without losing its persuasive appeal (as indicated in the above reading of the redefinition of "democracy"). Regarding the discursive power balance between the EU-wide and the national (as well as the official institutional and the wider public-sphere levels), the recent reform stalemate effectively seems to have tilted the balance in favor of the national publics, where greater openness about the controversial stakes of EU politics is indispensable to any plausible claim to EU legitimacy.

Overall, the history outlined in this essay is an illustration that political legitimacy is an issue that, inherently, cannot be resolved conclusively. By its very nature, it is re-contested and needs to be re-established continuously. In this light, the project of a retroactive foundational act of popular authorization through a European constitution was reaching for the stars. At a practical level, increasing the EU's legitimacy in the eyes of the citizens affected may require a change of paradigm in political style, rhetoric, and legitimation techniques—a shift towards a pragmatic recognition of the competitive nature of EU politics. EU politics needs to be recognized more explicitly as a forum of political competition, where conflicting and competing interests and visions are negotiated and deliberated. This calls not so much for new or reformed institutions as for a discursive climate, imagery and language through which people can make their concerns and preferences come to bear. Only recurrent and open disagreement, discursive contestation, and controversial debate can make the EU credible as a framework for cooperation on the basis of conflicting preferences, for these things are part and parcel of the never-ending re-constitution and re-contestation of political legitimacy.

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FORUM: How are Europeans Made? Debating a National Models Approach to Immigrant Integration

What About National Models of Citizenship?

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Early studies (Brubaker, 1992; Castles and Miller, 1993; Schnapper, 1994) developed national models of citizenship and integration by clearly associating a given country with an ideal-type or model of citizenship, and thereby created well-known labels such as 'Dutch multiculturalism,' 'French assimilationism' and 'German ethnoculturalism.' However, over the past decade, the continuing existence and relevance of such national models of citizenship and integration has been strongly contested. The main criticism can be summarized in three points, namely that national models are: (1) too normative and represent ideology rather than reality; (2) too simplistic and largely ignore existing internal variation; (3) too static and do not grasp change over time.

While all of these arguments are a critique of previous studies' empirical foundations, there are also theoretical arguments attached to them. Of particular interest here are arguments related to the third point, namely that several authors doubt the existence and relevance of national models of citizenship and integration policy because they expect and observe that countries change their citizenship regimes and integration policies over time. Some authors (Bade and Bommes, 2000; Thränhardt, 1998) focus on policy change in particular countries, such as Germany, and argue that the classic models of citizenship are completely outdated because of the recent changes observed in that country. Others believe that changes in national policy regimes are part of broader processes of international convergence. Most of these latter authors expect a convergence towards more liberal citizenship and integration policy regimes in future. They argue that convergence is either driven by supranational factors, such as international human rights norms (Soysal, 1998; Faist 2000; Jacobson, 1997; Sassen, 1998) and the normative power of the European Union (Heckmann and Schnapper, 2003; Carrera, 2006), or by national factors that relate to the implementation of fundamental principles that all liberal democracies have enshrined in their constitutions and equivalents (Joppke and Morawska, 2003; Joppke, 2007).

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Thus when debating national models of citizenship, we should consider at least two questions: (1) How can we empirically assess such complex national models and the way they change over time? And, (2) once we have done so, can we show that there are still cross-national differences in citizenship and integration policy that could be classified as different national models?

The research project[1] "Citizenship Rights for Immigrants: National Paths and Cross-National Convergence in Western Europe, 1980-2008", carried out by the three authors at the Social Science Research Center Berlin (WZB) over the past three years, tries to answer these questions by taking a strictly empirical approach. Based on a cross-national comparison of ten Western European countries[2] and a longitudinal approach covering the period from 1980 to 2008 the project first of all pays attention to internal policy variation by looking not only at legislation for nationality acquisition, as many other authors have done (Brubaker, 1992; Schnapper, 1994; Howard, 2009; Janoski, 2010), but also at additional policy-fields. In total, we operate with 42 indicators of citizenship and integration policy which belong to one of the eight following policy-fields: naturalization, family reunification, protection from expulsion, access to public service employment, anti-discrimination legislation, political rights, educational rights, and other cultural and religious rights.

Our policy indicators measure how a given country scores on two different theoretical dimensions of citizenship: the *dimension of individual rights* (which mainly addresses the immigrant as a non-national) and the *dimension of cultural rights* (which addresses the immigrant as a member of a specific ethnic, cultural or religious group). The dimension of individual rights, as measured by 20 indicators, distinguishes two poles or Weberian 'ideal types' of regimes: countries where access to the national community is very limited and mainly reserved to co-ethnics or immigrants who are culturally assimilated and countries where the national community is defined in civic-political terms and access to this community easily granted to immigrants who live within national territory. The dimension of cultural rights, as measured by 22 indicators, distinguishes ideal types of countries that are very reluctant to grant rights to cultural, ethnic or religious groups other than the nationally dominant group from countries that commit to a culturally pluralist definition of the nation and therefore recognize minorities by granting them not only equal, but also specific rights.

We also measure whether a country's position on these two dimensions changes over time by attributing a score[3] to every country on every indicator at four moments in time, namely in 1980, 1990, 2002 and 2008. The calculation of the average score a country achieved on both dimensions in one specific year then allows us to position every country on two continuums: one of ethnic or civic-territorial understandings of the nation and one of culturally monist or culturally pluralist definitions of the nation. The picture we get from this scoring exercise shows how countries changed their attribution of citizenship rights to immigrants from 1980 and 2008 and which position they occupy in comparison to each other.

The results of our study may come as a surprise to those who believe that due to binding international human rights norms, the normative power of the European Union or the implementation of similar liberal democratic principles, countries will converge

1 The project continues an earlier study by Koopmans et al. (2005).

2 The ten Western European countries of comparison are: Austria, Belgium (when necessary with separate measurements for Flanders and Wallonia), Switzerland, Germany, Denmark, France, the Netherlands, Norway, Sweden, and the United Kingdom. The comparison is currently extended to three classic countries of immigration, namely the United States of America, Canada and Australia.

3 Other than in MIPEX, countries are not scored against a normatively defined best practice but always according to the actual variance among cases. For example, since the Belgian requirement of only 3 years of waiting period before naturalization has been the most liberal one, while the Swiss requirement of 12 years of residence was the most restrictive one, we attributed the highest score of +1 to Belgium in 2002 and 2008 when this regulation was in place and a -1 to Switzerland in 1980, 1990, 2002 and 2008. By doing so, we show that on this indicator the Belgian requirement comes closest to a civic-territorial understanding of the nation (making it easy for new members to join) while the Swiss requirement comes closest to an ethnic definition of the nation. The other countries as well as the earlier Belgian regulations for waiting periods before naturalization received intermediate scores of -0.5, 0 or +0.5 on this indicator.

and progressively liberalize their citizenship regimes for immigrants.

While we did find some evidence for the idea that immigration countries in Western Europe (in particular Belgium, Sweden and the UK) have progressively granted more citizenship rights to immigrants on both dimensions and thus liberalized their citizenship regimes, we also observed that this process is by no means steady and irreversible across all countries. In fact, the Netherlands, Norway, Germany and Austria followed this liberalization process until the turn of the century, but between 2002 and 2008 again restricted the individual and cultural rights allowed to immigrants. Three additional countries followed individual patterns of change: over our period of study, Switzerland only liberalized on the dimension of individual rights but largely maintained its skepticism towards the recognition of cultural groups; Denmark has, after a short period of liberalization, become continuously more restrictive on the dimension of individual rights (while largely maintaining its slightly favorable position on cultural pluralism) and France has, as the only country in our set, hardly moved on either dimension, occupying a position favorable to a civic-territorial understanding of the nation, but reluctant with respect to the recognition of cultural pluralism.

...countries occupy a relatively stable position in relation to each other, and are not systematically converging towards common policies...

It is interesting to note that despite these country-specific patterns of change and continuity, there are several countries that have continued to form clusters during our period of study. The most obvious case is a cluster formed by Germany, Switzerland and Austria, which already existed back in 1980. It was then closest to the pole of an ethnic and culturally monist definition of the nation and continued to occupy this position until 2008 (despite intermediate processes of liberalization that took place in particular in Germany and Switzerland) when the three-countries-cluster was joined by Denmark. On the other hand, the countries that in 1980 were closest to the civic-territorial and culturally pluralist pole (which could also be called the 'multicultural model'), namely Sweden and the U.K., were still closest to this pole in 2008, but were also joined in that position by the Netherlands and Belgium. The two latter countries have in fact pursued similar policies ever since the 1980s, including a move towards the civic-territorial and culturally pluralist pole. Finally, France and Norway have, throughout the entire period pursued a citizenship and integration policy that was rather favorable to a civic-territorial understanding of the nation with a different stance, though, on the question of cultural pluralism.

The persistence of these country-clusters over time shows that the countries occupy a relatively stable position in relation to each other, and are not systematically converging towards common policies in general and more liberal policies in particular. In sum, we find a rather inconsistent picture of shorter or longer periods of liberalization that are in some (but not all) cases followed by periods of restriction of citizenship rights for immigrants.

What do these findings imply for our discussion about the existence of national models of citizenship and immigrant integration? Since we could, based on a strictly empirical and comprehensive cross-national and longitudinal comparison, show that national differences persist over time we first of all have to refute theories predicting (liberal) convergence among countries in Europe and beyond. This also means that even though a number of European countries have introduced for example strikingly similar civic integration requirements for immigrants (Michalowski, 2007), their citizenship and integration policies in other fields can and do still vary. Second, our findings suggest that groundbreaking changes, like the introduction of a *jus-soli* regulation in Germany, are an exception rather than the rule. Instead, it is much more likely that countries which once opted for a certain approach continue to make future decisions along these lines.

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The Invention of the Dutch Multicultural Model and its Effects on Integration Discourses in the Netherlands

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The Netherlands has been internationally known for its 'multicultural' approach to immigrant integration. Some even suggest that there is a 'multicultural model' that informs Dutch political discourse and policy practices. The basic premise of this model is that Dutch policies have been driven by a coherent and consistent belief in the idea that the recognition and accommodation of cultural, ethnic and religious groups promotes their successful integration into Dutch multicultural society.

However, there is growing doubt about whether the multicultural model has been or continues to be a valid depiction of the Dutch approach to immigrant integration. The multicultural model seems to have been coined retrospectively, in an attempt by politicians to disqualify policies with which they disagreed. These politicians were helped in their framing effort by some social scientists who claimed that there is evidence that certain concrete policy practices reflect a Dutch multicultural model. It is arguable, however, that these policy practices are actually driven by a normative multicultural model rather than by more pragmatic concerns about "keeping things together."

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Construction of (national) models of integration

The idea of 'national models of integration,' inspired by historical-institutionalist thinking, has acquired great resonance in European migration research. Historical institutionalists focus either on models or regimes that are considered rational within specific institutional settings (rational choice institutionalism) or on models that are legacies from the history of a specific country (historical institutionalism). A key trait of these policy models is that they are expected to be relatively stable over fairly long periods of time. This expectation is based on the assumption that the conditions that produce a specific model are unlikely to change rapidly and that models themselves

tend to develop a certain path-dependency or resistance to change.

One of the reasons why models have gained such wide resonance in migration studies (as in various other sectors) is that they help reduce complexity by simplifying the otherwise highly diffuse and contested issue of immigrant integration. Models help to make it possible for international comparative studies to assess the processes of convergence and divergence between various European countries. In this latter sense, Castles and Miller (2003) and in their footsteps, Koopmans and Statham (2000), have extended Brubaker's dichotomy into a fourfold typology of integration models: civic-assimilationism, cultural pluralism, ethnic-differentialism, and civic-republicanism. An important difference with the historical institutionalist modeling of Brubaker is that this fourfold distinction of integration models represents a selection of ideal-types that can be used for studying country cases, and is not taken as representative of national approaches *per se*.

Yet, the danger of modeling is that the models are not only used as tools for international comparisons or for understanding historical periods. When a model begins to shape our understanding and beliefs about policies, the model often becomes more than just a heuristic tool: it may be taken as an accurate historical reconstruction of policy rather than just a model of it. Models then take the place of historical analysis. In social science literature, this has often led to instances where a model is *blamed* for the success or failure of a specific policy approach. For instance, various authors have blamed the Dutch multicultural model for the alleged failure of immigrant integration in the Netherlands.

In addition, models tend to oversimplify policies and overstress their alleged coherency and consistency. Policy practices tend to be far more resilient and diverse than most policy models would suggest. For instance, in Dutch as well as in French literature many have noted the differences between how policies are formulated on the national level and how they are implemented on the local level; some even speak of the decoupling of national and local policies in this respect. In fact, even when policy-makers claim to operate according to a specific policy model, their reasons for doing so may be more pragmatic and flexible than indicated by the ideal-typical form of the policy model itself.

In spite of these methodological and empirical problems associated with models-thinking in migration research, we should pay attention to models since they are very powerful as a 'performative policy discourse.' A model is not just about being valid, but also about being conceptually and normatively clear and convincing. A model helps in making sense out of the complex social reality that is often associated with issues such as immigrant integration; they are tools for 'naming' and 'framing' the problem and determining adequate paths for policy action. Hajer (1995) speaks in this context of the formation of "discourse coalitions"—actors held together by a shared discourse and not necessarily by coordinated interaction. This can include various types of actors, including politicians and policy-makers, as well as academics, experts, interest groups, journalists, etc.

Once a discourse becomes dominant and is supported by a sufficiently large or strong group of actors, it can prove difficult to change. Challenging a discourse means also challenging the beliefs and interests of the groups involved in the discourse coalition. Furthermore, discourses tend to be easily taken for granted; indeed, even members of a discourse coalition may be unaware of their tacit beliefs and the presence of alternative beliefs. This is very much what happened in the Netherlands: a coalition of social scientists and political actors developed the idea that a multicultural model informed Dutch policies for a long time (perhaps, until today) and at all levels. And, even though we can prove that this is totally historically inadequate, this does not matter for its performative effect. The belief that the Dutch have historically favored multicultural policies is sufficient to legitimate new policies, in this case assimilationist ones.

The Dutch 'multicultural model' and other public discourses on integration

A key trait of the Dutch multicultural model

is its tendency to institutionalize cultural pluralism in the belief that cultural emancipation of immigrant minorities is the key to their integration into Dutch society. This reflects a rather uncontested acceptance of the transformation of Dutch society into a multicultural society. Moreover, with regard to the latter, a connection is often made with the peculiar Dutch history of pillarization, referring to the period from the 1920s to 1960s when most of Dutch society was structured according to specific religious (protestant, Catholic) or socio-cultural (socialist, liberal) pillars (Lijphart, 1968).

A recent study by Sniderman and Hagendoorn (2007), *When Ways of Life Collide: Multiculturalism and its Discontents in the Netherlands*, explicitly qualifies the Dutch approach in terms of a multiculturalist model. The authors claim that the labeling of collective identities has inadvertently deepened social-cultural cleavages in society rather than bridging these differences. They take the Netherlands as their single exemplary case to found their claims. They root the Dutch approach back to the history of pillarization, arguing that the "Netherlands has always been a country of minorities thanks to the power of religion to divide as well as unite"(13). In addition, they assert that the "collective trauma of World War II where the Dutch failed to resist the massive deportation of Jews would have contributed to that immigrant minorities have been seen in the light of the Holocaust…or that critical views of immigrants are labeled racist and xenophobic"(15). And it is due to these historical circumstances that the multiculturalist model took root in the Netherlands.

Also among some Dutch scholars, thinking in terms of the Dutch multicultural model has acquired great resonance. Koopmans (2007) roots the Dutch approach to immigrant integration clearly in the history of pillarization in which ethno-cultural cleavages were stressed in a similar way to multicultural policies. He claims that the application of this model on new immigrant groups has had strong adverse effects, as multiculturalism "offers new ethnic and religious groups a formal and symbolic form of equality, which in practice reinforces ethnic cleavages and reproduces segregation on a distinctly unequal basis" (2007, 5). Koopmans points in particular to the 'path-dependency' in terms of policy practices. Although he more and more acknowledges that formal policy discourse and public discourse have changed in their actual way of dealing with ethno-cultural diversity, he also argues that the Dutch have remained accommodative. "The Netherlands," writes Koopman,

> is still an extreme representative of a 'multicultural' vision of integration.…Outside the limited world of op-eds in high-brow newspapers, the relation between Dutch society and its immigrants is still firmly rooted in its tradition of pillarization…[O]rganizations and activities based on ethnic grounds are still generously supported – directly and indirectly – by the government. Whether people want it or not, ethnicity still plays an important role in public institutions and discourse (Koopmans, 2007: 4).

Obviously, almost all scholars who use the term 'multicultural model' do this in a normative and pejorative way. The label is used to disqualify policies that allegedly have been a failure. However, this strong empirical claim—that the Netherlands have embraced a static multicultural model that has led to pernicious policy measures—can easily be tested. For we may ask, to what extent can we indeed recognize this multicultural model in the integration policies that have been developed over the past decades?

The Netherlands did not develop a policy aimed at immigrant integration until the early 1980s, when it was recognized that migrants were to stay permanently. During the 1980s, an Ethnic Minorities Policy was developed that targeted specific cultural or ethnic minorities within Dutch society, such as the foreign workers, the Surinamese, the Moluccans and the Antilleans. Migrants were framed as 'minorities' in Dutch society instead of temporary guests, and the government decided to focus on those minorities whose position was characterized by an accumulation of cultural and social-economic difficulties, and for whom the Dutch government felt a special historical responsibility (Rath, 2001). The Ethnic Minorities Policy expressed the idea that an amelioration of the social-cultural position of migrants would also improve their

social-economic position. The policy objective was to combat discrimination and social-economic deprivation and therefore to support social-cultural emancipation. These policies were not developed to celebrate all kind of cultural differences—it did not include well-off migrants, but just those who were socio-economically very weak. However, within this perspective, government respected the preservation of cultural identities. At first sight, this seems to reflect somewhat the Dutch tradition of pluralism through 'pillarism' or the institutionalization of "sovereignty within one's own sphere" for each minority group (Lijphart, 1968).

Indeed, neither pillarization nor multiculturalism was really embraced as a normative ideal; statements of multiculturalism instead referred in a more descriptive sense to the increase of diversity in society.

This alleged connection between Dutch Ethnic Minorities Policies and the history of pillarization has, however, to be put in perspective. First of all, Dutch society had been de-pillarizing in many sectors already by the 1950s and 1960s. Pillarization especially seems to have been powerful as a 'discourse.' The framing of migrants as minorities resonated with the framing of national minorities that the Dutch were already used to. Vink (2007) speaks in this context of a "pillarization reflex," which means that, when faced with the issue of immigrant incorporation at the end of the 1970s, Dutch policy-makers resorted to the traditional frame of pillarization for providing meaning to the new issue of immigrant integration. This pillarization reflex strongly resembles how in France the Republican model was re-invented in the domain of immigrant integration in the early 1980s (Fassin, 2000).

Others have added that it was not so much the integration policy *per se* that was inspired by pillarisation. Rather, there was the influence of more generic institutions in Dutch society that were still to some extent pillarized, such as the Dutch institutions of state-sponsored special (religious) education and a pillarized broadcasting system and health system. In this context, cultural pluralism was a right of Muslims as it would be for any other group in the Netherlands. This pluralism had nothing to do with integration policies as such, but was the consequence of the institutional heritage of pillarization. Integration policy itself has never been oriented toward the construction of minority groups as pillars.

Minority groups also never achieved the level of organization (and separation) that national minorities achieved in the early 20th century. According to Rath (2001: 59): "in terms of institutional arrangements, there is no question of an Islamic pillar in the Netherlands, or at least one that is in any way comparable to the Roman Catholic or Protestant pillars in the past." In fact, we would emphasize that there never really was a national multicultural model, as defining slogans as "integration with preservation of cultural identity" had been rejected already at this early stage; only later would this slogan be projected onto this period in public and academic discourse. Indeed, neither pillarization nor multiculturalism was really embraced as a normative ideal; statements of multiculturalism instead referred in a more descriptive sense to the increase of diversity in society. In fact, to the extent that references to pillarization or multiculturalism were used at all (the first time 'multiculturalism' as a term pops up in politics is in 1995!), these seem to have been much more pragmatic than normative. Our conclusion therefore is that multiculturalism is actively co-produced by politicians and social scientists in order to disqualify policies of the past.

Besides the contested continuity between pillarization and the alleged Dutch multicultural model, it is also obvious that this 'model' has not been very consistent over the past decades. Since the late 1980s, the Ethnic Minorities Policy has been subject to fierce controversy. In 1989, the authoritative Dutch Scientific Council for Government Policy issued a report in which it denounced this policy model because it focused too

much on "culture and morality" and tended to make minorities too dependent on state facilities organized to serve group-specific measures (WRR, 1989). According to the WRR, the institutionalization of cultural pluralism, even in its instrumentalist orientation, was no longer to be considered an independent policy objective. Rather, government was encouraged to focus on stimulating individual migrants to be able to stand on their own feet.

In the early 1990s, formal government policy changed in several important regards. In the early 1990s, the Ethnic Minorities Policy was reframed into an "Integration Policy" that stressed the social-economic participation of immigrants as citizens, or *allochthonous* (a difficult to translate Dutch term to refer to first and second generation immigrants), rather than emancipation of minorities. Promoting 'good' or 'active' citizenship became the primary policy goal, stimulating individual migrants to live up to their civic rights as well as their duties and to become economically independent participants in society.

Later, just after the turn of the millennia, an assimilationist turn took place in Dutch integration policy. In fact, a (second) broad national debate occurred in 2000 in response to claims that Dutch policy had become a "multicultural tragedy." Also, the populist politician Fortuyn made the alleged failure of the Dutch integration approach into one of his central political issues. This set in motion a gradual assimilationist turn, which was codified in an "Integration Policy 'New Style.'" Whereas the Integration Policy had stressed 'active citizenship', the Integration Policy 'New Style' stressed rather the 'common citizenship', which meant that "the unity of society must be found in what members have in common... that is that people speak Dutch, and that one abides to basic Dutch norms" (TK 2003-2004, 29203, nr. 1:8.). Persisting social-cultural differences were now considered a hindrance to immigrant integration. It was in this period, that the framing of the multicultural model took place as a 'counter-discourse' against which new policy developments were to be juxtaposed. This assimilationist turn has contributed to a discursive reconstruction of the history of integration policies that put much greater stress on its alleged multiculturalist traits.

Clearly there has not been one dominant model or discourse in the Netherlands. Indeed, there has been a Minority Policy which Vink (2007) links to the 'pillarization reflex'. But in spite of the singular image of the Netherlands as representing the multicultural model, Dutch policy has been inspired by at least two different discourses. One of these competing discourses is the more liberal-egalitarian (social-economic) discourse, which became particularly influential as early as the 1990s. And the other is the more assimilationist discourse that emerged during the 1990s and become more prominent after the turn of the millennium.

Conclusions

Both in national and international literature, Dutch integration policies are often described in terms of the ultimate multicultural model, which involves a tendency to institutionalize cultural pluralism in the belief that cultural emancipation of immigrant minorities is the key to their integration into Dutch society. This article disputes the idea that there has been a dominant Dutch multicultural model of integration, arguing that, at best, it was one of several discourses—beyond multiculturalism, liberal-egalitarianism and assimilationism have also been powerful discourses in the Netherlands. In fact, when it comes to official policy discourse, the Ethnic Minority Policy-frame—which comes the closest to a form of multiculturalism—was already abandoned in the early 1990s, and there is ample evidence that even in the 1980s this Dutch policy discourse was much less 'multicultural' than is often suggested by politicians and some scholars. Moreover, many practices were actually not inspired by a normative belief in multiculturalism, but by more pragmatic concerns about "keeping things together."

Moreover, this brief article has indicate that social scientific research often played a central role in the development or 'co-production' of these discourses on immigrant integration. In the late 1970s and in the 1980s, a technocratic symbiosis brought together a small network of policy-makers and researchers that

co-produced the so internationally renowned Ethnic Minority Policy frame. However, research also played a role in punctuating this symbiosis along with the agenda-setting of a new type of (liberal-egalitarian) discourse in the late 1980s. In both episodes, social researchers formed a central part of the discourse coalitions that sustained alternately the Ethnic Minority Policy-frame in the 1980s and liberal egalitarianism in the 1990s. Moreover, researchers also played a role in the discourse coalition that triggered the assimilationist turn in Dutch policy discourse after the turn of the millennia. Though the assimilationist turn was associated with growing cynicism toward social research, which was considered to be biased in favor of 'multiculturalism' and too much involved in policy developments over the past decades, soon sociologists joined the 'realist' discourse coalition (Prins, 2004) by retrospectively labeling Dutch integration policies as 'multiculturalist.' Obviously, this was a rather specific form of co-production of policy makers and scholars: it was the invention of a tradition (Dutch multiculturalism) designed to support the legitimacy of the assimilationist turn in Dutch integration politics.

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Council *for* European Studies

FORUM: How are Europeans Made? Debating a National Models Approach to Immigrant Integration

Questioning National Models: Empirical Change and Measurement Issues

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The national models-based approach can be credited for laying the groundwork for what is now a prolific field of study comparing and contrasting approaches to immigrant integration in Europe. By linking historical experience and national self-understandings to policy, national models have become the prevalent analytical approach for understanding how Western European nation-states manage, incorporate, or avoid issues of ethnic diversity. However, this approach, through which scholars identify (or, worse, form-fit) differences of policy and practice to pre-existing and discrete categories faces a number of obstacles. Time has marched on with respect to how states practice integration and how scholars study it, and both these facts challenge the effectiveness of a model-based approach.

Old models, new policies

Perhaps the most obvious argument against the use of national models is the widespread acknowledgement in the literature and, most potently, by heads of state—from Tony Blair in 2005 to Angela Merkel in 2010—that existing integration strategies have failed. In particular, policymakers speak ubiquitously of the 'failure' or 'tragedy' of multiculturalism. In its place, we see the development and proliferation of civic integration policies across Europe, in which states have linked language, country knowledge, and commitments to liberal-democratic values vis-à-vis tests, integration programs and classes, interviews, and contracts the acquisition of citizenship, permanent residence, and in some cases, entry. Born not of different national historical practices, but from similar historical failures, new policies toward civic integration represent a new incorporation strategy, one adopted across states only in the past decade, to prepare new and old migrants alike for life in the receiving state through new mandatory measures and civic content.

The practice of civic integration varies with regard to the instruments, level

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of difficulty, and consequences for immigrants across states. Austria, Denmark, and Germany have recently adopted citizenship tests that assess language and country knowledge. These countries also have rigorous requirements for the acquisition of permanent residence that include mandatory language and civic integration training. The Netherlands and the UK also have language and knowledge tests for citizenship, but migrants that take them for permanent residency can have them "double count" toward fulfilling citizenship requirements as well. The Dutch also have a unique test at the stage of settlement: migrants take a "practical test" where they complete a portfolio of 30 situations that demonstrate their ability to maneuver "crucial practical situations," like finding a doctor or enrolling children in school. Finally, five states (Denmark, France, Germany, the Netherlands, and the U.K.) use language and/or country knowledge assessment at the pre-entry stage, that, on the one hand, prepares migrants for integration from Day 1 while, on the other hand, prohibits unwanted migrants from entering (Goodman, 2011). We also see lighter applications of civic requirements in countries typically excluded from immigrant integration analysis, including Luxembourg (both a language requirement and 3 citizenship classes) and Greece (which assesses language and country knowledge for permanent residence and citizenship, as well as introduced the possibility of an integration test in the 2010 citizenship reform).

From a public policymaking perspective, the failure of an integration policy to produce integrated persons rightfully merits the reexamination of said policy. And if integration polices change, would not also the frameworks we use to think about them? However, a national models approach offers little leverage on explaining either why previous approaches to integration have failed or why states have shifted from a variety of models to civic integration. Indeed, the most robust practices of civic integration span states which are considered "most-different" under a national models perspective, including states that practice differential exclusion or segmented integration (Austria, Denmark, Germany), assimilation/republicanism (France), and multiculturalism (the Netherlands, the UK). Where convergence toward civic integration has taken place, it has done so despite the very different historical traditions of response to immigration and immigrant-related diversity.

It is not only the shift in integration toward civic requirements that calls into question the analytical utility of carving up the continent by national models, but also the objective or product of these new integration measures. Civic integration does not merely aim to prepare immigrants to move fluidly among the various economic, political and social institutions in state and society, but specifically focuses on their ability to do so autonomously—as individuals. This is a different objective then, say, multiculturalism, that seeks to integrate newcomers as groups (i.e., by their cultural identities). In fact, civic integration is generally agnostic toward cultural practices, so long as behavior is underscored by a commitment to common values. Similarly, Christian Joppke (2007) describes the spirit of obligatory civic integration as a means to preserve and promote liberalism (albeit illiberally, since integration is mandatory). This is in juxtaposition to other possible objectives of integration models, which might include the proliferation or perpetuation of national identity. Given these different objectives, we might even describe civic integration as developing a civic-political identity at the expense of *national* membership. Therefore, I question the extent to which a national models-based approach to integration can accurately describe or make sense of non-national objectives.

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However, it is to be noted that while civic integration policies certainly promote integration across a number of policy spheres, including preparation for

entering the labor market and assistance in obtaining and eventually gaining independence from welfare, it does not supplant all other integration policies and strategies that address these objectives (as well as others) more directly. Civic integration represents a significant departure from previous policies, but this change is contained to particular spheres: specifically, the acquisition of legal status (e.g., citizenship, permanent residence, temporary residence after immigration). This reservation leads to the second set of changes that question the usefulness of a national models-based approach: namely, the increased complexity of integration as a concept and the resulting, dynamic study of it. Despite Joppke's clarion call to move "beyond national models," we should guard against their wholesale replacement with a one-size-fits-all civic integration model. Integration is multifaceted and a number of policies still echo, in name if not in practice, the traditional models of multiculturalism or republicanism under which they were initially created. But while models are still very much a part of the framework of reference in public discussions and for policy craft, the extent to which a national models-based approach can satisfactorily provide a context for understanding choice and change is questionable.

Toward a dynamic study of integration

Just as the policies of integration have changed over time and evolved in specificity, so too has the study of it. Gary Freeman (2004) pointed out almost seven years ago that policies are not monoliths, but dynamic configurations (what he calls "constellations") of overlapping state, welfare, market, and cultural approaches. Likewise, the observed reality of integration policymaking is equally as dynamic. A national integration approach is rarely a top-down, comprehensive strategy, but rather a mélange of policies made and implemented by different ministerial departments and at different levels of government. This is especially true of civic integration, which touches on a vast number of policy areas—partly by training a migrant to access various institutions, but mainly by making an individual responsible for his/her own integration—yet does not systematically organize

A national integration approach is rarely a top-down, comprehensive strategy, but rather a mélange of policies...

integration practices across policy spheres. To cite an example of the patchwork nature of integration with respect to institutions, we may look to the British case which shows an organization of integration policies across government departments. Social and community cohesion is housed in the Department for Communities and Local Government, while language and country knowledge as it pertains to citizenship and residence acquisition fall under the aegis of the Home Office. These structural issues pose significant challenges to defining a unified concept of integration for the purposes of measurement and comparability. However, a dynamic view of integration, both in terms of policy and organization, reveals national models to be particularly insufficient for understanding or organizing this complexity.

The migration from discrete national models to a more relativistic identification of policy patterns has already taken place in related fields. For example, the study of citizenship has firmly moved from a civic and ethnic-based models approach to favor one of comparisons in which states are regrouped according to degrees of inclusion and exclusion (see Goodman, 2010; Howard, 2009). Integration studies are also benefiting from a similar transformation. One example includes the MIPEX study by the Migration Policy Group and British Council (2007), which selects a number of proxy indicators to measure and compare the relative ease or difficulty of migrant inclusion across diverse policy areas from the labor market to naturalization process (also see Koopmans et al., 2005). As studies move to include more cases and more measures, models present not only conceptual but methodological challenges. Not only is integration a debated concept requiring analytical precision, but also models themselves are difficult things to measure. There must be some sort

of normative or concrete understanding of what the ideal-type of multiculturalism or assimilation looks like in order to determine the extent to which state policies and practices fulfill or fall short of that ideal type.

To summarize, the use of national models of integration to understand how states address issues of immigrant-related diversity today is impeded by a number of questions regarding what constitutes integration and how we should measure and compare it. Despite these many issues, there is still much to be gained out of identifying cross-national groupings. The utility of resulting patterns, from a comparative perspective, is desirable for organizing and making sense of the larger empirical world. Models can be useful *post hoc* descriptions of policy configurations, but not *a priori* explanations for policy choices. In other words, models are more apt to serve as dependent and not independent variables. Without this caveat, the models-based approach is, at best, problematic and ahistorical. At its worst, this approach produces a cropped or reductionist understanding of a complex configuration of policies. Instead of examining integration and citizenship practices through a lens of models, scholars gain the most insight out of looking case-by-case for patterns. Assuming an empirically-grounded position allows us to perceive potential similarities in policy and practice across traditionally most-different cases, which, in the end, makes the identification of patterns, and maybe even new models, possible.

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FORUM: How are Europeans Made?
Debating a National Models Approach to Immigrant Integration

What if National Models of Integration Did Not Exist?

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We seem to know exactly what we are talking about when we use a notion such as 'national models of integration.' However, closer observation reveals that this notion is not a research tool but rather an argument in the normative conflict over the integration of migrants and minorities. Therefore, it becomes problematic to use this notion as a framework of reference in the analysis of the *content* of public policies, institutional logics, and social practices in regard to citizenship.

I would also add that, in itself, the notion of a 'model' is useless for the very simple reason that these models do not exist and have never existed – or, at the very least, they never existed in the way we usually picture when we use them as an independent variable, and try to construct them as analytical framework labeled in terms of a 'national idiom' (Brubaker, 1992), a 'philosophy of integration' (Favell, 1998), or a 'constellation of citizenship' (Koopmans et al., 2005). However, if the 'national models of integration' which are described by most of the scholarship are useless to the analysis of citizenship, it is impossible to divest what they claim they analyze ('models' as a dependent variable) entirely of any relevance or any social function. But, when taken as 'dependent variables,' the social and institutional reality we usually discuss in terms of consistent, coherent, stable, and aprioristic 'self-definitions of a nation' ceases to be so consistent, so coherent, so stable, as it is suggested by our analytical frameworks. The distance between 'models' as independent and dependent variables is rarely controlled. In the end, we merely explain that France is republican because France's dominant model (or philosophy, or idiom, or constellation) would be republican, or that the Netherlands are multicultural because this is what they would have been. Models are taken for granted, and scholars doing comparison tend to take them as a convenient substitute for reality (models fit categories used for comparison much easier than a complex social, institutional, or symbolic reality).

My point is this: an important aspect of this discussion must be the way the literature apprehends the role of ideas in the institutionalization of "models of

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integration," as well as the interplay between ideal frames, institutions, cultures, and identities. Thus, instead of looking at 'pathologies,' 'counter-discourses,' or 'identity-based (Muslim) claims' that would have challenged *pre-existing* 'models,' I argue that the problem of 'models' has to do with an ambiguous definition of these models in the literature, and *inter alia* the ambiguity of the *prima facie* conceptualization of national 'idioms' (Brubaker, 1992), 'philosophies' (Favell, 1998) or 'constellations' of citizenship (Koppmans et al., 2005). Once these ambiguities are made apparent, the issue of indicators assumes centerstage and must be discussed alongside these ambiguous research strategies. But 'indicators' are not the only problem. The problem is much wider and includes the very goal assigned by scholars to the sociology of integration: that is, proving the *a priori* existence of models.

Do we know what "models" are or do we want to prove they exist?

The issue of 'models' seems rather empirical in my view: when researchers go to the field[1], how can they make sense of the behavior of people who justify their actions using concepts such as the 'Republic,' 'secularism,' 'integration,' 'multiculturalism,' 'pillarization,' 'ethnicity,' 'ethnic minorities,' or 'race'? Does a 'model' provide an explanation for all or part of the empirically observed reality?

A reflex of citizenship and immigration studies in the last thirty years or so has consisted of taking for granted the existence of 'public philosophies' that are more or less coherent or normatively consistent. These philosophies are used as yardsticks that reduce social, institutional, and political behaviors to 'republicanism' in France and to 'multiculturalism' (or 'racial and ethnic communalism,' in French '*communautarisme*') in the Netherlands or Britain.

As soon as the issue of the integration of migrants or minorities is raised at any level, these references are immediately summoned to frame the discussion. The 'model' is used to explain everything, including the various national structures of opportunity according to the various regimes of citizenship or religious 'governance'; the collective mobilization of various groups of migrants in each country; the formal and informal institutional practices; the attitudes of minorities and national public opinion; the political discourse and forms of politicization of immigration and national identity. The institutions that 'govern' the cultural or religious diversity are said to derive from these historically rooted great 'philosophies'; secularism is seen as a translation of the principles of the French Revolution; multiculturalism in the Netherlands is said to echo the 'pillarization' of Dutch society; and 'race' is portrayed as the product of British or American 'racial and ethnic communalism.'

Yet, everyone certainly agrees that these 'models' are often laden with contradictions. In France, recent publications have highlighted the political power of these contradictions. They have also unearthed the complex ambiguities of French *color blindness* and have had an obvious impact on the potential of sociology to be a discipline that comprehends reality—for "the interest in ignorance"[2] of many scholars precludes the use of certain so-called 'ethnic' categories for reasons that have nothing to do with the conditions of legitimate scientific discourse and everything to do with the ideological nature of the public debates regarding these issues.

As a result of these contradictions, academic debate no longer consists of an effort to reveal republicanism as a 'model of citizenship,' but is rather a discussion linked to the ideological tug-of-war over a relatively hidden facet of the Republic, i.e. the 'racist inequality' that republicanism serves to hide or the "racialization of the republicans" (E. Fassin, 2006). This reveals a discursive slippage "from the social to the racial issue" and the impact of this transition increases the complexity of debates on cultural and religious diversity (D. Fassin, 2002). Thus, the abstract principles

1 These questions stem from field research in military and healthcare institutions where the discourse of actors revealed the issue of 'diversity' to be framed by the obvious assertion that 'we are governed by the principles of the Republic.' See C. Bertossi and C. Wihtol de Wenden, *Les couleurs du drapeau : l'armée française face aux discriminations*. Paris: Robert Laffont, 2007.

2 A phrase borrowed from Patrick Simon.

of republican universalism are confronted with the realities of a *de facto* multicultural French society. This makes it possible then to propose a republicanism that is more in line with the motto of 'liberty, equality, fraternity' by correcting the ambiguities of the French 'model' or by adapting it to the 'diversity' of the social context.

These discussions are crucial and allow the clarification of the balance of power among the various interests involved in the republican argument. This makes them socially and politically relevant – and I, personally, am absolutely in their favor. However, these discussions will not provide an answer to the question of the 'republican model' itself. Rather, by highlighting the contradictions and costs of republicanism 'as it is,' the authors who are involved in this discussion are in the end only debating the cost of the discrepancy between praxis and the normative reference. This normative reference remains an imagined normative republic, characterized by abstract universalism, individual equality, state neutrality in matters of religion, and the work of integration institutions—in short, the same 'republican model' that is described by those for whom it represents an indisputable positive value.

In other words, we cannot break with the discourse that turns unique national characteristics into a model simply by point out its contradictions. Quite the opposite, we end up reluctantly confirming the obvious existence of this 'model' even if the overstatement of its principles needs to be nuanced. Debating 'republicanism' does not explain what the 'republican model' is; instead, it leaves the field researcher to ask: Does the 'model' explain the observed reality?

The crisis of models: a new paradoxical moment in European discourse

In the last ten years, this question has taken a specific turn in public debates in France and elsewhere in Europe. The choice between multiculturalism and republicanism, a choice that was long considered as the *summa divisio* of citizenship policies, culminated in a double failure: on the one hand, there was a 'backlash' against multiculturalism in the Netherlands and Britain, while, on the other, French republicanism was not left unscathed by the 'integration crisis' which culminated in the 'suburban riots' of the fall of 2005.

This rhetoric regarding the failure of the 'models' developed on two speeds, beginning with the intense effort of "moral entrepreneurs" (Becker) to create a new public grammar and a new causal narrative of citizenship and identities—one which accepted that, when faced with the "Islam challenge," the traditional 'models' were no longer enough to respond to the 'new problem' of integration. Even worse, it was argued that these models were founded on principles that are not only no longer adapted to the current situation, but which were actually responsible for the 'integration crisis.' In 2004, for example, Trevor Philips, the President of the *Commission for Racial Equality* in Britain, explained that "multiculturalism is a solution of the past….It implies separation" (Philips, 2004), while Brian Barry gave normative legitimacy to this debate by proposing a very subtle philosophical critique of multiculturalism (Barry, 2001). In the Netherlands, an article published by Paul Scheffer in 2000 was closely preceded by a similar article by Paul Schnabel, another important opinion leader. Both argued that the crisis of integration in the Dutch context was a 'multicultural crisis,' caused by the Netherlands' tradition of multiculturalism. Although the framework of the debate in France did not *a priori* seem to suggest a confidence crisis or a rejection of 'republicanism,' the same rhetoric of maladaptation and normative failure of the "solutions of the past" to "today's problems" (i.e., Islam) was used, starting with the metaphor of the "lost territories of the republic" (Brenner, 2002).

Thus, spurred by this new debate, researchers became engrossed in attempting to provide an answer by measuring the potential 'crisis' of these 'models' (cf. Schain, 2008), without having clarified their academic definition, their heuristic power, and their institutional existence. This gave rise to a powerful paradox: never before did scholars take the obvious existence of these 'models' so much for granted as when they began discussing their 'crisis' or 'end.'

'Elusive models'

Beyond the various previously mentioned problems which hinder our ability to understand what the French, Dutch, or British 'models' are, is another aspect that is even more consequential for our discussion. It seems to me that in order to conduct a debate on the values of republicanism or multiculturalism as 'models,' we ought to be able to extract a sufficiently stable normative 'model' of the 'republic' in France or of 'multiculturalism' in the Netherlands or the United Kingdom in order to be able to use it as a standard in what we are attempting to explain.

However, the normative consistency of these models becomes difficult to grasp when we look back at the last three decades of politics and public policies of integration in France, the Netherlands, or Britain.

In the Netherlands, the idea of a 'multicultural model' easily escapes analysis. Behind the idea of a 'Dutch integration model,' the real issue is not to find out which normative type of multiculturalism could have produced the 'Dutch model,' but rather to understand why, despite the repetitive reversals in the problematization of the 'model,' the Netherlands are said to have adopted a 'multicultural model' that barely applies to a decade of public policies which were actually abandoned twenty years ago.

A comparable analysis may be done regarding the 'republican model' in France. Ever since the emergence of the integration of 'immigrants' as a political agenda item in the mid 1980s, we have found not one but at least four normative problematizations of the French 'model' (nationality in the 1980s, antidiscrimination in the 1990s, *laïcité* in the 2000s, and assimilation-cum-dignity in the 2010s). Each of these conceptualizes integration and the corresponding public response in a specific manner that clashes with the three others: under the label of 'immigrants,' the concerned groups are never defined in the same way; behind the idea of a challenge to the republican concept of 'common belonging,' the diagnosis of the problem is never the same; behind the constant call for 'tradition' and the 'principles of the Republic,' the public response is always different and always clashes with the "historical republican foundation."

The British situation illustrates a third aspect of the difficulty of finding 'models,' especially while debating the crisis of these same models, for behind the apparent 'crisis of multiculturalism' is in fact a reformulation of the objective of the negotiation of citizenship. Britain is certainly considered (by French scholars) as 'the other *communautariste* country' along with United States (Bleich, 2003). But here, just as in France or the Netherlands, even the idea of 'model' is difficult to grasp. The work done by the most influential British authors may in fact be seen as an attempt to move from practice to a normative multicultural 'model' (e.g. Modood, 2005; Parekh, 2000). On the other hand, the 'multicultural crisis' seems to represent a new wave of transformation in the frameworks defining public debates and public interventions which has constantly shifted from 'race' to 'ethnicity' and now to 'religion.'

...the 'multicultural crisis' seems to represent a new wave of transformation in the frameworks defining public debates and public interventions which has constantly shifted from 'race' to 'ethnicity' and now to 'religion.'

This repositions the 'crisis of models' discourse in a perspective that is no longer one of 'before' and 'after,' of a 'glorious era' which preceded a 'decline' or of a sudden and recent reversal that represents, in France, the passage from classical universalism to the new racialization; in the Netherlands, a slippage from tolerance to intolerance under the influence of a rigid definition of national identity; and in Britain, multiculturalism backlash. In short, it allows us to rid ourselves of the idea of normative blocks being put to the test of realism or nationalist reaction. There never

were 'multicultural models' in Europe nor a 'normative republic' in France. These 'multicultural models,' as we often imagine them, have never existed, not because of the contradictions or the gap between their precepts and observable reality, but for the simple reason that they were never institutionalized or internalized on the basis of a stable, univocal, and coherent normative approach.

Five working propositions

However, it is not enough to conclude that 'national models do not exist' because the reality which scholars observe is in fact saturated with modelized thoughts and modelizing practices. The subjects of our research (social actors) believe in the existence of a 'French model' built on principles inherited from the French Revolution or in the existence of a Dutch or an 'Anglo-Saxon multiculturalism.' 'Models' are discussed everywhere: in working-class pubs, hospital hallways, at the desk of a family allowance organization, in police stations, in school staff rooms, in union or NGO meetings, in the 'readers' section of newspaper websites, in European ministers of interior summits, etc.

It is therefore insufficient to say that 'models' should not be taken seriously because we are dealing with actors who happen to take these 'models' very seriously. Taken seriously, these concepts are used, imagined, negotiated, affirmed, contested, challenged—and I would add misunderstood—by significantly different types of actors. 'Models' should not therefore be sought in a stable and consistent (i.e. complete) normative, cultural, historical, and institutional context, but rather in these diverse uses, these negotiations, these discussions, and these misunderstandings. We must avoid the positivist approach of 'models' which reduces, more than often, the question of 'models' to the question of "how institutions think" (Douglas, 1986) and how 'citizens' are thought of by institutions. Consequently, we must remove social actors' agency from behind the smoke screen of official and formal narratives of nations' cultural self-understandings.

To illustrate the way we can avoid these two equally problematic conceptions of 'models' and take 'models' as dependent variables, we made with Jan Willem Duyvendack five interrelated working propositions (Bertossi and Duyvendak, 2009):

1) Far from being homogeneous blocks, 'models' are constantly contradicted by social, political, and institutional practices. Contradictions are part of these 'models' and can represent exogenous divergences (the precepts of a model are contradicted by public policies in certain sectors) or endogenous divergences (contradictory principles may be claimed in the name of the same model).

2) 'Models' are not stable and allow varying problematizations across time. To speak of 'republicanism' as the French 'model' or 'multiculturalism' in Britain or the Netherlands leaves much to be said about the stark differences that characterize public discussions on the integration of migrants and the project of equality and inclusion of 'diversity' within the citizenry of those nations.

3) 'Models' are not an *a priori* normative matrix but an *a posteriori* problematization. French 'universalism,' Dutch 'tolerance' or British 'race relations' are not the starting point but the temporary outcome of public discussions. 'Models' are the result of chaotic negotiations about the meaning of 'the integration problem' and its solution.

4) 'Models' are not absolute, but polysemic expressions. The content that each attaches to these or other similar concepts ('secularism,' 'pillarization,' 'State neutrality,' 'integration,' etc.) is always different. They all seem to be discussing the same issues; however, behind the seeming linguistic stability of these concepts, people attribute widely different, even opposite, normative connotations. Here, contradictions are caught up by possible misunderstandings by the concerned actors, and this, in turn, reinforces the contradictions already mentioned. For instance, the principle of gender equality may be used to

liberate the 'oppressed' (say women wearing the *niqab* and "deemed to be dominated by a husband or a brother") and, at the same time, to deprive these same women of their status as citizens (by refusing them access to nationality because they wear the *niqab*). In the Netherlands, tolerance (toward same-sex couples for instance) may be used as a basis for intolerant discourse (against Muslim populations, for example).

5) While they lack any stable normative content, 'models' represent a performative practice. This type of practice produces additional meaning in routine social relations between actors who share the belief in a normatively consistent and coherent social and political world, but attribute very different meanings to this fact (point 4). Behind the various uses, contradictory practices, disagreements regarding future action, disputes on the normative approach of what the integration of migrants 'ought' to be or on citizenship in a context of cultural, religious, ethnic or 'racial' diversity, the actors discuss the contradictions, driftings, and limitations of the 'models' without ever doubting the existence of these 'models.' These discussions in effect institutionalize the idea that France is "undeniably republican" or that Britain and the Netherlands are 'multicultural.' However, this institutionalization must not be merely looked for in the realm of official institutions (i.e. policies, quasi-professional philosophies, political structures), but in the cognitive construction of social reality.

These five working propositions suggest a shift in the research on 'models'. We have spent a considerable amount of energy trying to extract a complex social reality from 'national integration models,' taking the risk of replacing the world that we study by extremely attractive narratives. It seems to me that it is time for us to move backward, inducing 'models' from reality, conceiving of them as dependent variable that must be explained. This would better equip us for measuring the enormous impact they have on societies that struggle to locate their racial, ethnic, cultural, or religious diversity at the heart of their program of equality. If we really want to understand (and act on) the injustices of our societies, I believe that we need to find the actors behind the 'public philosophies,' and understand from a sociological perspective how 'national models of integration' play a central role in social life.

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