

Beyond the European Parliament: Rethinking the EU's democratic legitimacy

By Anand Menon and John Peet

- ★ The European Parliament has become increasingly powerful over the past 20 years, especially after the Lisbon treaty entered into force in 2009. Yet it has failed to live up to its original purpose, to make the EU more democratically legitimate.
- ★ Although MEPs often lack sensitivity to public opinion, the reasons for the Parliament's lack of legitimacy are more structural than the result of words, actions and votes in Brussels and Strasbourg. Consequently, it is unlikely ever to have a robust democratic mandate.
- ★ The Lisbon treaty gave national parliaments more say over EU laws. But this new scrutiny system is probably too Byzantine to work effectively. A better move would be for governments to give national parliamentary committees more direct power over EU matters, and for national parliaments to work more with each other and with the EP itself.

Introduction

The European Parliament has failed to fulfil its core function, namely to ensure the democratic legitimacy of the EU. This may seem a stark conclusion. After all, the Parliament is the one EU institution that has seen its powers grow steadily over the last 20 years. The Lisbon treaty has continued and accelerated this trend. In most fields, the EP is now a co-equal legislator with the Council of Ministers (which represents the national governments). And MEPs have not been shy of exercising their prerogatives. To the chagrin of the US, the Parliament's deputies held up an important EU-US deal to share bank records for counter-terrorism purposes. And to the irritation of EU foreign ministers, they also delayed the establishment of the new European external action service.

The most recent example of the Parliament flexing its muscles has come over the EU budget for 2011. Although most national governments are cutting their spending, the Parliament wanted an increase in the EU budget of almost 6 per cent. EU governments insisted on no more than 2.9 per cent. The Parliament then suggested that it might accept this lower figure, but only in exchange for more influence over the next financial framework after 2013, including a possible new EU tax. In the end, the Parliament climbed down on most of its demands but the row almost led to the EU stumbling into 2011 without a proper budget.

Although nobody could question the EP's growing power within the EU system, we question its ability to confer democratic legitimacy upon that system. Simply put, it has not succeeded in that (admittedly

Herculean) task. Indeed, to many disgruntled European voters, the EP now seems to be part of the problem rather than of the solution, contributing to, rather than reducing, perceptions of an EU out of touch with its citizens.

This paper considers why the EP has failed to live up to the high expectations raised by its first direct elections in 1979. It argues that its inability to reassure European citizens of the democratic legitimacy of what goes on in ‘Brussels’, while on occasion exacerbated by the actions of its own members, is structural in nature. Consequently, there are no obvious solutions to it.

The paper does not claim that the behaviour of MEPs, or their ability, is the root cause of the EP’s failure to confer democratic legitimacy on the EU. European parliamentarians are not universally ill-informed, ineffectual or of low quality, although some are indeed all of these things. On the contrary, many are extremely competent in their areas of expertise, and their specialist committees often produce impressive reports on, and propose telling amendments to, draft laws, as in the case of the recent EU directive on alternative investment funds. Unlike many national parliaments, which are dominated by party politics and hence frequently act as little more than cheerleaders for government-sponsored legislation, the EP wields real influence, proving willing to amend or even reject draft laws altogether. It is on many counts a more effective check on the legislative process than the parliaments of many member-states.

However, the problem with the EP is that it fails to carry out satisfactorily the core task of any parliament – namely, adequately to represent its electorate. There is more to democratic legitimacy than just being elected. Any institution aspiring to such a status must also be considered by voters to represent their interests. It is here that the EP has failed to deliver. Largely ignored by its electorate, and frequently upholding positions that are wildly out of step with citizens’ views, the Parliament simply does not, in practice as opposed to theory, fulfil its legitimising mandate.

In the absence of any obvious means to remedy this failing, we consider a strengthening of the role of national parliaments to offer the best way of enhancing democratic legitimacy in the EU. Besides representing a palliative to the problem created by the EP, this would also serve the useful purpose of engaging national parliamentarians more directly in EU affairs. And this would, in turn, limit the tendency of too many national politicians simply to blame the EU for perceived policy failures: buck-passing is harder when one has played a clearer role in the decisions being criticised.

The need for legitimacy

Most international organisations do not feel the need to seek legitimisation of their decisions by parliamentarians, and certainly not by their own directly elected assembly. The EU, however, is different. It passes laws that have direct effect within, and even trump the domestic legislation of, its member-states. This makes it unique. Indeed, its legal order in many ways should be seen as more akin to the top tier within a federal state than to a traditional international organisation.

This situation does not necessarily imply the need for a specific mechanism for democratic legitimisation of decisions. After all, the national ministers who ultimately vote on almost all proposed EU legislation in the Council of Ministers are members of national governments and thus ultimately

accountable to their domestic parliaments. As John Kerr, a British peer and former secretary of the Convention on the Future of Europe, put it in a UK House of Lords debate in early 2010, “the Council... is entirely democratically legitimate.”¹

¹ UK House of Lords debate, January 28th 2010, <http://www.parliament.uk/business/publications/hansard/lords/>.

There is a problem about relying only on the democratic legitimacy of the Council, however. Especially after the Lisbon treaty, most EU legislation can be adopted by qualified-majority vote. Consequently, national governments can be outvoted on proposals that then become the law of their own land. In such a situation, and given the binding nature of the legislation that is eventually passed, some kind of legitimising safety net is deemed essential in order to give EU citizens proper representation in the political process.

Moreover, given the centrality of the European Commission to most of the crucial developments in European integration, many observers have felt that there should be a democratic mechanism to hold it to account. Because national governments cannot be entrusted with this role (for fear of constraining the Commission's ability to act independently of them), it seemed natural to allow the EP to take on this responsibility instead.

Hence the argument that the EU requires a more developed form of democratic legitimisation than do other international organisations. Since the start of European integration, this has been provided by a parliamentary assembly – nominated from national parliaments until 1979, and subsequently directly elected. This is still imperfect: as with national governments in the Council, even if all MEPs from a single member-state vote against a measure, it can still become law. Yet a parliamentary backstop was seen by many as a way of providing extra democratic reinforcement to a system that, unlike other international organisations, produces binding law.

Expectations unmet

For all these hopes, however, experience has shown that the EP lacks the credibility to guarantee the EU's democratic legitimacy. For a start, it has failed to convince voters. European elections are characterised by a marked degree of popular apathy. From a high point of 63 per cent in 1979, the turnout in EP elections has fallen steadily to just under 46 per cent in 2004 and a mere 43 per cent in 2009. It is notable that in almost all EU countries, voter turnout is significantly higher in national than in European elections.

Second, the EP has failed to mobilise voters around issues handled by the European Union. The people who vote do so not on the basis of European issues that the EP may influence, but on national political issues over which the EU as a whole exercises little or no control. This should not come as a surprise. National political parties have good reason to avoid competing directly over EU policy, since opinions on Europe tend to cut across traditional party cleavages. Even in Britain, both the largest parties are split over the European Union, and consequently steer clear of confrontations over it. On those occasions when one party has chosen to fight on the basis of EU policy – as, for example, the Conservatives did in a British general election held in 2001 – this has generated little resonance with voters. Consequently, elections to the European Parliament are characterised by debates over national issues not handled by the European Parliament.

Moreover, there is no sign of a genuine European 'demos' emerging, one that would knit together voters who support parties from the same political family. What is striking about European politics is that even when confronting similar political problems, the national parties that are members of the main pan-EU political groups (the centre-right European People's Party, the Party of European Socialists and the Alliance of Liberals and Democrats for Europe) often stand for different values and campaign on different platforms that are different to others in the same group. In this situation, the EP serves merely to reflect territorial cleavages that in federal systems are generally blurred or supplanted by ideological divisions.

All of which is easy enough to explain. Most MEPs are elected from national party lists, in national constituencies, via nationally organised elections based around debates on national issues. This, combined with a low (and falling) turnout, amounts to a lack of a clear democratic mandate, something that directly challenges the EP's claim to act as a mouthpiece of a single European people. Most voters are unaware of the existence or purpose of the political groups in the Parliament, even though they are highly influential in the allocation of committee seats, debating time and even nominations to top jobs (as became clear in the choices of the new President of the European Council and the new High Representative for Foreign and Security Policy).

In the years after the first direct elections, the EP's supporters argued that its relative lack of power accounted for low levels of public interest in European elections. But the world's only directly elected transnational parliament has seen its powers increase dramatically over the past 20 years. The body now enjoys co-equal status with the Council of Ministers for most EU legislation. It has also gained more say over the appointment of the European Commission, as well as the power to approve foreign treaties

(including trade treaties) and more influence over the EU budget. Despite all this, public indifference has remained unchanged – and the problematic nature of the Parliament’s democratic mandate remains.

Explaining apathy

There are several explanations for this unsatisfactory state of affairs. Most (though not all) lie beyond the control of MEPs. For a start, one reason why EP elections fail to attract the same degree of interest as national ones is that they do not determine the composition of a government. That means their practical political outcome is less visible; it does not obviously serve to shape the political direction of Europe. The link between European elections and the subsequent choice of a European Commission president, though real, is too tenuous, too indirect, and too little noticed by European electors to make much difference – even though any future Commission president will probably have to come from the biggest EP political group.

Even if the European election results mattered more obviously, it is unlikely that voters would pay more attention. The EU does some of what states do, but much less. Crucially, the issues that voters care about most – health care, education, law and order, pensions and social security, and taxation – are largely controlled by national governments and do not fall under EU jurisdiction. Elections that fail to elect a government and which, even if they did, would not affect the crucial issues that get voters to turn out at the polls, are hardly likely to arouse their interest.

Sadly, the things over which the EU does enjoy competence – notably monetary policy, competition, regulation and the single market – tend to leave voters cold. Jacques Delors was right when he remarked that one could not easily fall in love with a single market. In this sense, the EU is structurally condemned to inspire voters’ apathy. The voters themselves seem to understand this. A 2009 Eurobarometer poll found that 39 per cent of those questioned felt that the creation of a European welfare system would be the most effective way to develop a real European identity.

On top of this, European elections receive relatively little media coverage (particularly in comparison with their national counterparts). Political coverage in Europe remains mostly national in focus, with most big media outlets focusing on national governments, not the EU. The EP’s treaty-dictated practice of holding its main monthly plenary sessions in Strasbourg does not help, as most EU media correspondents are based in Brussels. Not surprisingly, media coverage of the EP tends to be about its costs, its accounts and its members’ absences, not about the substance of what it does.

Voter interest in EU affairs in general, and EP elections in particular, remains low. Less than six months before the European elections of 2009, a mere 26 per cent of EU citizens knew when they were being held; some 54 per cent said they were of little or no interest.² ² *‘The 2009 European Elections,’ Special Eurobarometer 303, April 2009.* European polls are, in the language of social science, ‘second-order’ elections. Voters have little knowledge of or interest in them, so they tend not to take them seriously. That means they use them as an opportunity to punish national governments, or to elect fringe or far-right parties. Evidence of this can be found in the relatively high number of protest votes cast for parties that would not normally secure either representation or voter support in ‘first-order’ or national elections. Fringe and far-right parties did notably well in the 2009 EP elections in Austria, Belgium, Britain, France, the Netherlands and across much of Central Europe.

Above and beyond such structural problems, the behavior of the Parliament sometimes undermines it as a body which holds the EU to account on behalf of the public. MEPs have often seemed more focused on driving European integration forward and (to many, this is the same thing) increasing their own powers. Policy effectiveness, at such times, can suffer. Thus, in October 2006, the Parliament’s budget committee voted to slash the budget for the EU’s common foreign and security policy simply to underline its dissatisfaction with its lack of control over it. More recently, parliamentarians have threatened to use their budgetary powers to blackmail national governments into adopting their preferred model for the new external action service.

Put at its simplest, the European Parliament is an institution whose *raison d'être* is to increase the EU's powers through, for instance, pushing for more spending than most national governments want – as in the case of the 2011 EU budget. As a result, the Parliament worries as much about driving forward the process of integration as it does about its primary task of legislative scrutiny. It was hardly surprising that the reaction of some MEPs to a visit by US Vice President Joe Biden was a simple celebration of the fact that “the European Parliament is now on Washington’s radar”. Nor that the Belgian EU ambassador was moved to comment that “[y]ou don’t know whether the opinion of MEPs is decided by the content of the matter or by the wish to be visible and show their own power. In some matters they don’t even know themselves”.³ On occasion, this instinct can lead to naivety, such as the Parliament’s recent agreement to accept the EU-US counter co-operation only if the EU were to set up its own counter-terrorist intelligence capability – despite the fact that national security is explicitly acknowledged to be a national competence under the Lisbon treaty.

³ Interview with Jean De Ruyt, Belgian Representative to the EU in *De Tijd* (Belgium), July 1st 2010.

Yet in its desire to enhance its own powers and push European integration forward, the EP often seems out of step with its electorate. One commentary noted this in the aftermath of the French and Dutch No votes to the European constitution in 2005:

“The rejection of the constitution in the French and Dutch referendums has cruelly exposed the fantasy that the European Parliament is the answer to the disconnect between political elites and ordinary citizens. The Parliament – including French and Dutch MEPs – voted overwhelmingly to approve the EU constitution, only to find that the voters seemed to disagree.”⁴

⁴ Charlemagne, ‘Those Ozymandian moments’, *The Economist*, June 11th 2005.

It is true that national parliaments in both countries also overwhelmingly supported the treaty. But national parliaments are elected on the basis of many issues, among which Europe tends to be very minor. Given that, in theory at least, the EP should represent the views of citizens on precisely this issue, the yawning gulf between its views and those of its voters when it came to a big European treaty provides significantly more cause for concern.

So too does its attitude towards the EU budget. It was tin-eared of MEPs to press for a big increase at a time when many national governments are slashing spending, wages and benefits. It was equally unrealistic to start talking about a new EU tax. Few voters see spending on European projects as more legitimate or more necessary than spending on national priorities. And most will see the long argument over the 2011 budget as the fault of a grasping Parliament, not of tight-fisted governments. Once again the EP risks in its budgetary policy alienating those voters it claims to represent.

Differences in turnout point to a similar troubling disconnect. That for the 2004 European elections in France had been 43 per cent, in contrast to the 70 per cent who voted in the referendum. For the Netherlands, the equivalent figures were 39 per cent and 63 per cent, respectively. Gaps of a similar scale are to be found when comparing the turnout in European elections to that in national elections. It is hard to avoid the impression not only that the EP fails to represent the views of its voters, but that these voters fail to take it particularly seriously.

What is required: the nation-state fallacy

The problems confronting the EP are such that it is difficult to conceive of any way in which they could be satisfactorily solved. Even if one believed that a significant further transfer of powers to the EU were the best way to increase public interest in European elections – and past experience argues strongly against this – it is not going to happen in the present climate. Not least, this is because there is little appetite for further big treaty change, and particularly change that unpicks the hard-fought institutional settlement enshrined in the Lisbon treaty. Popular loyalties will remain predominantly national, with voters expressing their preferences mainly in national elections.

What, then, does the European Union require in terms of democratic legitimacy? One debilitating problem with debates on this question is the tendency of many observers to see the nation-state as the most appropriate model on which to base consideration of the EU. Thus, when considering questions of turnout, or the effectiveness of the EP, solutions are sought by means of reforms intended to make the EU look more like a ‘normal’ state, complete with a government, an opposition and an electorate.

Perhaps the clearest example of this is the notion that the Commission should be made directly accountable to the European Parliament.⁵ The idea was partly taken up in discussions of the draft constitutional treaty and later in the Lisbon treaty, which entrenches a role for the European Parliament in the choice of the president and (later) of members of the European Commission. It is fundamentally flawed, however.

⁵ For example, see Vernon Bogdanor, ‘Legitimacy, accountability and democracy in the European Union’, Federal Trust, January 2007.

The EU is not a state, let alone a normal one. Attempts to make it look more like one can often be counterproductive. The notion of making the Commission more accountable to the Parliament is based on a fundamental misapprehension of the nature and purpose of the EU institutions. The point of the Commission is partly to act as an impartial referee, ensuring that national governments abide by the rules of the EU game, and partly too to carry out certain, limited executive functions. These latter – such as its ability to propose EU legislation – also depend on its being perceived to be truly impartial in its dealings with the member-states (the whole point of giving this power to the Commission in the first place was to prevent certain countries dominating the legislative agenda).

Elections creating a direct link between the Parliament and the Commission would serve to lower, not raise, trust in this impartiality, not merely because it would mean selecting the Commission on the basis of a partisan majority in Strasbourg, but also because there would always be the lingering suspicion that its actions in office were about re-election. Already there are complaints that the Commission is too supine to the whims of MEPs. Giving the EP even more control over it would raise all the problems of political interference that led national governments to delegate tasks to non-elected EU institutions in Brussels in the first place.

Moreover, the Commission carries out some roles that are entrusted to similar non-elected, non-majoritarian institutions within nation states. No one suggests holding a popular election for the head of national competition authorities. Nor for administrative agencies that, like the Commission, are responsible for implementing broad policy guidelines laid down by legislators. Nor are there serious calls to return the Bank of England to political control, to reinforce its democratic legitimacy. Regulators and monetary policy-makers alike are meant to be insulated from political pressures. And even in those instances where the Commission’s legislative proposals are more obviously ‘political’ in nature, its role is simply to propose. Ultimately, it is member-states that approve legislation. Nor is there a need for the EP to act as a brake on a crusading Commission. In today’s more limited EU, the Commission is no longer an institution with pretensions to be a nascent European government.

What the EU requires in terms of democratic legitimacy, then, is not institutions based on misplaced comparisons with national parliamentary systems. Instead, it needs some means of ensuring that its legislative output conforms to the views and wishes of ordinary voters. The EP may be able to help with this, but its ability to do so credibly is, as we have seen, profoundly limited.

Remedying the problem

Increasingly, the democratic failings inherent in the current system are being understood and debated. The German constitutional court ruling on the Lisbon treaty of 30th June 2009 was one important milestone. The court argued that the EP could not legitimately consider itself to represent the will of the European people: “the European Parliament is not a body of representation of a sovereign European people”.⁶ The court made clear that it considered the German Bundestag to

⁶ *The German constitutional court ruling can be read at <http://www.bunverfassungsgericht.de/>.*

have greater democratic legitimacy than the EP. In part, its argument was based on the view that, because the number of seats per country does not match populations (smaller countries have disproportionately more seats), the EP's make-up is not wholly democratic.

Some have suggested improving the EP, and partly responding to the German constitutional court's concerns, by changing its voting system. A recent report by a UK-based foreign policy think-tank advocated replacing the national closed-list system used in most countries by a "mixed member proportional system" that would, in effect, restore single constituencies and achieve a proportional result through top-up seats.⁷ Yet a new voting system is unlikely to deal with the more fundamental issue of democratic legitimacy that the German court and other commentators have raised.

⁷ Richard Corbett and Adam Hug, 'Reconnecting the European Parliament and its people', *Foreign Policy Centre*, September 2010.

The logic of the German court's arguments points more in the direction of giving national parliaments themselves a bigger role in the EU. It ruled explicitly that the German parliament should have the final say whenever the EU sought to extend its competences, a sentiment also expressed by governments in the Laeken

declaration in December 2002 which – eventually – led to today's Lisbon treaty.⁸ Building on a protocol on national parliaments attached to the Amsterdam treaty in 1997 and a further protocol appended to the Nice treaty in 2001, the Laeken declaration called for further consideration of the role of national parliaments. The declaration even asked if a new institution might be

⁸ The Laeken declaration is available at http://ec.europa.eu/governance/impact/background/.../laeken_concl_en.pdf.

created to represent national parliaments, and also whether national parliaments should be invited to check on compliance with the principle of subsidiarity (doing things at the lowest appropriate level of government).

The model of the European Assembly (as the Parliament was called prior to direct elections) solved this problem by choosing delegates from national parliaments as MEPs. But after direct elections were introduced in 1979, this organic link with national parliaments was weakened and, when dual mandates (allowing MEPs simultaneously to serve as MPs in their own country) were scrapped, later broken altogether. It is true that the workload of MEPs has risen considerably, so the old notion of nominated members from national parliaments may no longer be tenable. But as this paper has argued, direct elections have come at a cost in lost legitimacy at home. A parliamentary assembly in Brussels or Strasbourg is simply too remote from the national political scene.

One answer to this is to find a better way of involving national parliaments in EU decision-making. This could be done without increasing the length of an already unwieldy process (the treaties make provision for two parliamentary readings on Commission legislative proposals and then long drawn-out negotiations with the Council of Ministers). Technology, presumably, could be harnessed to ensure that national parliaments could have their say during this process. The electronic communication of documents to national parliamentarians, and their ability to vote electronically on proposals would both accelerate the process of parliamentary scrutiny. And national parliamentary involvement could offer a way to link national politics directly with the EU, thereby serving to engage national publics in a way the current system simply fails to do.

Already most national parliaments have EU scrutiny committees that consider EU legislation. The most effective is said to be that of the Danish parliament (called the Folketing). In the Folketing, the EU committee is considered to be by far the most important. Its members summon ministers every Friday to discuss the following week's business in the Council of Ministers. The Folketing committee then gives the relevant minister a negotiating mandate, from which he or she can depart in Brussels only after consulting the committee by telephone. As a side benefit of this system, the Folketing maintains a library and information service that offers all Danish citizens full answers on any EU draft legislation.

Other national parliaments could learn much from the Danes, though the specific practice of giving ministers negotiating mandates may work only because Denmark traditionally has minority coalition governments (in a minority government the executive has less control over parliamentary bodies. Majority governments, in contrast, can strongly influence committees, which are therefore weaker).

Under the Lisbon treaty, the Commission is now obliged to send all its legislative proposals to national parliaments at the same time as it sends them to the European Parliament and the Council of Ministers. The ostensible reason is so that the national parliaments can police the subsidiarity provisions of the treaty. For the first time, indeed, national parliaments are given explicit powers of enforcement. These powers (formally known as the subsidiarity early warning mechanism) are usually referred to as 'yellow' and 'orange' cards. Under this scheme, if a third of national parliaments, within eight weeks, raise objections to a Commission proposal which they think violates the principle of subsidiarity, then it must be reviewed by the Commission (the yellow card). If half of them do so, and yet the Commission maintains the proposal, either the Council of Ministers or the European Parliament are then expected to vote it down (the orange card).

Unfortunately, neither previous experience nor analysis of national scrutiny committees provides grounds for optimism that this procedure will make much difference. Already COSAC – the conference of European Affairs committees of national parliaments, which is also explicitly recognised in the Lisbon treaty – carries out ‘subsidiarity checks’ during its twice-yearly meetings, which are held in the country that has the rotating EU presidency. But national parliaments have struggled to co-ordinate their positions within the eight-week window that is allowed. Moreover, under an existing scheme introduced in 2006 to allow national parliaments to comment on whether Commission proposals respect the principle of subsidiarity, several national parliaments (including those of Spain, Malta and Romania) have sent no comments at all (whereas the Portuguese have been the most active).

Nor is there any reason to argue that this would change if the yellow or orange cards were changed to 'red' – giving, say, half of national parliaments a veto over EU draft legislation. This idea was not accepted by the Convention on the Future of Europe that drafted the EU's failed 2004 constitutional treaty. Even if it had been, such draconian powers would almost certainly never be used, not least because of the problem of co-ordination mentioned above.

National parliaments have made some progress in terms of their role in EU politics in recent years. Besides now being explicitly mentioned in treaty protocols, they played a significant role in the constitutional convention: as many as 56 of the 105 members of the convention came from national parliaments. COSAC is now both accepted and recognised, and it even has a secretariat based in Brussels (the permanent secretary comes from the Lithuanian parliament). COSAC's rules of procedure were approved by EU and published in January 2008. The framework for better co-ordination between national parliamentary committees that scrutinise EU legislation is now in place.

Four possible ways forward

A number of ideas have been floated for improving things. One is to set up a new body, like the United States Senate, that would represent national parliaments (until 1912, the Senate consisted of members nominated by state legislatures, and the Bundesrat is similarly composed today). The French parliament has suggested this several times in the past, and it was floated in the Laeken declaration. However, it seems unlikely that the establishment of yet another EU institution would find favour with ordinary voters, and a European senate could quickly find itself uselessly duplicating the work of the European Parliament – unless that body were abolished, which is highly unlikely.

A second idea is to build on the Danish model by getting national parliaments more explicitly engaged in holding national governments that are represented in the Council of Ministers to account. The importance of EU scrutiny committees in national parliaments could be increased, which in turn would presumably lead to them attracting higher quality members. The practice of summoning ministers to appear before EU committees ahead of their meetings in Brussels could be extended, even if Danish-style negotiating mandates prove impractical. And national EU committees could work more closely together through COSAC to co-ordinate their positions.

A variant on this idea would be to get all national parliamentary committees to appoint an EU rapporteur to look into European matters that fall within their competence. Thus foreign affairs committees would be expected to scrutinise not only national policy but also the way in which it feeds into Europe's common policy. Home affairs committees might look more carefully at the EU's justice and home affairs activities as well. Such committees could also make more effort to watch and work with their counterparts in other countries.

Third, national parliaments could insist on being consulted more explicitly over the choice of commissioners. Some might argue that the EP is the right forum in which to grill nominees, as it has the right to accept or reject the Commission. Under the Lisbon treaty, the EP also has the explicit right to approve the choice of Commission president, which is why he or she must now represent the biggest political group after each European election. But since Lisbon has also reinstated the previous practice of one commissioner per member-state, the notion that commissioners also in some way represent their countries has become widespread. It would not be unreasonable to suggest that national parliaments should be able to debate and approve national governments' choices before they are sent for further grilling in the European Parliament.

And a fourth idea is to get national parliaments and the EP to work more closely together. The decision last year by the UK House of Commons to withdraw security passes from MEPs was exactly the wrong way to go. A much better idea is that national EU committees should co-operate closely with their MEPs, mounting joint investigations and even working together on big reports. The cultures of Brussels, Strasbourg and national capitals might need to change to make this possible. But the big challenge for national MPs and MEPs alike should be to hold the European Commission and national governments, which now drive the European agenda through the European Council, to account. Given such a common goal, there ought to be far more scope for co-operation between the European and national parliaments.

The intention of this paper has not been to provide a detailed blueprint for the future. Indeed, we acknowledge that problems would remain even if our ideas were to be adopted. For instance, a state outvoted under QMV could still see a measure adopted despite the opposition of its own parliament.

Rather, this paper's ambition has been to raise awareness of a crucial problem that has undermined, and continues to undermine, the legitimacy of the EU. The EP is failing. It is simply not, nor can it become, fit for purpose as the body that gives the EU democratic legitimacy. Ideally, it would be abolished. After all, if it did not exist now, few would suggest its creation. Whilst creating a replica of national institutions at the European level might have seemed logical at a time when many of the founding fathers envisaged the EU gradually turning into a regional state, this is not the case in an age when more limited conceptions of the nature and purpose of the Union hold sway.

Despite our assertion that the European Parliament has failed in its basic purpose, we realise that it most likely here to stay. Politicians find it hard to argue against giving more power to a political institution that looks, and to an extent acts, like a parliament, though in private many public figures have been less charitable when describing it. Given this, it is clear that a better way forward would be to strengthen and improve the role of national parliaments in the EU. This essay should only serve as the start of a longer and more detailed debate about how this could best be done – a debate which, ultimately, will serve to strengthen the Union itself by securing its legitimacy among its citizens.

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