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Chapter 1

Locating the European Parliament

Where is the European Parliament located? The answer seems to be obvious, at least in geographical terms: in Brussels, along with the other major institutions of the European Union – the Council of the European Union and the European Commission. However, as we will discover in the rest of this book, there are no simple answers as far as the EP is concerned. Certainly, there is an impressive parliamentary complex just off the rue Belliard in Brussels, strategically located across from the building which houses the Council of Ministers and close by the Commission buildings. Dominated by the Spaak and Spinelli Buildings the complex contains a futuristic debating chamber (hemicycle) and the offices of the 785 Members of the European Parliament (MEPs) and their staff. It is used for meetings of the Parliament's committees and for plenary sessions. However, this impressive complex is matched by another imposing set of buildings in the French city of Strasbourg, some 450 kilometres from Brussels. The Strasbourg complex comprises the Churchill, Weiss and Madariaga Buildings and accommodates MEPs and their staff during twelve weekly plenary sessions each year. So the answer to the original question is: Brussels *and* Strasbourg. Even this is only a partial answer, however, as the full answer is Brussels *and* Strasbourg *and* Luxembourg. Indeed, Luxembourg was the original home of the Parliament before direct elections in 1979, and is still the formal location of the Parliament's General Secretariat. Thus, even locating the European Parliament geographically is not a simple undertaking.

The European Parliament as a legislature

If there are problems locating the EP geographically it should come as no surprise, therefore, to find that trying to locate the EP institutionally is an even more daunting prospect. Yet it is a prospect that has to be addressed from the outset, because, very simply, where, how and why the EP is located first within comparative assessments of legislatures and second within the institutional structure of the European Union raises wider issues about democracy, legitimacy, accountability and responsiveness within the EU itself.

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If we are to understand what the European Parliament ‘does’ and how well it ‘does what it does’ then we need to be clear about what our expectations of a parliament are in the first place. What this chapter seeks to do, therefore, is to raise the question of how we would go about making such an assessment. The answer we propose is to be found through ‘locating’ the EP within a broader study of legislatures. This perspective – on legislatures – prompts an examination of what functions the European Parliament performs, or is expected to perform. What we seek to do is to examine existing analytical maps in this chapter and then to use these conceptual ‘coordinates’ to enable the reader in subsequent chapters to locate the EP as a legislature and as part of the EU’s political system. Unless we are clear at the outset what the models are, and where the EP is located in each, then we will be unclear what the criteria of assessment are and what expectations we should have of the European Parliament.

The ‘*sui generis*’ issue

Problems will always emerge in the study of the institutions of the European Union, the EP included, precisely because they have no exact counterparts in national political systems. This leads immediately to the *sui generis* issue of whether the European Union is unique in its institutional form and in its trajectory of development. Most concern with the *sui generis* issue, or the ‘ $n = 1$ ’ problem, has been expressed by theorists of regional integration (for an overview see Caporaso *et al.* 1997:1–5). However, the issue is of direct relevance to the EP because of the continuing belief that the European Parliament is unique and so ‘defies easy categorization’ (Corbett *et al.* 2007:2). But it is worth noting from the outset that this belief is not exclusive to analyses of the EP, for, as Norton (1990:9) notes, ‘there is a tendency for scholars to view their particular legislature as *sui generis*’. The starting-point of any assessment of the EP, therefore, is to decide what are the characteristic features of legislatures and then to discover whether the EP conforms to those characteristics.

Characteristic features of legislatures

According to Philip Norton (1990:1), what legislatures have in common is that they are ‘constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government elite responsible for formulating those measures’. The value of Norton’s definition is that it does not focus exclusively on ‘law-making’, but instead directs attention to the wider issues surrounding the ‘giving of assent’ in terms of legitimation, consent and authorization. The definition also

recognizes that not all legislatures are directly elected. More particularly, it acts as an analytical pointer towards the multidirectional relationship between a legislature and its broader 'political community' as well as with its involvement with other policy-making institutions.

Implicit within Norton's definition, and in fact explicit in most discussions of what legislatures 'are', is some conception of what legislatures 'do'. In this respect, attention becomes focused on the functions of legislatures, with Robert Packenham (1970:523), for example, proclaiming that 'everyone who has written about legislatures is, explicitly or implicitly, a functionalist'. Packenham, himself, grouped the functions of legislatures into three main categories (based upon his study of the Brazilian legislature) – legitimation; recruitment and socialization of elites; and decisional or influence. Of these functions 'legitimation' was identified as of greatest significance in the political system; while 'decisional' functions – traditionally the primary functions associated with 'legislatures' – were deemed to be of least consequence for the political system as a whole.

Packenham's delineation of functions provided the starting-point for many subsequent studies (see, for example, Norton 1990), but its significance for present purposes is that it directs attention away from a preoccupation with 'law-making' and refocuses attention upon the broader roles of legislatures. What becomes clear, rapidly, in Packenham's specification and indeed in any other listing of functions, is that legislatures are not mono-functional bodies concerned exclusively with 'law-making'. In fact, as Packenham emphasizes, 'even if [a legislature] had no decision making power whatsoever, the functions which it performs would be significant' (1970:536).

From the outset, therefore, it needs to be recognized that legislatures are multifunctional institutions. The exact number of functions and their ranking in terms of importance naturally varies from author to author but it is possible to identify three key functions based loosely on the headings provided by Packenham. These are legitimation, linkage and decision-making. This precise listing of universal functions is provided by Copeland and Patterson (1994:154) and will be used throughout the rest of this book (see also Cotta 1974:208–16; Loewenberg and Patterson 1979:43–67). The general significance of this threefold classification of 'key functions' is that:

a parliament's very reason for existence is found in them. Failure to fulfil these functions challenges the very basis for the existence of parliaments. A parliament without legitimacy may no longer be considered a parliament; a parliament that lacks any decision-making capacity hardly qualifies for the title; and an entity not formally linked to a broader population is no parliament. (Copeland and Patterson 1994:154)

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The threefold classification of functions also points to the fact that parliaments perform their functions in relation to other political institutions and organizations, most particularly political executives in one direction and the electorate and civil society in the other. Thus, at the interstices of government and governance parliaments perform their common functions of legitimation, linkage and decision-making. What we intend to do, therefore, is concentrate upon the three ‘universal’ functions identified by Copeland and Patterson and assess the relevance of these functions for the EP and the EU across time. In so doing it will be apparent that the balance of importance between functions, and the relative emphasis placed upon the performance of these functions by the EP itself, has varied over time. The best we can do therefore is to follow Copeland and Patterson’s (1994:153) advice and ‘identify the major functions of parliaments that tend to be universal across both time and space, and [then] identify functions of particular relevance to a polity at a specific juncture in its history’.

‘Universal’ functions: policy influence, linkage and legitimation

Policy influence

The simplest and most common comparative statements about legislatures . . . usually refer to the importance of the legislature in the policy-making process relative to the importance of non-legislative institutions, commonly those operating through the executive branch of government. (Mezey 1979:23)

Two typologies have dominated the comparative assessment of the policy impact of legislatures and their respective capacities to influence or to ‘make’ policy. The first was provided by Michael Mezey (1979); and the second was an explicit reworking of Mezey’s model by Norton (1990). Despite recent questioning of the merits of these established typologies, and attempts to refine them through the incorporation of broader notions of ‘legislative performance’ alongside ‘policy outputs’ (see Arter 2006:462–82), Mezey and Norton still provide the most parsimonious frameworks for the classification of legislatures.

Michael Mezey: policy-making strength of legislatures

According to Michael Mezey a legislature can be placed into one of three discrete categories depending on the strength of its policymaking capacities (1979:26). ‘Strong’ legislatures can modify or reject executive proposals; legislatures with ‘modest policymaking power’ can

modify but cannot reject policy proposals; and those legislatures that can neither modify nor reject policy proposals can be seen to have 'little or no policy-making power'.

In defining the policy-making strength of legislatures, Mezey drew both upon Blondel's (1973) notion of the constraints operating on a legislature, and on his earlier concept of 'viscosity' (Blondel 1970:80). For Blondel, 'viscosity' reflected the degree of freedom – or alternatively the compliantness – of a legislature in relation to the executive's processing of legislation. Mezey refined the notion of constraint to mean not simply the 'constraints placed on the legislature that prevent it from influencing the policy-making process, but rather the constraints that the legislature is capable of placing on the policy-related activities of the executive' (Mezey 1979:24–5). In other words, he takes as an indication of the policy role of a legislature the extent to which a legislature restricts the ability of the executive to make policy unilaterally. Ultimately, therefore, Mezey maintains that the 'saliency of the legislature's policy-making role, whether ultimately evaluated as positive or negative, stems at base from its capacity to restrict the process, because that capacity is what compels other institutions to deal with it when they seek to make policy' (Mezey 1979:25).

An equally important part of Mezey's argument, however, is that any evaluation of legislative influence has to deal with 'real rather than paper powers' (Mezey 1979:25). Moreover, any evaluation of the constraints imposed upon executive policy discretion should also include informal mechanisms (for example, private discussions or anticipated opposition) as well as formal procedures for legislative amendment.

Philip Norton: policy-making versus policy-influencing

Philip Norton (1990) refines Mezey's categorization to include the capacity of legislatures to 'formulate' or 'make' policy. This moves beyond Mezey's notion of constraint to take into account the ability of a legislature to substitute its own policy for that of the executive. The essential difference for Norton is between those legislatures that can initiate or formulate legislation and those that cannot. The capacity to 'generate alternative policies' (Norton 1990:179) distinguishes 'policy-making' from 'policy-influencing' legislatures.

In the rest of this book these categorizations will be used to locate the EP diachronically (across time), and in comparison with other parliaments. As we will see in later chapters, empirical investigation of the EP's role and functions produces different answers at different times to the question of where the EP is located. What we should be suspicious of from the outset, however, are global claims that the EP is 'not a proper parliament'. For the question of what defines a 'proper parliament' is itself a complex issue.

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FIGURE 1.1 Policy-making and policy-influencing categorizations

Mezey	Norton
<p>Strong policy-making power A legislature can:</p> <ul style="list-style-type: none"> • modify or reject executive proposals 	<p>Policy-making A legislature is able to:</p> <ul style="list-style-type: none"> • modify and reject measures put forward by government and • formulate and substitute policy for that proposed by government
<p>Modest policy-making power A legislature can:</p> <ul style="list-style-type: none"> • modify but cannot reject policy proposals 	<p>Policy-influencing A legislature is able to:</p> <ul style="list-style-type: none"> • modify and reject measures put forward by government • but cannot substitute a policy of its own
<p>Little or no policy-making power A legislature cannot:</p> <ul style="list-style-type: none"> • modify or reject policy proposals 	<p>Little or no policy impact A legislature cannot:</p> <ul style="list-style-type: none"> • modify or reject measures • generate and substitute policies of its own

Sources: Mezey (1979), Norton (1990).

Linkage

If the categorization of legislatures in terms of ‘policy-making’ or ‘policy-influencing’ is based upon an assessment of interinstitutional relations (primarily with executives), then, in turn, these relations are influenced by the linkage between a legislature and its wider political and societal environment. The inextricable connections between specific policy role and wider linkage is apparent in Copeland and Patterson’s (1994:153) definition of a parliament as ‘a group of individuals operating on behalf of others in a binding and legitimate manner and making decisions collectively but with formal equality’. The questions of exactly how, and in what respects, parliamentarians act ‘on behalf of others’ have been at the heart of representative theories and practice alike (see Judge 1999) and will be at the centre of the discussion in Chapters 3 and 4.

Legitimation

In Mezey's classificatory model a second dimension for distinguishing legislatures was the extent to which 'support' accrued to representative institutions. Support was taken to mean 'a set of attitudes that look to the legislature as a valued and popular political institution' (Mezey 1979:27). Support could be gauged by manifest indicators, such as institutional continuity, elite and public attitudes towards the institution itself, or satisfaction with the policy outputs of a legislature. Equally it could entail 'diffuse support' as part of an abstract 'cultural phenomenon nested within a set of supportive attitudes toward all of the political institutions that make up a political system' (Mezey 1979:31). In this sense the concept of diffuse support is inextricably linked to notions of legitimation. While this is not the place to examine these ideas in detail (see Chapters 3 and 4), the important point is that a parliament's role within a political system (and its location within a comparative categorization of legislatures) is influenced by the 'combination of policy powers and supportive orientations' (Scully 2000a:242). Certainly the role played by the European Parliament in the legitimation of the EU's political system is both important and extremely complex. This complexity is revealed in the discussion of the democratic and legitimacy deficits within the EU (see Chapter 3). For the time being, however, it is sufficient to note Scully's (2000a:244) cautionary statement that: 'A more powerful EP may indeed make the EU more democratic in a technical sense but it has thus far done little to accord the EU as a system of governance the legitimacy which democracy is normally seen to accord.' The location of the EP within the 'EU as a system of governance' will be examined below, but first one further classificatory system based upon 'systems of government' needs some discussion.

'Parliamentary model'

In addition to classification by functions, legislatures can also be differentiated in accordance with the characteristics of the wider political systems in which they perform their functions. One classic point of differentiation has been between 'parliamentary' and 'presidential' systems of government. These two models have been classified in accordance with different institutional configurations between the electorate, the legislature and the executive (Lijphart 1991; Judge 2008). In a parliamentary system there is a single direct act of delegation from the electorate to representatives in parliament. From this single act flows a sequential and serial process of delegation, whereby representatives in parliament then delegate the routines of decision-making to a

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related institution – the political executive – which acts as the agent of the ‘principal’ of parliament. In contrast, in a presidential system, citizens elect and directly authorize both a political executive and representatives in a legislature. In presidential systems, therefore, the electorate has two agents. Moreover, in presidential systems there is a separation of powers between the legislature and the executive; whereas in parliamentary systems there is a fundamental fusion of parliamentary and executive institutions.

Indeed, the significance of this distinction between parliamentary and presidential systems has become more pronounced in analyses of the EU since the implementation of the Amsterdam Treaty in 1999 and a heightened belief in the ‘parliamentarization’ of the EU and its movement towards a ‘parliamentary model’ (Dehousse 1998; Muntean 2000; Majone 2002). One problem common to such analyses, however, is that too often the criteria by which the process of ‘parliamentarization’ should be assessed are never fully specified. Moreover, there is a tendency to select individual characteristics of the ‘parliamentary model’ and to proclaim that because the EU displays individual elements of this model it is necessarily evolving towards a ‘parliamentary democracy’. What we seek to argue in this book, however, is that a ‘parliamentary model’ is defined by the very *interconnectedness* of its defining elements. However, before developing this argument, a preliminary specification of what constitutes a ‘parliamentary model’ is required.

According to Loewenberg and Patterson (1979:56), ‘the distinguishing characteristic of legislatures in parliamentary systems of government’ is ‘the overlap of executive and legislative leaders.’ In a parliamentary system political executives are authorized by parliaments. Using the concept ‘authorization’ avoids using notions of the ‘selection’ or ‘emergence’ of executives from parliaments. In practice, few parliaments actively select leaders from their ranks. A basic feature of parliamentary systems remains however that there is a fusion of executive and legislative roles. Moreover, ‘in a parliamentary system, the chief executive . . . and his or her cabinet are responsible to the legislature in the sense that they are dependent on the legislature’s confidence and that they can be dismissed from office by a legislative vote of no confidence or censure’ (Lijphart 1984:68). The logic of parliamentarism is that the executive should retain the confidence of the legislature because it derives both its legitimacy and its authority from the representative parliament. In this manner there is an intrinsic institutional interconnectedness between the executive and the legislature and the performance of the parliamentary functions of legitimation, linkage and decision-making.

An important corollary of this interconnectedness is the general belief that ‘Parliaments are supposed to control the operation of the executive’ (Dehousse 1998:598). The exact degree of control is deter-

mined, in turn, by the formal and informal constraints that the legislature is able to place upon the executive and vice versa (see Blondel 1973:45–54). These constraints may stem from formal, constitutionally prescribed powers, or from less formal practices, procedures and internal rules of a legislature itself.

In raising the concept of the ‘parliamentary model’ at this early stage all we seek to do is to reinforce Loewenberg and Patterson’s (1979:65) dictum that ‘In conceptualizing the activity of legislatures in functional terms, we are also calling attention to the relationship between what legislatures do and what is done by other structures in the political system.’ What we are particularly concerned to emphasize in this book is that the study of the EP, or any other legislature for that matter, has to be: *interinstitutional* – to take account of its relation with other institutions; *contextual* – to take account of the systemic context in which it operates; and *interconnected* – to take account of the multi-functional nature of legislatures.

This is not to claim that all legislatures are unique and cannot be compared, only that there is a danger of extracting isolated variables from different systems and reconstituting or ‘stacking them up’ in any single legislature to conclude that because some common characteristics can be identified, the aggregate is necessarily a ‘parliamentary system’. That the EP performs the defining parliamentary functions of legitimation, linkage and decision-making is not in dispute (though how well it performs these functions is more contentious). What is in dispute, however, is whether the EU’s political system *as an entity* conforms to a ‘parliamentary model’.

Locating the European Parliament in the European Union’s system of governance

Assessments of the role of the EP within the EU are shaped by conceptions of the EU as a system. The schools of thought [on the EU as a system] . . . orient us toward different approaches to the legitimacy of the EU . . . They represent useful points of reference for the ongoing debate about the place of the EP within the EU as a whole and its importance for the problem of legitimacy. (Wessels and Diedrichs 1999:135)

Not only does the EP have to be understood as a legislature but it also has to be understood as part of an institutional matrix. In other words, where the EP is located conceptually within the EU’s institutional structures has a bearing on how well it is perceived to play the roles ascribed to it as a legislature. It is important, therefore, to keep in mind

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where the EP is located within broader conceptions of the EU as a political system when trying to assess its location within conceptions of it as a legislature. It makes little sense to make assessments of the EP's linkage functions, or its contribution to the legitimation of EU outputs (Chapters 3, 4 and 5), or to the EU's policy process (Chapters 7 and 8), unless we have a clear idea of what our expectations are of the EP in the first place. Do we expect it to display a direct electoral linkage between the represented and their representatives as in member states? Do we expect representatives at EU level to be authorized and accountable to an EU-wide electorate? Do we expect the existence of a European-wide 'people' or 'demos' in the first instance? Do we conceive of EU institutions in terms that are analogous to existing state-level institutions? Or is the EU's institutional matrix *sui generis*, so that it requires a new institutional vocabulary and new conceptualizations of legitimacy within the EU? Clearly detailed answers to these questions lie beyond the immediate scope of the present book, but at the very least these questions should be borne in mind when reading the following chapters.

The danger in raising these questions at such an early stage, however, is that the reader may become swamped by the sheer range of models and theories (for example, intergovernmental, federal, cooperative federal, confederal consociationalism, regulatory state, multilevel governance, multitiered governance – for overviews see Rosamond 2000; Hooghe and Marks 2001; Weiner and Diez 2004; Pollack 2005; Rosamond 2007). What all these models and theories share, however, is a recognition that there is dispersion of formal authority among supranational, state and subnational governing institutions and that decision-making is not the sole preserve of elected representative institutions at any single level. In fact, Hooghe and Marks provide a useful organizing frame for our discussion by identifying two main types of governance. 'Type I governance' is based upon federal conceptions and is characterized by dispersed decision-making among a limited number of governments operating at just a few levels. This type of governance is characterized by 'general-purpose, nonintersecting, and nested jurisdictions' (Hooghe and Marks 2003:237). 'Type II governance', on the other hand, is based on the proliferation of functionally specific jurisdictions and the organization of governance across a large number of levels. In this model 'formal government has shrunk' (Hooghe and Marks 2001:10) as 'self-rule' on the part of diverse groups and associations has expanded. It is a vision of a decision-making process which is interconnected, non-state-centred, non-majoritarian, and with shared competences among a multiplicity of actors.

In accepting this basic bifurcation of models of governance our intention here is simply to highlight the implications of these models for the conception of the EP. Hence, we do not intend to describe these

models in detail, nor do we intend to make judgements upon their respective utility for understanding EU governance. Instead, our intention is far more restricted, and is simply focused upon locating the position of the EP within the institutional matrix identified in each type of governance.

Type I governance: the federal analogy

Hooghe and Marks (2003:236) identify federalism as the ‘intellectual foundation for Type I governance’. Earlier, William Wallace (1996:445) had commended the appropriateness of the ‘federal analogy’ as a ‘starting-point for understanding the institutions, politics and policy-making of the EU’. The use of the word ‘analogy’ is significant in that the EU should not be conceived of as an unambiguous federal system. Such a system is normally characterized by the existence of a sovereign state, with a constitutional division of powers between different levels of government; and with external sovereignty exercised at the higher level (see Burgess 2004, 2007). A bicameral legislature is a common characteristic of such a federal system, with representation in the upper chamber based upon lower levels of government (states). The relationship between the federal level of government and lower levels (states) is regulated through formal mechanisms for constitutional modification, often with a requirement for super-majorities; and through the existence of constitutional courts to adjudicate in disputes over the allocation and exercise of powers between different levels of government (see Elazar 1991:xv; Laffan 1992:7–9). It is not surprising to find therefore that those who actively promote a federalist vision for the EU’s future largely subscribe to a model of ‘a parliamentary Europe’ or aspire to ‘full parliamentarization’ of the EU (see Abromeit 2002:20).

In analysing the EU’s political system, a useful distinction may be drawn between a fully developed federation along the lines of a ‘United States model’; a ‘confederation’ or a ‘neo-federal model’; and a ‘cooperative federal model’. Taking these models in turn, the United States of Europe variant stipulates a formal-legal division of responsibilities between supra-state/EU-level institutions and state/substate political institutions. An institutional sketch of this model would pencil in a separation of powers at the EU level with the Commission clearly identified as the executive branch, a directly elected EP serving as the first legislative chamber; and with the Council of Ministers acting as a second chamber in areas of concurrent competences between EU and member states (see Wessels 1996b:25–6). The European Court of Justice would serve as a constitutional court with major responsibilities in the adjudication of institutional disputes among the tiers of government and between EU institutions themselves. In this ‘United States’

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model the basic source of legitimation would be a directly elected EP, with the EP serving as the formal linkage between the represented and 'their' government at the EU level. Through elections to a European Parliament the will of the 'European people' would be expressed and their contribution to EU decision-making would be 'unfiltered' (Wessels and Diedrichs 1997:3). There would be no doubt that 'the EP is regarded as the main legitimizing factor of the EU system' (Wessels and Diedrichs 1999:136). The preexisting states and substates, in turn, would have their own designated competences and, through their own democratic processes, would derive legitimation through 'traditional national sources'. They would, however, be 'of secondary importance' (Wessels 1996b:25).

Analysts who acknowledge that the EU has federal characteristics but is not a federal state have turned to concepts of 'confederalism', 'neo-federalism' or 'confederal consociationalism' to understand its institutional configuration. What each of these terms recognizes is a division of decision-making authority among different layers of government. Unlike federalism, where there is a central source of legitimacy grounded in an identifiable demos in a 'union', a confederation is based on the concept of 'dual legitimacy' where the nation states maintain their own democratic legitimacy and continue to claim political sovereignty while allowing a 'pooling of sovereignties' at the EU level. In such a system member states would seek mutual benefits through cooperation over common policies at a supranational level. Such a system would require neither a 'sense of community' among the peoples of the confederation nor the existence of a single demos. Moreover, the 'polycentric and multilogic pattern' of decision-making is associated with a large dose of intergovernmentalism (Chrysochoou 1997:530). In these circumstances, the EP would remain in a secondary relationship to the EU's dual executive institutions (most particularly the Council of Ministers), and national parliaments would share a similar subsidiary relationship to their own national executives. The result would be that 'the main source of democratic legitimacy for EU decisions [rested more] in the Council of Ministers' representation of national governments – in turn based on their respective national parliamentary structures – than on the powers of the EP as the natural exponent of representative democracy at the regional level' (Chrysochoou 1994:7). However, in the absence of a transnational demos there would be no effective mechanism for the direct democratic control of intergovernmental EU institutions, and in this lacuna are to be found the roots of the EU's 'crisis of legitimacy' and its various 'democratic deficits' (see Chapters 3 and 9).

Type II governance: 'multilevel'

According to Peterson and Bomberg (2000:25) multilevel governance has become 'a central point of consensus' among scholars of the EU. The initial premise of this model is that neither the concept of the nation state nor notions of international organizations capture the complexity of decision-making in the EU. The form of governance in the EU is thus both new and unique. What has emerged is a 'new, non-territorial form of governance' (Jachtenfuchs and Kohler-Koch 1997). It is *sui generis* in form, and decision-making is 'through a unique set of multi-level, non-hierarchical and regulatory institutions, and a hybrid mix of state and non-state actors' (Hix 1998a:39). To complicate matters still further the EU is a dynamic system subject to regular constitutional change and institutional innovation. Overall, therefore, 'because the EU as a political system is unique, it is an open process of trial and error to find out what kind of decision-making routines will develop and what will be the relative importance of individual institutions in the game' (Kohler-Koch 1997:3).

The 'multilevel governance' model acknowledges the continuing importance of state-level political systems, and that 'state arenas remain . . . the *most* important pieces of the European puzzle' (Marks *et al.* 1996:346, original emphasis), but it also recognizes that the state does not exercise a monopoly of decision-making competences. Instead, these competences are shared by institutions and policy actors at different levels rather than concentrated at the level of individual states. 'That is to say, supranational institutions – above all, the European Commission, the European Court, and the European Parliament – have independent influence in policy making that cannot be derived from their role as agents of state executives' (Marks *et al.* 1996:346). Moreover, an essential part of the 'multilevel governance' model is that states no longer provide the sole interface for national political actors – whether as individuals, groups, private and public organizations or parties – between state and supranational levels.

Another feature of this model is functional differentiation or policy segmentation (see, for example, Hix 1998a:39–41, Peterson and Bomberg 1999:22–8; Peterson 2004:119; Richardson 2006:9–14). Consequently, decision-making in any single policy field is likely to engage the activities of subnational, national and supranational agencies, institutions and non-governmental organizations. Moreover, decision-making comes to be structured around informal contacts, networks and norms, and no longer involves clear hierarchies of power and competences. In this sense, in its very complexity, and in its engagement of a myriad of functional and territorial constituencies at multiple levels, the system has been characterized as a system of 'governance' rather than simply of 'government' (see Kohler-Koch and Rittberger 2007:7–9).

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Nonetheless, even within this model, formal institutions of politics and government – executive, legislative, judicial institutions and political parties, for example – continue to be of importance, but their significance has now to be understood in terms of their relations with wider forces of governance. When the specific location of the EP is considered in models of multilevel governance two contrasting visions, among many, can be perceived. One is a pessimistic vision of a ‘post-parliamentary Europe’; the other is a more optimistic vision of ‘a new kind of parliamentary system’.

Post-parliamentary Europe

Judge noted in 1999 that it is commonplace to argue that the position of parliamentary institutions in Western liberal democracies is undergoing systematic erosion in complex systems of governance (see Judge 1999:121–48). In the case of the EU this argument is encapsulated in Andersen and Burns’s (1996:234) statement that:

The EU is, then, a mix between international co-operation with nation state representatives as key actors and particular forms of governance with elaborate, specialised sub-governments, policy networks and lobbying . . . Parliament is only marginally important even on the formal level.

What is of particular concern for the EP in this model is a ‘frustrating and delegitimising gap between representative democracy’s responsibility and its lack of structural capability and control’ (Andersen and Burns 1996:243). In this gap, alternative forms of legitimacy – of ‘output legitimacy’ – derived from effective and efficient sectoral policy-making and policy solutions, become of increased importance (see Höreth 1999:259–61; Lord and Beetham 2001:451–2). In one extreme view, ‘governance’ and ‘output legitimacy’ crowd out or supersede parliamentary institutions, and representative democracy more generally (Andersen and Burns 1996:242). In this manner, the importance of the EP is seen to be residualized and the EU’s political system becomes characterized as ‘post-parliamentary’.

The fusion model

An influential strand of multilevel governance analysis is that the institutional structure and the sources of legitimacy within the EU are not directly comparable either to national political systems or to a supra-national model of a ‘United States of Europe’. Instead, the EU comes to be conceived as a ‘multi-level system of governance in which a direct representative element in the shape of the EP is having an important

say, as part of a European legitimacy complementary to the national and functional one, but in which the sources and dimensions of legitimacy are progressively getting merged' (Wessels and Diedrichs 1997:9). What is seen to be emerging therefore is a new kind of political system with *sui generis* characteristics (see Wessels 1996a:68; Wessels and Rometsch 1996:364). In essence established perspectives of federalism or intergovernmentalism cannot capture the role of the EP adequately within the EU's novel political system. Instead the EU should be understood as a 'new kind of polity characterized by fusion' (Wessels and Diedrichs 1999:139). The word 'fusion' acknowledges the merging of instruments of governance among national, subnational and supranational actors and institutions. What results is a 'mixed polity' which shares political authority among several levels of governance and 'includes a multitude of different sources of direct and indirect, functional, legal and democratic legitimacy' (Wessels 1996a:59). It is within this context that the role of the EP is identified as departing from established parliamentary models and 'essentially renders the EU a new kind of parliamentary system' (Wessels and Diedrichs 1999:139).

Within this new system there is an assumption of joint decision-making by the European Parliament and the Council. The expectation is that the Commission would serve increasingly as the executive of the EU – with its head elected by both the EP and the European Council, and other Commissioners nominated by the head of the Commission and approved by the EP. Majority voting in all EU institutions would be the norm, with some mechanism to 'unblock' institutional impasses between the legislative institutions of equal status (the Council and the EP). Yet the EP remains 'neither the emergent legislature of a European superstate in the making nor a powerless institution at the center of an intergovernmental system' (Wessels and Diedrichs 1999:143). It occupies an intermediate and somewhat indeterminate institutional position. Indeed, in the multitudinous vertical and horizontal institutional transactions involved in the complex process of 'institutional fusion', the EU's decision-making process is 'hardly understandable' with the concomitant danger that 'its output lacks a deeper-going acceptance' (Wessels and Rometsch 1996:365). There is the danger that 'the ability of the public to identify outcomes with their sponsors and assign responsibility accordingly will diminish [as the] process of fusion progressively blurs the boundaries between the different actors and makes their roles functionally less distinguishable' (Wessels and Diedrichs 1999:149).

Ultimately, the logic of Wessels and Rometsch's argument leads – in one direction – to a call for the 'extended participation of national institutions – especially of national parliaments' (1996:365). But equally their logic leads, in another direction, to the conclusion that:

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The EP's direct representative capacity will continue to play an important role in this system, potentially bolstering a European legitimacy . . . The EP will likely never become a central representative institution comparable to national parliaments. Nonetheless, the Parliament's further development will continue to have far reaching implications for EU legitimacy. (Wessels and Diedrichs 1999:149)

In this conception the EU is seen as a complex and highly differentiated institutional system which 'combines several levels of governance and a wide range of actors' and the result of which is a 'mixed polity' and an 'optimal form of government' (Wessels and Diedrichs 1997:8). Unlike the post-parliamentary variant of the new governance thesis, in this 'new kind of polity' the EP is an increasingly important component of the EU political system' (Wessels and Diedrichs 1999:148).

Conclusion

Locating the European Parliament within wider theories of legislatures and of the EU's political system is of importance in understanding what role we would expect the EP to perform as a legislature and the broader political context within which it is expected to perform this role. What is apparent from this preliminary review of theories is that the EP, in conformity with all legislatures, is a multifunctional organization; but unlike other legislatures it is a transnational body operating in a system of multilevel governance. This very multiplicity of roles and the multilevel context within which it operates should lead us to view global assessments of the EP and whether it is, or is not, a 'true' or 'proper' parliament (see, for example, Höreth 1999:253) with some caution. As the historical review of the EP's legislative powers in the next chapter reveals, the 'location' of the EP, in terms of policy influence, has changed over time. After the Treaties of Maastricht, Amsterdam, and Nice, the EP – with its capacity to 'modify and reject executive proposals' – can already be located in Mezey's category of legislatures with 'strong policy-making power'. The implementation of the Lisbon Treaty would simply reinforce this position. But even this location needs to be qualified by recognition that the policy influence of the EP should be disaggregated into its constituent elements. In other words, some acknowledgement has to be made that the EP will be more influential in some policy areas than in others, and will be more influential even within the same policy area at some times rather than others (see Judge *et al.* 1994).

If assessments of the policy influence of the EP vary across time and across substantive policy areas, then equally judgements of the efficacy

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of the EP's legitimating and linkage functions vary in accordance with which model of the EU's political system is utilized. Understanding the location of the EP in the respective models not only helps us to assess the EP's historical contribution, or lack of it, to the legitimation of the EU but also identifies prognostications as to the development of the EU as a political system and the EP's role in that process. Put very simply, different conceptions of what the EU is now, and what its future development entails, result in different assessments of what role the EP performs in the wider legitimation of the EU and what its future contribution to the 'democratization' of the EU will be. Whether this future is a 'parliamentary' one remains to be seen.

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