

# ‘Government Without Statehood’? Anthropological Perspectives on Governance and Sovereignty in the European Union

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**Abstract:** *It has long been argued that the EU is creating a new kind of constitutional order in Europe, one variously hailed as ‘transnational’, ‘supranational’, even ‘post-national’. Among the many theoretical descriptors used to capture the elusive character of the EU’s unique political order are ‘multi-level polity’, ‘civic tolerance’, and ‘governance without government’. Yet despite its success in developing the legal, economic, and institutional framework for this emerging polity, one key factor continues to undermine the project for European construction: the lack of a common culture or identity around which Europeans can unite. Drawing on anthropological research in Brussels, this article explores the implications of the EU’s absent demos. It also outlines some of the strategies the European Commission has used to address this problem and resolve its democratic deficit. Taking up recent debates developed by a number of EU scholars, I highlight some of the contradictions and theoretical weaknesses with the concept of ‘governance’ in an EU context. Reversing Wallace’s dictum about ‘government without statehood’, I ask whether EU governance might not, in fact, be better construed as ‘statehood without government’ and a new form of ‘governmentality’.*

## Introduction

Since 2000, the European Commission has defined ‘promoting new forms of “European governance”’ as one its four strategic objectives.<sup>1</sup> Indeed, for the European Union in general, the idea of ‘governance’ seems to have become both a ‘policy priority’ and a major organising principle, one that is now considered to be ‘central to the effectiveness of the EU’.<sup>2</sup> Such claims raise a number of key questions for EU analysts, foremost among which are: What exactly does ‘European governance’ mean in

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<sup>1</sup> The other three strategic objectives outlined by the Prodi Commission on taking office were: to stabilise Europe and give it a stronger voice in the world; to draw up a new economic and social agenda; and to promote better quality of life. See the Commission’s strategic objectives for 2000–2005, ‘Shaping the New Europe’ (COM(2000) 154, 9 February 2000).

<sup>2</sup> See ‘Governance in the European Union’ <[http://www.europa.eu.int/comm/governance/governance\\_eu/con\\_gov\\_en.htm](http://www.europa.eu.int/comm/governance/governance_eu/con_gov_en.htm)> (accessed 7 March 2005).

practice? What are the implications of this shift of emphasis towards the discourse of ‘governance’ as opposed to the more traditional notion of ‘government’, and how should we interpret the Commission’s appropriation and deployment of this concept? What, if anything, does it indicate about shifts in policy, or in the way European integration is conceptualised among European policy makers and politicians? In exploring these questions, I want to make three broad arguments:

1. The Commission and current EU scholarship typically represents the idea of ‘European governance’ as something positive for European democracy and empowering for its citizens. I question these assumptions and suggest that the concept of governance is a confusing, largely rhetorical, and typically disempowering term.
2. While there are complex factors that might explain why the Commission has appropriated and advanced the idea of ‘European governance’, one of the primary reasons is because ‘governance’ seems to provide a solution (in theory if not in practice) to the EU’s problem of legitimacy and accountability. However, this assumption is problematic and based on flawed assumptions about the source of the EU’s oft-lamented ‘democratic deficit’.
3. The popular motif of ‘governance without government’—which has become increasingly fashionable within EU and academic circles—is also problematic and misleading, not least because it deflects attention from the wider questions about the EU’s regulatory and disciplinary power, and obscures debate about new forms of statehood and what the EU is actually becoming. I suggest that the EU’s emerging political system is best characterised as neither ‘governance’ nor ‘government’, but rather as a form of what Foucault (1991) and others have termed ‘governmentality’.<sup>3</sup>

Before turning to address these more theoretical issues, let me begin with some reflections of an empirical kind based on my anthropological research on the EU civil service in Brussels. During the late 1990s, as the White Paper on European Governance was being drafted, I was completing an ethnographic study of the administrative culture of the European Commission in Brussels. My primary focus was on the question of whether there was evidence to support the claim that a new kind of European subjectivity and consciousness was emerging among the EU’s permanent civil servants (or *fonctionnaires*), in the context of debates about national and European identity (see Shore, 2000).<sup>4</sup> My informants were mostly middle-ranking officials in the Directorate-Generals (DGs) for Administration and Culture, as well as MEPs, journalists, lobbyists, representatives of the EU staffing associations, and members of the various Commission *Cabinets*. A recurring theme in the many interviews and conversations I conducted during that period revolved around the concerns about the EU’s declining popularity among ordinary Europeans. EU policy makers and officials spoke constantly about the need to ‘bring the Union closer to its citizens’ and ‘give people a sense of belonging to the Community’. These phrases were typically combined with other

<sup>3</sup> For an excellent collection of essays that analyse the utility of this concept in the social sciences and beyond, see Gordon (1991); Larner and Walters (2004).

<sup>4</sup> The research upon which this paper is based was carried out in Brussels and Luxembourg between 1993 and 1995–1996. I would like to express my thanks to the UK Economic and Social Research Council (project number R000236097) for their generous help in supporting this work.

keywords such as 'social inclusion', 'social cohesion', 'social partners', and 'European model'—all of which seemed to have been culled from a 1950s French dictionary of sociology. In fact, many of the officials that I interviewed—including members of the Commission's influential think-tank, the *Cellule de Prospective*, which recruited the team that drafted its White Paper on Governance—were themselves university academics or had backgrounds in the social sciences.

However, as I later learned, what 'bringing Europe closer to the Citizen' meant when translated into policy was a raft of Community-funded programmes and actions in the fields of culture, communication, and education designed to address the EU's 'symbolic deficit' (Abélès, 1996), and to instil awareness of what the Commission often refers to as 'the shared European cultural heritage' (Shore, 1996). As the Committee of Experts that produced the influential 1993 report on the Commission's information and communication policy opined: 'There is little feeling of belonging to Europe. European identity has not yet been engrained in peoples' minds' (De Clercq, 1993, p. 2). One of the prevailing arguments made by EU policy professionals at that time was that Europe needed a more 'human face' (or a 'soul', as Jacques Delors often put it): that is, a stronger identity that could galvanise people's loyalties and affections, and redirect them towards the institutions and ideals of the European Community.<sup>5</sup> As a senior official at the Commission's *Eurostat* Office explained it to me one day, public indifference and opposition to the European idea stems 'primarily from ignorance'. In his words: '[t]he statistics confirm this. Less educated people are more sceptical, whereas support for integration rises with higher levels of education'.<sup>6</sup> His conclusion was that enthusiasm for closer European integration would grow if only people could be educated to 'realise what Europe was doing for them'.<sup>7</sup> In the eyes of many of its leading officials and supporters, it seems, the Commission's longer-term goal was not simply to stimulate greater awareness of Europe, but rather, to create a new kind of 'European consciousness', one that would be capable of mobilising the divided peoples of Europe towards a new conception of themselves as European subjects and citizens of the Union. It was towards these culture-building (and 'nation-building') ends that the European Commission, following the advice of the 1985 Adonino Committee and with the support of new budget-lines sanctioned by the European Parliament, launched its 'People's Europe Campaign' with its various initiatives aimed at inventing the symbolic trappings of the new European polity.<sup>8</sup> These 'cultural actions', as they were called, included inventing a European logo and flag, an EU anthem, a standardised European passport and driving licence, European calendrical markers (including an official 'Europe Day' public holiday), European Citizenship, and a host of other measures designed to give the EU its 'human face'. What is striking about these EU culture-building initiatives is the way they echo many of the techniques and methods used by nationalist élites in the nineteenth and twentieth centuries to forge Europe's

<sup>5</sup> The De Clercq report argued that this could be achieved largely through the use of marketing techniques and by positioning the EU as a 'good product'. As it argued: 'The Commission should be clearly positioned as the guarantor of the well-being and quality of life of the citizens of Europe, ensuring high standards of living and working conditions in a prosperous and competitive economy. It must be presented with a human face: sympathetic, warm and caring' (1993, p. 13).

<sup>6</sup> Fieldwork interview notes, April 1995.

<sup>7</sup> These views echoed precisely those contained in the De Clercq report.

<sup>8</sup> The groundwork for this ambitious and extensive programme of 'cultural actions' was first outlined in the two Adonino Reports of 1985. For a more detailed historical analysis of this People's Europe initiative see Shore (1996, 2000).

existing Nation States (Anderson, 1983; Hobsbawm, 1990; Shore, 2000)—precisely the model that EU advocates claim they are seeking to transcend.

The invention of European tradition, however, is not the argument I want to make here.<sup>9</sup> Rather, my focus is the concept of ‘European governance’ and the meanings and functions of this ambiguous and polysemic term. By probing this concept, I also want to analyse some key problems identified by legal scholars, including Sbragia, Weiler, Fossum, and others, concerning democracy in the EU and the ‘dilemmas of governance without government’.

## I The EU’s Concept of European Governance

That the authors of the EU’s White Paper on governance and subsequent reports have been influenced by the academic literature is beyond doubt. For example, the EU’s most recent ‘Governance in the EU’ website not only cites Rhodes’ 1996 article on the various permutations and meanings of the concept of governance, it even goes on to describe governance as ‘the post-modern form of economic and political organisations’.<sup>10</sup> However, despite this evidence of scholarly reading, the Commission’s deployment of the term is noticeably narrow, partial, and instrumental. Romano Prodi’s speech to the European Parliament in Strasbourg in February 2000 provides a good illustration of the way the Commission has come to embrace the idea of ‘governance’ as part of its political agenda. Speaking about the direction and challenges of the post-enlargement Europe, Prodi said that he looked forward to a ‘new, more democratic form of partnership between the different levels of governance in Europe’. As he put it:

I believe we have to stop thinking in terms of hierarchical layers of competence separated by the subsidiarity principle and start thinking, instead, of a networking arrangement, with all levels of governance shaping, proposing, implementing and monitoring policy together (Prodi, 2000).

According to Prodi, ‘governance’ represents an inherently more levelling and democratic institutional arrangement, one ideally suited to an enlarged, multinational and federal polity such as the EU. The Commission thus endorses the idea of ‘governance’ as a concept that transcends ‘government’: a system in which power is located not in bounded, singular, or sovereign states, but in rules, processes, and multi-level institutions. But acknowledging that European Nation States are no longer unified, sovereign bodies with clear and coherent projects (if, indeed, they ever were) is only the first step in any serious analysis of what this ‘networking arrangement’ of trans-national, supra-national, and inter-governmental actors entails, and why it constitutes something other than a new federal state. Indeed, what defines the modern state is not its unfettered independence or its monopoly over the legitimate use of violence, as the traditional Weberian definition would have it, but those everyday routines, rituals, activities, and policies that ‘regulate the social making of meaning and of subjects’ (Alonso, 1994, p. 380) As Corrigan and Sayer wrote two decades ago, we should see the modern state

<sup>9</sup> Although Hobsbawm and Ranger’s (1983) historical analyses of mass-producing invented traditions do provide an extremely useful context and model for understanding the Commission’s approach to its problem of cultural legitimacy.

<sup>10</sup> <[http://europea.eu.int/comm/governance/index\\_en.htm](http://europea.eu.int/comm/governance/index_en.htm)>, accessed 15 February 2005. This use of the term ‘post-modern’ to refer to the novelty of the EU as a polity reflects a fundamental misunderstanding of the character of postmodernism and its implications for public administration. For a fuller discussion of this theme, see Rhodes (1997, pp. 180–200).

'more as a message of domination', or as an 'ideological artefact attributing unity, morality and independence to the disunited, amoral and dependent workings of the practice of government' (Corrigan and Sayer, 1985, p. 77).

In arguing this, I do not wish to imply that the modern state can be reduced to a set of disembodied functions or discourses, or that the problem of analysing the state can somehow be divorced from the question of its institutional basis. On the contrary, the state is very much an embodied entity; one whose presence is manifest in, and through, its institutions and their claim to sovereignty over a given territory and population. What I am suggesting, however, is that a monopoly of legitimate violence is not the fundamental or defining characteristic of modern statehood. We also need to consider other forms of regulatory and disciplinary power, and the techniques and manner in which individuals—as well as whole populations—are governed. This includes analysing the complex ways in which political power inheres in those 'networking arrangements' and norms that authorities establish, and through which they induce people to align their conduct and objectives with those of the authorities themselves.<sup>11</sup> In theoretical terms, this is what Rose and Miller (1992) call 'political power beyond the state', or 'government at a distance'. Insofar as the EU vision of 'European governance' also de-centres the idea of state sovereignty, the phrases 'government at a distance' and 'political power beyond the [nation] state' might equally be used to help us interpret the EU's emerging constitutional order.

However, the EU's adoption of 'governance' as its policy motif neither resolves nor confronts the issues and dilemmas of sovereignty or state power. As Sbragia (2002, p. 2) has pointed out, much of the governance literature is based on premises that simply do not apply to the EU. These assumptions include an elected central government with legitimate constitutional power recognised by both subordinate governments and the international system of which it forms part; the incorporation of society through regular elections; and the existence of a national identity that may be contested by groups within the Nation State, but which is nonetheless accepted by the majority.

The European Commission, as both its critics and supporters have often noted, is a unique type of supranational institution whose architecture was designed for the technocratic problems of the 1950s, not the democratic imperatives of the present. What democratic legitimacy it enjoys is therefore still largely of an *indirect* or derived quality. Having never received an explicit mandate from the peoples of Europe for the governance role that it now performs it is 'deficient with regard to what democratic legitimacy demands' (Eriksen, Fossum and Menendez, 2004, p. 2). Pascal Lamy, former European Commissioner (and erstwhile lieutenant of Jacques Delors) summed up the problem succinctly:

Europe was built in a St. Simonian way from the beginning, this was Monnet's approach. The people weren't ready to agree to integration, so you had to get on without telling them too much about what was happening. Now St. Simonianism is finished. It can't work when you have to face democratic opinion' (Lamy, cited in Ross, 1995, p. 194)

Facing democratic opinion, however, was not something that the European Commission was set up to do. Unlike most other administrations, the European Commission 'wields a comparatively high degree of power—and an unusual degree of visibility—

<sup>11</sup> Foucault's chapter on 'panopticism' in his 1977 book *Discipline and Punish* provides one of the clearest examples of how this modern type of disciplinary power works.

without having either legitimated by the usual democratic processes' (Sbragia, 2002, p. 2). This makes it particularly vulnerable to the criticism that it is élitist, undemocratic, and remote from the people of Europe. Indeed, much of the problem stems precisely from the fact that there is no 'European *people*' or *demos*, understood in the sense of a political community or self-identifying European public.<sup>12</sup> Nor, as Hobsbawm (1997) argues, are there any truly pan-European political parties, newspapers, or even interest groups (outside of big business).<sup>13</sup> The Commission often claims to represent the higher interests of the 'Community' and the 'European public', but a European public barely exists at the level of popular consciousness or what Taylor (2004) terms 'modern social imaginaries'. It only exists in the bureaucratic taxonomies created by EU statistics and in the rhetoric of EU policy élites. This is precisely why many EU scholars, including Habermas (1992, 2004), have focused attention on the importance of creating a 'European public sphere' beyond the rarefied environment of the EU's institutions.

While the Commission proclaims democracy as a core European value, the essence of modern democracy lies in the capacity of voters to periodically remove their legislators from office (i.e. 'kick the scoundrels out'), which is not possible in the case of the unelected Commission or the permanent staff of the Council of Ministers. A further problem for European governance is that modern democracies assume a degree of cultural intimacy between rulers and ruled.<sup>14</sup> What the Commission has consistently failed to understand (being more concerned with technical and administrative problems than political or cultural concerns) is that many Community rules are seen as 'foreign laws', imposed from above by a politico-bureaucratic élite, even though they may be integrated into national legal order. The distance (both symbolic and physical) between ordinary European voters and the EU's anonymous institutions in Brussels and Luxembourg merely adds to the sense of indifference and exclusion of the electorate from the democratic process. For evidence of this, one need only look at the progressive decline in electoral turnouts in European elections, which has fallen from an EU average of 63% in 1979, to 45.3% in 2004.<sup>15</sup>

## II Resolving Europe's Legitimacy Problem? Academic Theory Versus EU Pragmatism

The key question, according to Sbragia, is 'how can European democracy reconcile this situation of different modes of governance (national and European) coexisting while not sharing in equal measure the available "legitimacy space"' (Sbragia, 2002, p. 6)? This debate has prompted an enormous amount of intellectual activity among EU scholars, some of who advocate 'constitutional patriotism' as the answer (Habermas, 1992), and others a new conception of legitimacy based on 'deep diversity' (Fossum, 2004), 'civic tolerance', and 'multiple *demos*' (Weiler, 1999, 2002). Still others dismiss

<sup>12</sup> This was the conclusion of the famous German Constitutional Court Ruling. See Weiler (1995) for an analysis of this issue.

<sup>13</sup> As Hobsbawm suggests (1997), one of the problems that undermine EU attempts to forge a European *demos* and common European identity is the lack of any shared view of history. What makes a nation or a political community is precisely this sense of shared history. Yet history is one of the key elements that continue to divide fellow Europeans.

<sup>14</sup> I.e. the assumption that those who make the laws in our name are 'our people'. This is what Gellner (1983) refers to as the 'national principle'.

<sup>15</sup> Mellows-Facer, Cracknell and Yonwin (2004, p. 56). In many EU Member States (including The Netherlands, the UK, Sweden, Portugal, and Finland) the national turnout was below 40%.



the argument about the EU's democratic deficit altogether, and argue that the EU already has in place all the necessary constitutional checks and balances required for democratic legitimacy (Moravcsik, 2002). Another variation on this theme, often espoused by EU officials themselves, is the argument that the EU is a 'hybrid entity' or 'pragmatic arrangement' that should not be compared with some sort of 'ideal model' or Westminster-style of democracy.<sup>16</sup> While many would dismiss such arguments as specious, what is perhaps more sociologically interesting about them is what they reveal about the politicisation of EU scholarship, and the extent to which advocacy is often confused with analysis.

While these debates over democratic legitimation have been raging among EU scholars, the Commission has quietly followed a more pragmatic approach, seeking legitimacy and linkages below the level of national government. In the process, it has set about redefining its own role. Whereas in the past its mission was to find consensus among Member States, its strategy now involves reaching out to societal actors in an attempt to incorporate them in shaping the policy it proposes. There are at least three problems with this.<sup>17</sup> First, as Sbragia observes, the 'structure and composition of the European Commission is not designed to "reach out" to a large and differentiated public' (Sbragia, 2002, p. 7). This was also one of the major findings of my own ethnographic study of the Commission's administrative culture (Shore, 2000, pp. 125–240). Commission officials occupy a very insular and detached cultural space in the Brussels milieu. Like expatriates and colonial officials, they are *in* Brussels, but not *of* it. Their lifestyle and *habitus*, to use Bourdieu's (1977) concept, not only provides a sense of internal solidarity and distinction, it also isolates them from the host society.<sup>18</sup>

Second, when the Commission does reach out to societal actors and 'European civil society', it tends to contact those who are transnational rather than national. Indeed, not only are the actors it engages with primarily 'transnational', they are often closely linked to the EU institutions through the intimate web of networks and personal relations that characterise the EU-dominated ambience of Brussels's European Quarter. Baisnée (2000) provides a cogent analysis of this closed and incestuous world shared by European politicians, officials, lobbyists, and journalists in his study of the EU press corps in Brussels. The job of the 1,000 or so journalist accredited to the EU in Brussels 'is to scrutinise the EU, to interpret it and to make it public' (Baisnée, 2000, p. 2). However, as Baisnée points out, the cosiness and cultural intimacy of this institutional microcosm—based on personal and professional networks of elites and interested parties—and the informal rules that govern it, militate against critical, objective, or investigative journalism.<sup>19</sup>

<sup>16</sup> These arguments of Moravcsik (2002, p. 605), were also cogently expressed by Piergiorgio Mazzochi, Ambassador and Head of the Commission's Delegation to Australia and New Zealand, during the conference on 'Shifting Boundaries of Sovereignty: Governance and Legitimacy in the European Union' (Canberra, 22–24 March 2005), where an earlier version of this paper was presented.

<sup>17</sup> Once again I am indebted to Sbragia's (2002) observations, which I reproduce here for comment and analysis.

<sup>18</sup> It is important to point out here that the high salaries, professional autonomy, and political immunity and insulation from external influences were among the key criteria that were deliberately built into the design of the EU civil service (see Spence, 1994).

<sup>19</sup> This is arguably one of the reasons why it took so long to bring to light the extent of fraud, cronyism, and mismanagement within the European Commission, details of which were only made public thanks to the courageous efforts of a lone whistleblower, Paul Van Buitenen (see Shore, 2000, pp. 200–219).

The third problem that Sbragia highlights concerning the Commission's attempt to engage civil society is that in its attempt to tap into 'European public opinion', it has tried to mobilise various transnational civil society groups, regional government, networks, and churches, 'while failing to recognise that these "participants" see each other as foreigners' (Sbragia, 2002, p. 7). As Weiler pointed out, '[a] *demos*, a people, cannot after all be a bunch of strangers' (1999, p. 337).

Talking to non-governmental organisations that claim to represent civil society is often a proxy for talking directly to ordinary European citizens. However, many of the NGOs that the Commission consults in its 'dialogue with civil society' are organisations directly funded by the EU itself. A good example of this was seen in the debate over the draft European Constitution and the Convention on the Future of Europe. Sensitive to accusations that the Convention was dominated by the political élites of Europe, the convention set up civil society contact groups so that NGOs could air their views. Giuliano Amato and Giscard D'Estaing viewed this as a vital step in legitimising the final outcome. Fortunately for the Convention, civil society seemed to be enthusiastic in its support for expanding EU power. The working group on citizens and institutions called for 'the government of the Union to be in the hands of the Commission, which alone was capable of representing the common interests of its citizens' (*Economist*, 2004). Five NGOs in this working group were invited to deliver this message directly to the Convention. Yet all five—the 'Young European Federalists', the 'Federalist Voice', the 'Active Citizenship Network', the 'European Network Against Racism', and the 'Polish NGO Office in Brussels'—were being financed either directly or through EU-funded projects, by the Commission itself. What the Commission calls 'dialogue with civil society' others would describe as an act of ventriloquism; a rigged conversation in which organisations financed by the EU promote political messages congenial to the EU. This is not always as instrumental as it appears though: when officials need to consult someone outside the Commission for opinions or advice, they naturally turn to those people and organisations that they know or with whom they already have some kind of relationship of trust. This is, after all, both the strength and the weakness of the EU's insularity and networking dynamics.

However, the Commission also subsidises think-tanks and EU research centres, and has actively promoted the introduction of EU-focused academic courses and programmes in universities across Europe (and internationally) through its use of Jean Monnet Funds. To date, these funds have financed over 2,000 teaching projects and have led to the creation of over 400 new university chairs, primarily in the emerging discipline that is called 'European Integration Studies'. This symbiotic and mutually complementary relationship between EU institutions and personnel and the civil society 'actors' and agencies that are supposed to study them (and hold them to account) exemplifies another interesting aspect of the process of Europeanisation. As the anthropologists Borneman and Fowler perceptively note:

Always seen as a means to realize some ill-defined community, the EU is increasingly an end in itself. However, this circularity—the EU as both cause and effect of itself—begs the fundamental question of what in fact it is' (Borneman and Fowler, 1997, p. 488).

Like the 'Monnet Method' and its continuously 'expanding neo-functional process of spillover' (Holland, 1993, p. 203), 'Europeanisation'—which is linked first and foremost to the organisational and administrative power of the European Union—is a self-reinforcing process in which the European Union continually creates and recreates



the conditions for its own expansion. In this respect, the growth of the *acquis communautaire* is perhaps the real measure of the art of European governance.

### III The Problem of 'Governance Without Government'

Whereas Sbragia examines the dilemmas of 'governance *with* government', others argue that the EU exemplifies the obverse: 'governance *without* government'. Inventing complex epithets and neologisms that purport to capture the essence of the EU's elusive yet evolving political system has become a minor industry for political scientists (see Schmitter 2000 for a review of these). The EU, so they remind us, is a hybrid form of 'postnational constitutionalism' without parallel or precedent in the modern world; a unique mix of intergovernmental and supranational institutions and actors that is more than an international legal order but does not quite fit any accepted category of governance. It has been variously described as an 'unfinished project', a 'federation in the making' (Wallace, 1983, p. 403), a 'network of networks' (Leonard, 1999), and the 'first truly postmodern international form' (Ruggie, 1993, p. 140). Other terms for portraying the EU's complex nature include '*condominio, consortio*', multi-level polity (Marks *et al.*, 1996), mixed commonwealth (Bellamy and Castiglione, 1997), post-national entity (Curtin, 1997; Habermas, 1998, 2000), '*objet politique non-identifié*' (Jacques Delors, cited in Schmitter, 2000), 'cooperative confederation' (Bulmer, 1996), and 'quasi-federal entity' (Fossum, 2004, p. 246, note 4).

Taking their cue from this effusive wordplay, many EU officials and politicians argue that we should now abandon the traditional language of 'states', 'territories', and 'sovereignty', and instead speak of 'overlapping layers of competence' and 'economic and political spaces' tied together by what Jacques Delors once called the 'Community's spiderlike strategy to organise the architecture of a greater Europe'.<sup>20</sup> This is what Wallace (1996, pp. 439–460) has termed 'government without statehood', a phrase that echoes many of the assumptions inherent in the discourse of 'European governance' discussed earlier. These include the idea that the EU's constitutional order is a loose federal structure rather than an integrated federal state: 'a multi-level system with diverse member provinces, within which politics revolves around the constitutional rules of the federation [and] provincial autonomy and identity, as much as around distributive and redistributive policies or patterns of regulation' (Wallace, 1996, p. 446). What Wallace and many other authors agree is that the EU's political system is *sui generis* and cannot be meaningfully translated into old-fashioned 'state-centric' categories (Walker, 2003). Some even go further, claiming that we simply do not have the conceptual tools and analytical vocabulary to grasp its uniqueness or complexity. The problem, however (if 'problem' is the appropriate word), is that we *are* limited to the analytical categories and concepts of past or contemporary political models, and whatever one may claim about their analytical shortcomings in the face of the EU's constitutional novelty, they do provide us with a useful vocabulary for debating and analysing the EU as a political system. Indeed, some might argue that it is precisely those who dismiss critics of the EU's democratic deficit for comparing the EU with 'an ancient, Westminster-style, or frankly utopian form of deliberative democracy' (Moravcsik, 2002, p. 605) who are most guilty of representing the EU in idealised terms. Words like '*sui generis*', 'unique', 'unprecedented', and 'unfinished' serve to mystify the EU rather than enabling serious analysis. As Bellamy

<sup>20</sup> Delors, cited in Ruggie (1993, p. 140).

says,<sup>21</sup> to claim that it is *sui generis*, often becomes an excuse for not analysing it at all.

The current enthusiasm for the term ‘governance’ within EU scholarship reflects a similar retreat from, rather than advancement upon, the language and categories of conventional political analysis. The discourse of ‘European governance’ would seem to represent a major policy shift from the early 1990s when the Commission was being spoken of as the embryo of a future ‘government of Europe’. Some EU analysts interpret this as symptomatic of the new approach (or sensibility) on the part of the EU towards the issues of sovereignty and the project of European integration. For Fossum it is evidence that the EU ‘is accepting of different conceptions and visions of what the polity is, and ought to be’ (2004, p. 229). Similarly, for Weiler the EU’s unique federal arrangement is an expression of the ‘principle of constitutional tolerance’. ‘It is’, he writes, ‘a remarkable instance of civic tolerance to accept to be bound by precepts articulated, not by ‘my people’, but by a community composed of distinct political communities: a people, if you wish, of ‘others’ (Weiler, 2002, p. 568, cited in Fossum, 2004, p. 229).

Leaving aside Weiler’s contradictory assertion (cited earlier) that a ‘*demos*’, a people cannot be a bunch of strangers’, or the many problems (for sociologists and anthropologists, at least) of trying to define what exactly constitutes a ‘community’ beyond the rhetorical and normative definitions favoured by policy makers, a major flaw in this argument is that the peoples of Europe were never properly consulted as to whether or not they wished to be bound by those precepts. According to Weiler,

Constitutional actors in the Member States accept the European constitutional discipline not because, as a matter of legal doctrine, as is the case in the federal state, they are subordinate to a higher sovereignty and authority attaching to norms validated by the federal people, the constitutional *demos*. They accept it as an autonomous voluntary act, endlessly renewed on each occasion, of subordination, in the discrete areas governed by Europe to a norm which is the aggregate expression of other wills (Weiler, 2002, p. 568).

The simple argument against Weiler’s idealistic and legalistic ululations for the EU constitutional order is that, when given the chance to express themselves, the peoples of Europe—those so-called ‘constitutional actors—do *not* accept their subordination to the norms of EU governance. This was one message most clearly communicated by the French electorate in the referendum of 29 May 2005 on the EU Constitutional Treaty. To be governed by ‘a people of others’ may sound appealing when it refers to a polity based on enlightened internationalism and constitutional tolerance, but such an arrangement is likely to be perceived as a form of subjugation—in the same way as a majority ‘demanding obedience from a minority that does not regard itself as belonging to the same people is usually regarded as subjugation’ (Weiler, 2002, p. 568). What seems to be missing from Weiler’s reckoning is any acknowledgement of the importance of that principle of democracy, often espoused by the United Nations and movements seeking independence from colonial rule, regarding the right to self-determination.

For both Weiler and Fossum, the appeal of the European governance model (if we can label it thus) is that it explicitly rejects the ‘One Nation’ ideal—and the notion that democracy should be coterminous with ‘peoplehood’, which is typically defined by the nation and its national assembly or parliament. As Gellner (1983) argued, this ‘national principle’ lies at the heart of the modern world order; it is also what gives the Nation State its legitimacy and authority. Weiler’s ‘civic tolerance’ model—like Habermas’s argu-

<sup>21</sup> Bellamy’s comments were in reply to the remarks by Piergiorgio Mazzocchi cited previously.

ment for 'constitutional patriotism'—is essentially an attempt to provide a European alternative to the national principle. Both are also *de facto* attempts to define a new type of 'civic' (as opposed to 'ethnic') nationalism: to make the public sphere stand above the loyalties that feed it. Or as Markell puts it, they are 'strategies of redirection' that aim at 'rendering affect safe for [liberal] democracy' (Markell, 2000, pp. 39, 54). A democracy devoid of effect and based on abstract constitutional principles is an interesting idea, but it is unlikely to offer anything more than a pale and ineffectual facsimile of the 'One Nation' ideal transposed onto a wider European canvas. 'Civic tolerance' also has much in common with the idea of 'passive consent'—an abstract notion traditionally used by advocates of European integration to justify the EU's appropriation of more competencies without a popular or democratic mandate for so doing. But perhaps the key problem with Weiler's 'principle of civic tolerance' is that it contradicts one of the cardinal axioms of modern democracy; namely, that democratic government should be, as Abraham Lincoln put it, 'government of the people, by the people, and for the people'.<sup>22</sup>

The shift from 'government' to the discourse of 'governance' is arguably more rhetorical than substantive. To examine this, let us reflect briefly on the different meanings and uses of these two concepts.<sup>23</sup> Whereas *government* typically refers to the group of people vested with the authority to govern a state or country, or to the system by which a state is governed (i.e. something tangible that can be identified—and held to account); *governance* is a more protean term that includes the action and manner of governing. It is thus 'a somewhat ambiguous term for social regulatory processes that directly or indirectly implicate the political system; it is analogous to the sociologists' term "social control"'.<sup>24</sup> In this respect, governance entails a much broader conception of power, one that draws attention to the more complex process and mechanism for exercising power. However, the European Commission stresses only the positive and benign aspects of this process. Governance is typically used to denote the idea that sovereignty is shared (or 'pooled') among multi-level bodies in a complementary process that follows the principles of 'subsidiarity'. According to the Commission's definition, governance entails pluralism and dialogue between 'social partners'—be they regional authorities, national executives, or supranational bodies including the European Court of Justice, European Parliament, and the Commission. Decision-making is thus conceived of as a 'dialogic' process (and therefore inherently more democratic and inclusive), involving input from a plurality of differentially positioned actors. The assumption underlying much of the EU literature is that 'governance' not only provides a better label for describing the complexity of the EU political system, it also offers a more progressive and inclusive model: a method of 'governing' that draws together actors and institutions across multiple levels, in a way that, according to Rosenau (1992), also 'empowers citizens'.

By transcending the traditional idea of government, 'governance' thus seems to answer both the Commission's quest for transnational inclusivity and social partner-

<sup>22</sup> The point here is that for both Fossum and Weiler, the appeal of Europe's emerging political system of transnational and supranational governance is that it transcends the 'One Nation' ideal of political legitimacy, a model that both lies at the heart of, whilst simultaneously helping to reinforce, the national principle (Gellner, 1983). The problem is that while the EU may be able to claim to offer an alternative to the model of government that emerged with the Nation State, it still has no viable alternative to rival the legitimacy of national democracy.

<sup>23</sup> See Rhodes (1996) for a succinct analysis of the various meanings of the concept of governance.

<sup>24</sup> *The Oxford Companion to American Law*, Oxford Reference Online, Oxford University Press, Auckland University 17 March 2005. <<http://www.oxfordreference.com.ezproxy.auckland.ac.nz/views/ENTRY.html>>.

ship, and its perennial problem of democratic accountability. Sadly, this is not the case. It is hard to see how decisions made by the Council of Minister's Secretariat or in the various backroom bargains and informal 'trilogues' that take place in the corridors of Brussels (Shackelton, 2000), reflect a more inclusive or democratic form of governance. Furthermore, as Rhodes points out, although the links between different levels of government have multiplied and multi-level involvement in decision-making has increased, the 'participation' of local and regional and national governments should not be confused with 'their effect on the *outcomes* of decision making' (1997, p. 140). Far from helping to delineate the limits of power and authority, the model of 'multi-level governance' seems to obscure analysis of these areas by confusing the lines of democratic accountability.<sup>25</sup> Thus, in many areas of policy making it is increasingly difficult to see where national competence ends and EU competence begins.

#### IV Conclusions: Government, Governance or 'Governmentality'? How Should We Theorise the EU's Evolving Polity?

The Commission's own statements on the idea of governance seem to confirm these criticisms. It defines 'European governance' almost entirely in terms of strategies to 'enhance the effectiveness of policies and to bring institutions closer to the citizen'.<sup>26</sup> 'European governance', it states,

refers to the rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence. These five 'principle of good governance' reinforce those of subsidiarity and proportionality. (Commission of the European Communities, 2005, p. 2).

However, its notion of governance has little to say about democratic accountability in a meaningful or participatory way. The Commission's emphasis is primarily on technical issues concerning 'better policies, regulation and delivery' (Commission of the European Communities, 2001, pp. 18–19), 'better lawmaking' (Commission of the European Communities, 2002), and 'updating the *acquis*' (Commission of the European Communities, 2003). It speaks of establishing a 'culture of public consultation', but the only tangible measure of 'participation of civil society' that it is able to offer is in terms of Internet consultations (i.e. 'hits') on the 'Your Voice in Europe' website.<sup>27</sup>

Nor is there any acknowledgement of the negative dimensions of 'governance'. As Rhodes (1996) has pointed out (even in the article that the Commission cites) the rise of the idea of governance is also associated with the rise of new public management and the 'hollowing out of the state'. Characteristics of that process include a weak, poly-centric state and a centreless society increasingly regulated and manipulated by market forces and through the opaque processes of intergovernmental or intra-institutional

<sup>25</sup> Rhodes also notes that the multi-level governance model offers no analysis of the role that networks play in shaping the policy process (Rhodes, 1997, pp. 140–142).

<sup>26</sup> See Commission of the European Communities (2004), and also the European Commission's Press release 'Commission approves a report on the European governance (2003–2004)', <<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/1139&format=HT>>, accessed 7 March 2005.

<sup>27</sup> Much of its emphasis is also on 'impact assessment', the 'acquisition and use of scientific expertise'; the 'update and simplification of the Community *acquis*'; 'regulatory agencies and improvement of the implementation of Community law and its monitoring'... and 'permanent dialogue between the Commission and local and regional authorities associations' (<<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/1139&format=HT>>, accessed 7 March 2005).

bargaining. This situation recalls Arendt's (1969) description of the modern bureaucratic state; a domain, like Kafka's castle, ruled by Nobody—with 'nobody left with who one can argue' or 'to whom one could present one's grievances'. This is perhaps the greatest danger of 'governance without government'. What it offers the European citizen is neither empowerment nor meaningful political participation. It also distracts attention from the operation of power within the EU—the myriad ways in which EU regulations, norms, and taxonomies not only colonise domestic policy making but function to remove these areas from the realm of democratic decision-making.

The above observations lead me to the final point, on which I wish to conclude. I suggest we might replace the terms 'governance' and 'sovereignty' with the analytically more productive concept of *governmentality*, Foucault's (1991) term to describe the rationality of modern government. The concept of governmentality has inspired a distinctive and novel approach to the study of government and public policy (see Barry, Osbourne and Rose, 1996; Rose, 1989; Shore and Wright, 1997), which may also help shed light on the EU as a political system. Briefly put, 'governmentality' in Foucault's analysis, refers to both a specific *way* of governing, and to the historically specific *form* of governing associated with liberalism and the control of populations. As Foucault defines it, governmentality entails 'the ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population' (Foucault, 1991, p. 102).

What is useful about the concept of governmentality is that it decouples 'government' from the idea of 'Government' (in much the same way as the idea of 'governance'), but beyond this, it also draws attention to modern forms of political rationality and to the myriad ways in which governing takes place beyond the state: that is, the various technologies, actions, and calculations that are used by authorities for the exercise of political rule.<sup>28</sup> This approach extends our understanding of the operation of political power beyond the state to a focus on the instruments and techniques of social discipline and regulation, including regulatory frameworks, norms, statistics, and instruments of governance. It also draws attention to the relationship between the practices of *governing* and the uses of knowledge and thought—and the way these relationships work to produce certain 'truths' that are essential for all forms of political rule. As Rose puts it, all government 'depends upon the production, circulation, organisation, and authorization of truths that incarnate what is to be governed, which make it thinkable, calculable, and practicable' (1989, p. 6).

In the case of the EU, what is being rendered 'knowable' and thus 'governable' is the European Union itself—that is, its population and those spatial and conceptual entities that it variously terms the 'European Economic Space', 'European Audio-Visual area', and 'European public sphere'. Foucault's work provides a useful window on the way modern governments rely on 'visibility' to construct the objects over which they rule. A further usefulness of Foucault's work on governmentality for analysing the EU as a political régime is that it draws attention to the ways in which power disguises the mechanisms of its own operation, particularly through the mobilisation of discourse and technologies of normalisation—those 'political technologies' and 'techniques of the self' that are mobilised to classify, control, and construct political subjects. As students of power have often noted, political technologies

<sup>28</sup> See Rose (1989, pp. 5–11) for a more detailed discussion of this concept.



work by taking what is essentially a political issue, divorcing it from the realm of politics, and recasting it in the neutral language of science—therefore consigning it to the realm of ‘experts’. The EU Constitutional Treaty exemplifies this tactic, for as Weiler (2002, p. 563) concedes, those issues and political competencies that do become ‘constitutionalised’ are thereby taken out of day-to-day politics. The expansion of EU policy making provides an even better example of the way this process works, as Wallace demonstrates:

The structure of Community policy-making was designed from the outset to disaggregate issues wherever possible, to disguise broader political issues, to push decisions down from ministerial confrontation to official *engrenage* within the hierarchy of committees which formulated proposals for ministers to approve and the parallel hierarchy of committees which cooperated in their implementation (Wallace, 1996, p. 449)

As Wallace continues, this is partly reflected in the ‘stupendous growth of EU regulation in recent years, which placed regulatory policy “at the core of EU policy making”’ (1996, pp. 449–450). In this respect, the concept of ‘European governance’ might also be usefully understood as a political technology and expression of governmentality. To conclude, therefore, I suggest that a more theoretically sophisticated analysis of power might also give us a more critical perspective—and diagnostic language—for understanding what the EU political system has actually become. This might lead us to think again before accepting the value of shibboleths like ‘European governance’. It might also lead us to reverse Wallace’s dictum and think of the EU not as ‘government without statehood’, but rather as a novel form of ‘statehood without government’.

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