"DEMOCRACY AND THE REGIONS IN THE EUROPEAN UNION: SUBSIDIARITY, 'PARTNERSHIP' AND THE COMMITTEE OF THE REGIONS"

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INTRODUCTION: DEMOCRACY IN THE EU - WHAT HAVE REGIONS GOT TO DO WITH IT?

Democratisation of the European Union (EU; the Union) is a very complex and unusual process. As a transnational system, the Union is unlikely to be suited to the straightforward application of models based on the nation state, requiring instead innovations in the theory and practice of democratic governance (Schmitter 2000). Indeed, several scholars have noted that the process of democratising the European Union requires us to rethink not only European integration, but maybe also what we consider by 'democracy' (Chryssochoou 1998; Follesdal and Koslowski 1998). My own view of democracy in the EU – set out at length elsewhere (Warleigh 2003a) – is that it depends upon the adoption of a form of deliberative democracy which sees a flexible, or differentiated, EU system as normatively superior to one which is uniform, but either commonly perceived as too deeply integrated to be legitimate or as insufficiently federalist to consider worthwhile. The continuing differences between the member states about the desired future of the EU mean that Monnet's dream of a United States of Europe is far off and may never be realised; and yet, this state of affairs can hardly be called democratic, because although it reflects the power of those states (and citizens) which are opposed to such an outcome, it prevents the realisation of what might one day be the wish of a majority of states and citizens (since Treaty change requires unanimity in the European Council).

I have also argued elsewhere (Warleigh 2003c) that in order to democratise successfully, the EU needs to perform four balancing acts, and that it will

continuously have to recalibrate this set of balances as the politics of European integration changes[i]. Thus, there is no simple, straightforward and 'for all time' answer to the puzzle of the democratic deficit[ii].   In this context, normative questions about the role of regions and localities in democratic governance are plausibly raised: if European integration is about rethinking the nation-state in a context of multi-level governance (Hooghe and Marks 2001), could not the stranglehold of such entities on political identity and representation be rethought alongside the more instrumental changes to its actual policy-making capacities, and might this not allow a new role for regional institutions, or even non-state nations, as sites of democratic self-governance (Smouts 1997; Broderstad 2000; Longman 2002)?

There is certainly empirical evidence to suggest that as part of the transformation of governance undergone by states through their membership of the EU, regional authorities' roles have often developed through the use of several strategies. These include lobbying, the formation of pan-European or cross-border networks of regional actors, and even the establishment of 'organic regions', i.e. networks of local authorities which collaborate in order to be able to respond to EU initiatives under its cohesion policy. Many regions have also established offices in Brussels to represent their interests and act as information gatherers. Thus, the EU's democratisation process is all the more complex as a result of the Union's impact on intra-, as well as inter-, state relations: the EU needs to reflect the demands and roles of governance at local/regional, national *and* European levels if it is to be legitimate, given that it is often through actors and institutions at all these levels that citizens will actually experience the real-world impact of European integration.

However, it is here that the EU democratisation process again finds difficulties, because there is no generally-agreed pattern of regional governance in the member states (Keating 1997). The EU has indeed opened a Pandora's box in terms of centre-periphery contestation, but only in *some* parts of *some* member states (Keating 1999). Certain of the more powerful political regions appear to have sought influence at EU level in order to protect their domestic powers rather than to influence the EU or deepen European integration *per se* (Jeffery 1997, 2000). Thus, instead of a 'Europe of the Regions' there is an extremely

varied mosaic of governance 'below' the national level in Europe, in which some regions and localities have been significantly Europeanised and others have not (Warleigh 2003b). In some member states, such as Germany, Austria, Belgium and Spain, regional/local government is powerful, bolstered by strong normative claims to legitimacy based on the principle of local self-government, often enshrined in national constitutions. In other member states, there is no tradition of powerful local or regional government, and little sense of local/regional, as opposed to national, political identity – Ireland is a case in point. A still further group of member states (e.g. Sweden and the UK) is experiencing a shift towards regionalised governance on a differentiated basis, in which the new regions have varying powers and autonomy, and in which some regions are seen 'from below' as countries in their own right (Scotland or Wales, in the case of the UK), but in which some regions are seen as instrumentally useful but often lacking correspondence with established senses of territorial identity (Stegmann McCallion 2004 . Consequently, attempts to find a role for 'the regions' in a more democratic European Union must deal squarely with this issue of diversity: one size simply does not fit all.

Nonetheless, in its bid to reform its governance and increase its range of policies, the Union has paid much attention to regional governments and actors: the Commission has on occasion viewed them as a potential means to sidestep the influence of central authorities in the member states (Tömmel 1998), and regional actors themselves have mobilised to shape EU policy and politics (Hooghe and Marks 2001). Both sets of actors have partly justified this link on democratic grounds. In order to explore how significant this has been for the EU's democratisation process, in this paper I investigate the principle of subsidiarity, the 'partnership' principle of regional policy, and the Committee of the Regions (CoR) [iii]. This is because these have been the primary formal ways in which regional-level governments and actors have been empowered in the EU system[iv].

I argue that the collective impact of these measures on the democratic status of the European Union is limited, for several reasons. First, subsidiarity has been under-developed and maintained in its ambiguous state ever since the Maastricht Treaty. Second, the partnership principle of regional policy has been

deliberately revised since its introduction in order to reduce its transformative potential. Third, because neither voice mechanism within the system – the CoR and the opportunity to sit in Council – provides regions with a powerful voice *qua* regions. Hence, while the role of regions in the democratic transformation of the EU has been acknowledged by both the member states and the EU institutions, and could certainly be more extensive than it has so far been if there were sufficient readiness in the European Council to develop a more differentiated EU system, it is not yet clear that the central governments of the EU are really ready to play the regions card in the democratisation game or indeed to countenance such a flexible future for Europe[v].

SUBSIDIARITY: THE AMBIGUOUS PRINCIPLE

Three models of subsidiarity were invoked by the various member states in the Maastricht negotiations which produced the Treaty on European Union (Peterson 1994). First, one which draws on *Christian Democratic social philosophy*, and which argues that power should be exercised by organisations and groups at the lowest possible level of governance: thus, individuals and social groups, rather than the state, should be empowered. In this model, civil society is considered to be the best place to locate public power, with the smallest possible role given to other institutions of governance. Second, there is what might be termed the *German federal model*. This can be summed up as the view that subsidiarity requires a clear separation of powers both horizontally (i.e., between the different EU institutions) and vertically (i.e., between local, regional, national and European institutions). This model thus emphasises a written constitution for the EU and a clear answer to the questions of who does what in European governance, and how. Finally, there is the *national sovereignty model*, which argues that subsidiarity is the means by which EU powers can be limited, and those of the member states (and particularly their central governments) preserved. In this model, subsidiarity is thus conceived as the means by which member states control the EU and render it incapable of replacing them; this model was famously championed at Maastricht by the UK government.

These models have obvious differences, although they are united in opposition to the idea that the EU should centralise all legislative power. Thus, the Treaty is deliberately ambiguous about the meaning of 'subsidiarity'; at Maastricht it was vital to find a form of words which would allow all the member states to sign up to the TEU and claim that the integration process was following the particular development trajectory which they supported (Green 1994). Consequently the Treaty provisions on subsidiarity are a rather vague package deal which was made to ensure that the member states would not veto the Treaty itself, and the actual meaning of the principle was left to evolve over time.

This evolution process has been problematic for regions, because the deal struck at Maastricht made no formal reference to them (Peterson et al 1994), and continued to exclude them throughout the 1990s despite Treaty reform at Amsterdam and Nice (Follesdal 2000)[vi]. Thus, it must at least be possible to question whether the majority of national governments of the member states intended subsidiarity to be capable of reinforcing the role of the regions in the EU system, or whether they instead sought a device to limit the powers of the EU which might have useful symbolic attachment to the idea of exercising public power as 'closely to the citizen as possible'. Such a conclusion would certainly be reinforced by an analysis of how the Amsterdam and Nice Treaties blended subsidiarity and *proportionality*, a related concept which holds that EU action should be restricted to those areas where it is absolutely essential, and that the EU should act only to the minimum extent necessary to achieve the tasks it has been set. In the face of increasing Euroscepticism at popular level, and the initial rejection of the TEU by Denmark, which was largely the result of Danish citizens' concerns about subsidiarity, the member states made it clear via the Edinburgh Protocol that in practice subsidiarity would be used to ensure that the EU's scope for action was severely circumscribed - as put forward in the national sovereignty model set out above (Warleigh 2003a).

Thus, subsidiarity has not so far been a justiciable principle which regions could use in an attempt to extend - or even defend - their powers. This is largely because, as shown by Peterson (1994), the Treaty refers to subsidiarity as both a *principle* and an *instrument* of governance, while omitting to make clear exactly when and how it should be applied. For example, there are no criteria to

assess whether the EU is more likely to make successful policy on a given issue than its member states: this means that, in practice, the decision about which level of government should act is either taken on an ad hoc basis, or simply finessed. As a result, neither those who thought subsidiarity could be the means to bring the EU 'closer to the citizen' – an objective echoed in the Treaty preamble – nor those who wanted subsidiarity to be a purely administrative device can be entirely satisfied with how it has been operationalised.

In particular there remains the difficult issue of how powers should be separated in the EU – both between the EU institutions and between the EU, national and sub-national levels. At EU level, policy making depends on a complex process of coalition construction, both between the member states and between the institutions, because the tasks of government are shared, rather than clearly divided, between them (Warleigh 2001a). Moreover, these tasks are shared in different ways according to the policy area in question, and this pattern shifts over time.

Separating powers between the EU, national and sub-national levels of government has been no easier. This is partly because for many years the member states have tended to deny that such a separation was necessary, since the EU was a primarily economic organisation (always a fallacious argument, but one which allowed difficult choices to be avoided). However, it is also because there are genuine and significant problems to be faced in making such a decision. Of these, two are the most significant. First, as mentioned in the introduction, the fact that the member states have varying systems of government, and different views of what can or should be done at national, regional and local levels. This means that it is difficult to generate agreement on a common, EU-wide separation of powers. Second, the fact that in many issues it is difficult to be clear about where (sub)national and EU competences should begin and end – they tend to merge rather than operate in distinct arenas. Different policy areas and parts of the policy-making process give different functions to the various tiers of governance. Regional governments, for example, can help the Commission set the legislative agenda and then monitor, as well as carry out, policy implementation; but the actual policy content will be agreed by the national governments, often with the EP[vii].

That said, the Treaty Establishing a Constitution for Europe (hereafter, the Constitutional Treaty, or CT), would, if ratified, make some potentially significant changes to subsidiarity. As part of its deliberations, the Convention on the Future of Europe which undertook the preparation of the CT established a Working Group on subsidiarity which allowed itself to pay attention to the issue of regional involvement in the EU system. The conclusions of this Working Group were reflected in the eventual draft Constitution proposed by the Convention. This may seem a significant step, because the compulsory mandate of the Convention made no mention of the role of regions in EU policy making. Indeed, the CT mentions the role of sub-national authorities for the first time – 'a welcome recognition of the reality of decentralised power in several Member States' (O'Rourke, Donoghue and Dukes 2004: 30). However, the report of the working group provided cold comfort for those seeking entrenchment of regions' role in EU governance[viii]. Although the CT that eventually resulted from the Convention's deliberations, as amended by the European Council, does refer to subsidiarity as a fundamental principle of EU governance, it also retains the Amsterdam Treaty's insistence upon an iterated, case-by-case "relative efficiency" interpretation of subsidiarity rather than spelling out exactly what the principle should mean (and hence where power should lie). The Constitutional Treaty includes no specific test which would allow actors to judge whether the principle of subsidiarity has been infringed. Moreover, it gives the new task of deciding when the EU has acted *ultra vires* not to the Committee of the Regions (see below) or to sub-national authorities, but rather to the *national parliaments* of the member states, which will be able to request that the Commission or Council withdraw a legislative proposal. Even the importance of this step is unclear, however: nothing in the CT obliges the proposer of the legislation to withdraw it, meaning that this new right for national parliaments may not actually amount to very much unless they can create the necessary political conditions. Thus, much of the ambiguity surrounding subsidiarity is likely to remain.

PARTNERSHIP: THE LIMITED PRACTICE

The innovative partnership principle, created in the 1988 reform of the structural funds, has great potential significance as an alternative means to reinforce the regions within the EU governance system. Original forms of 'partnership' were created to give the European Commission greater access to, and better relationships with, regional governments in the member states. The reformed version of partnership, established in 1993, seeks also to create or entrench regional level cooperation between elected and non-elected actors, in order to improve both effectiveness of policy-making/implementation and the EU's perceived legitimacy[ix].

This is because partnership was set up as one of the key principles of EU regional policy, and the means by which actors at regional level could acquire a new formal role in the design, elaboration and monitoring of EU policy on socio-economic cohesion. Thus, its aim was to compensate actors with weak institutional status in the government structure of the member states (or sometimes none at all, in the case of the voluntary sector and social partners) by making them part of the networks which collectively create EU policy (De Rynck and McAleavey 2001). Regional level actors can, and sometimes do, use these partnerships as a means to make new alliances, both domestically and transnationally, in order to outmanoeuvre domestic opposition to their objectives (Conzelmann 1998; Thielemann 2002). At the very least, partnerships can stimulate interest in, and awareness of, the impact of EU policy in a given region (Hooghe 1998). Thus, the ambiguities and limits of subsidiarity may not rule out regions' capacity to influence EU policy: new forms of collaborative regional policy governance by partnership across EU, national and sub-state levels may arise in cases where sub-state actors are willing and able to mobilise the relevant resources and expertise (Tömmel 1998: 55).

And yet, it is not clear that the partnership principle has, in general, provided a new form of governance which can socialise public and private actors from the local/regional level into EU policy-making and allow them significant influence over policy outcomes (Thielemann 2000). The question of central government gate-keeping is crucial. For many authors (Bache 1998; Bache 1999; Bache

and Jones 2000; Allen 2000; Sutcliffe 2000) national governments retain (or have reclaimed) the key function in deciding how partnerships work, and who is allowed to be part of them. Indeed, the latest round of regional policy reform in 1999 limited the Commission's influence, and returned control of the partnership process to national governments (Keating and Hooghe 2001: 249-250). Consequently, although new partnerships and roles for both sub-state governments and civil society actors have been created as a result of EU regional policy, and certainly such actors have participated more regularly in EU decision-making as a result, it is far from clear that they are regularly able to wield significant *influence* over policy outcomes (Bache 1999).

Moreover, it appears that mixing regional governmental and non-governmental actors within a partnership can be problematic. Indeed, regional government actors can use whatever influence they have within partnerships to exclude other actors from influence, ironically mirroring central government behaviour towards themselves. According to Eiko Thielemann (2000), regional government actors can actually seek to exclude civil society groups from partnerships, using the latter to secure their own objectives but paying scant credence to the issues of democratic inclusion on which partnerships are supposed to be based. For Jeffery (2000), regional government actors without the backing of a vibrant civil society are unlikely to add much legitimacy to the EU process – one of the objectives behind the partnership principle in particular, and EU regional policy in general (Warleigh 2003a, chapter 5). Ingeborg Tömmel (1998: 65-7) relates similar reservations. Thus, the real capacity of partnerships to increase Union legitimacy is at best open to question, especially when it is considered that in practice many partnerships suffer from unclear procedures and division of responsibilities, and thus tend to rely on existing structures and processes of governance rather than bottom-up innovation in governance practice (Hooghe 1998). Furthermore, there is often a conflict of interests between the actors involved in partnerships, which results in a constant need to resolve tensions rather than a new common interest (Tömmel 1998: 58). Thus, the partnership principle has not been the means by which regional governments or civil society actors play an unequivocally strong role in EU governance; rather, it has been a smokescreen behind which regional-level

politicians participate in new battles for influence with both central governments and civil society groups.

A VOICE MECHANISM? THE COMMITTEE OF THE REGIONS

The Committee of the Regions –or CoR - is a body of much ambition, but little concrete achievement. An advisory committee, it exists to provide a formal channel of access to EU decision-makers for regional (and local) politicians. It consists of elected politicians from each member state, all of which have various tiers and types of governance institutions at the subnational level. Given its membership – elected politicians – the CoR is an institutional oddity because it has only an advisory function, and yet its members owe their places to public mandates rather than functional expertise. This mismatch helps explain the limited development of the CoR to date: many of its members are important political figures at regional or national level and thus accustomed to acting in the political realm. Such actors thus expect the CoR to provide the means to shape public policy, and yet its advisory function often requires technical expertise that is more frequently to be found in sectoral interest groups. Thus, the members of the CoR can be tempted to over-play their hand in terms of claims for reform of the body, and actors from other EU institutions can consider it a less than thoroughly reliable source of policy advice.

Created by the Maastricht Treaty of 1992, the first thirteen years of the CoR's existence have been characterised by a difficult developmental trajectory. The range of issues on which it must be consulted by the Commission and Council has been extended slightly over this period, by both the Amsterdam and Nice Treaties. The CoR now also has the right to be formally consulted by the European Parliament (EP), a potentially important development given the EP's significant legislative powers. Moreover, the working problems of the CoR have been reduced since the Amsterdam Treaty separated it administratively from the Economic and Social Committee – a relief for both bodies. However, the Committee remains purely advisory, and there is no formal obligation on any of the institutions which consult it to act on its advice. The diversity of the Committee's membership has not yet erupted into open conflict, but there has

clearly been frustration on the part of some of the more powerful regions that the CoR has not routinely followed their lead. Thus, the most powerful regional players – i.e. those whose involvement would bring the CoR the greatest credibility – have waxed and waned in their support for it. The Committee continues to attract controversy over allegations of impropriety in the recruitment of staff (Warleigh 2001b). Furthermore, the CoR remains unlikely to achieve its main goals; at each step of Treaty reform since and including its creation, member states have refused to make it the guardian of subsidiarity or the second chamber of the EP. They have also omitted to make it a full EU institution, which deprives CoR of the right to preserve its powers before the European Court of Justice and continues its dependence on its sponsor – the Commission – for any influence it manages to wield[x]. Given that promotion to full institutional status is possible – for example, the Court of Auditors was so promoted at Maastricht – the Committee's continued existence on the periphery of the EU decision-making system is significant because it shows that central governments are either determined to keep it there or, at best, happy to let it continue as a mere emblem of the drive to bring the EU 'closer to the citizen'.

The Committee of the Regions is thus of limited utility to those regions which are seeking to make their voices heard in EU policy making. A formal transmission belt of regional concerns to 'Brussels', it is legislatively weak and prone to controversy. It also devotes much energy to managing the cleavages within itself (on grounds ranging from nationality to ideology via level and type of subnational authority), rather than producing reports which have a clear impact on EU policy. Symbolically important, the CoR has nonetheless so far failed to secure extensive and regular legislative influence at EU level for the regions.

CONCLUSIONS: REGIONS AND DEMOCRACY IN THE EUROPEAN UNION – TOWARDS FLEXIBILITY?

In this paper I have discussed the principles of subsidiarity and 'partnership', as well as the Committee of the Regions, in order to evaluate the ways in which the EU has paid attention to regional governments as part of its democratisation process. The conclusion to be drawn is that although several regional-level

actors have been able to profit from European integration, this does not (yet) amount to a serious reduction in the EU's democratic deficit. Subsidiarity remains an ambiguous principle, which may or may not play out to the benefit of either the regions or EU democracy; on present evidence, moreover, subsidiarity appears to be interpreted as a brake on integration to be used by national governments and parliaments rather than as a means to empower their regional equivalents. The partnership principle has not reached its potential in democratisation terms, partly because central governments have tended to prevent its development in such a direction, but also because regional governments have tended to use partnerships to advance their own power as much as possible rather than as a means of Europeanising regional-level civil society. The Committee of the Regions continues to be a peripheral EU body without formal institutional status, because it has no champion among the member states and the more powerful regional governments have tended to prefer other means of achieving their EU objectives either nationally or at European level.

This suggests that if regions are to play a significant part in the democratisation of the EU, the way forward may be to push for a more flexible Union in which those member states with powerful regions can empower them while those which do not are free to retain a more centralised style of governance. The reason for this lies in the complexity of the EU's democratisation process, i.e. its multiple and ever-changing balancing acts. Regions are important players in only certain of the member states; in others, they are at best functional administrative rather than executive units. Thus, finding common ground on the role that regions should play in the EU that is acceptable to and in all the member states is likely to be difficult. The implication is that the fundamental principle of EU democracy should be the existence of a differentiated Union, in which structures and policies apply only to or in those member states which freely choose them as a result of their own preferences, perhaps with the exception of certain core policies which would have to be accepted as the price of EU membership[xi]. It is difficult to see how in anything but the extraordinarily long term any sense of uniformity on key issues such as the meaning of subsidiarity can emerge from an increasingly diverse group of member states. Hence, if we are to allow regions to play a more significant role in the

democratic governance of the European Union, it will be necessary to allow different groups of member states (and regions) to reach different conclusions about what that role should be, and how to implement it. In this respect, the existence of differentiated regionalisation in some of the Union's member states is an optimistic indicator of the possibilities, but given the radical nature of such an abrupt departure from the 'Community Method' of integration, it may well be that the member states continue to prefer ambiguity and a limited 'all together now' approach to a democratic but complicated way forward.

REFERENCES

Allen, D. (2000). Cohesion and the Structural Funds. In H Wallace and W Wallace (eds) *Policy Making in the European Union* (4th ed), pp. 243-265. Oxford: Oxford University Press

Bache, I. (1998). *The Politics of European Union Regional Policy: Multi-level Governance or Flexible Gatekeeping?* Sheffield: Sheffield Academic Press

Bache, I. 1999. The Extended Gatekeeper: Central Government and the Implementation of EC Regional Policy in the UK. *Journal of European Public Policy 6*, 28-45

Bache, I. and Jones, R. (2000). Has EU Regional Policy Empowered the Regions? A Study of Spain and the United Kingdom. *Regional and Federal Studies 10*, 1-20

Beetham, D. and Lord, C. (1998). Legitimacy and the European Union. In A.Weale and M. Nentwich (eds) *Political Theory and the European Union,* pp. 15-34. London: Routledge.

Broderstad, E G (2000): Indigenous Rights and the Limitations of the Nation-State. In E.O. Eriksen and J.E. Fossum (eds) *Democracy in the European Union: Integration through Deliberation?,* pp. 230-55. London: Routledge.

Christiansen, T and Piattoni, S (eds) (2003): *Informal Governance in the European Union*. Aldershot: Edward Elgar.

Chryssochoou, D (1998): *Democracy in the European Union*. London: IB Tauris.

Conzelmann, T. (1998). 'Europeanization' of Regional Development Policies? Linking the Multi-level Governance Approach with Theories of Policy Learning and Policy Change. *European Integration On-line Papers* 2:4, http://eiop.or.at/eiop/texte/1998-004a.htm

De Rynck, S. and McAleavey, P. (2001). The Cohesion Deficit in Structural Fund Policy. *Journal of European Public Policy 8,* 541-57

Dinan, D (2004): *Europe Recast: A History of European Union*. Basingstoke: Palgrave.

Follesdal, A. (2000). Subsidiarity and Democratic Deliberation. In E.O. Eriksen and J.E. Fossum (eds) *Democracy in the European Union: Integration through Deliberation?,* pp. 85-110. London: Routledge

Follesdal, A and Koslowski, P (eds) (1998): *Democracy and the European Union*. Heidelberg: Springer.

Green, P. (1994): Subsidiarity and European Union: Beyond the Ideological Impasse?, *Policy and Politics 22*, 287-300

Hooghe, L. (1998): EU Cohesion Policy and Competing Models of European Capitalism. *Journal of Common Market Studies 36*, 457-77

Hooghe, L and Marks, G (2001): *Multi-Level Governance and European Integration*. Oxford: Rowman and Littlefield.

Jeffery, C. (1997). Farewell to the Third Level? The German Länder and the European Policy Process. In C. Jeffery (ed.) *The Regional Dimension of the European Union: Towards a Third Level in Europe?* London: Frank Cass

Jeffery, C. (2000). Sub-national Mobilisation and European Integration: Does it Make Any Difference?. *Journal of Common Market Studies 38*, 1-23

Keating, M (1997): Is There a Regional Level of Government in Europe? In P Le Galès and C Lequesne (eds) *Regions in Europe*, pp. 11-29. London: Routledge.

Keating, M (1999): Asymmetrical Government: Multinational States in an Integrating Europe. *Publius* 29, 71-86.

Keating, M. and Hooghe, L. (2001). By-passing the Nation State? Regions and the EU Policy Process. In J. Richardson (ed.) *European Union: Power and Policy-Making* (2nd ed), pp. 239-255. London: Routledge

Longman, C (2002): *The Political Mobilisation of Cultural Identity: Catalonia and Wales in the Matrix of European Integration*. Unpublished PhD Thesis, University of Reading.

O'Rourke, A; Donoghue, J and Dukes, A (eds) (2004): *Europe Re-United: A Constitutional Treaty*. Dublin: Institute of European Affairs.

Peterson, J. (1994). Subsidiarity: A Definition to Suit Any Vision? *Parliamentary Affairs 47*, 116-32

Peterson, J., Scott, A., and Millar, D. (1994). Subsidiarity: A 'Europe of the Regions' v. the British Constitution? *Journal of Common Market Studies* 32, 47-67

Schmitter, P (2000): *How to Democratize the European Union…And Why Bother?* Oxford: Rowman and Littlefield.

Sherrington, P (2001): The Council of Ministers and the European Council. In A Warleigh (ed), *Understanding European Union Institutions*, pp. 25-40. London: Routledge.

Smouts, M (1997): The Region as the New Imagined Community? In P Le Galès and C Lequesne (eds) *Regions in Europe*, pp. 30-38. London: Routledge.

Stegmann McCallion, M (2004): 'EU-ropeanisation: Challenges to Regional Administration and Regional Policy in Sweden'. Unpublished PhD Thesis, Queen's University, Belfast.

Sutcliffe, J. (2000). The 1999 Reform of the Structural Fund Regulations: Multi-level Governance or Renationalization? *Journal of European Public Policy 7*, 290-309

Thielemann, E. (2000). Institutional Change and European Governance: An Analysis of 'Partnership'. *Current Politics and Economics of Europe 9*, 181-97

Thielemann, E. (2002). The Price of Europeanization: Why European Regional Policy Initiatives are a Mixed Blessing. *Regional and Federal Studies 12*, 43-65

Tömmel, I. (1998). Transformation of Governance: The European Commission's Strategy for Creating a 'Europe of the Regions'. *Regional and Federal Studies 8*, 52-80

Warleigh, A. (2001a). Introduction: Institutions, Institutionalism and Decision-making in the European Union. In A. Warleigh (ed.) *Understanding European Union Institutions,* pp. 3-21. London: Routledge

Warleigh, A. (2001b). The Committee of the Regions. In A Warleigh (ed.) *Understanding European Union Institutions*, pp. 177-190. London: Routledge

Warleigh, A (ed) (2001c): *Understanding European Union Institutions*. London: Routledge.

Warleigh, A (2002): *Flexible Integration: Which Model for the European Union?* London: Continuum.

Warleigh, A. (2003a). *Democracy and the European Union: Theory, Practice and Reform*. London: Sage.

Warleigh, A (2003b). Spinning Around: Re-thinking a 'Europe of the Regions' in the Light of Flexibility. *Comparative European Politics* 1, 49-66.

Warleigh, A (2003c): The European Union. In P Burnell (ed) *Democratization Through the Looking Glass*, pp. 188-200. Manchester: Manchester University Press.

Wessels, W. (1997). An Ever Closer Fusion? A Dynamic Macropolitical View on Integration Processes. *Journal of Common Market Studies 35*, 267-299.

NOTES

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[i] This paper focuses on one of these 'balancing acts', namely that between different levels of governance in the EU system. The three 'balancing acts' not discussed in this paper are as follows: between competing national views of what a democratic EU would constitute; between input and output forms of legitimacy; and between competing normative views of democracy.

[ii] Dimitris Chryssochoou (1998) points out that the 'democratic deficit' is both institutional and socio-psychological in nature – in other words, it relates to both the institutional problems of the EU and the lack of a popular sense of European identity.

[iii] I do not discuss the right given to regional governments in federal states to represent their member state in the Council of Ministers. As Hooghe and Keating (2001: 243-245) make clear, this power does not equate to a regional right to represent themselves in the Council. Instead, ministers from regional governments are allowed to represent the national interest, as explicitly agreed with the relevant national government before the Council meets.

[iv] I acknowledge that informal politics may have given regional actors significant influence in Brussels, and that the complex, multi-level process of EU decision-making may often give regional actors and governments more authority than at first appears. However, such authority is hard to quantify. Moreover, informal politics makes at best a contested contribution to the EU democratisation process (see the essays in Christiansen and Piattoni 2003).

[v] This paper does not contain a detailed discussion of the Treaty Establishing a Constitution for Europe. This is for two reasons. First, at the time of writing, the future of this Treaty is by no means clear, given its expected rejection in France in May and a likely series of at best difficult referenda elsewhere. Second, the Treaty did not make radical changes to the role of regions in EU governance.

[vi] The Amsterdam Treaty included a Protocol (AP) on subsidiarity which increases the importance of 'relative efficiency' as a means to decide whether the EU or the individual states should act. However, without a detailed methodology and set of criteria for such an assessment, it is unclear how efficiency is to be measured against anything but expediency. Furthermore, the AP takes much of the 'principled' element out of subsidiarity, replacing issues of political choice

(when and why should the EU act?) with issues of policy management (how can we make sure the EU does as little as possible?).

[vii] Legally, this is reflected in the difficulty of distinguishing between different types of EU competence on a spectrum which ranges from areas in which the EU supposedly has sole authority to those from which it is in theory excluded: exclusive competence, concurrent competence, complementary competence, and member state competence.

[viii] The report of the Convention Working Group on subsidiarity can be accessed at http://register.consilium.eu.int/pdf/en/02/cv00/00286en2.pdf, accessed 25/4/05.

[ix] Political legitimacy requires legality (acting within the law), normative justifiability (being in keeping with general beliefs about the rightful sources and uses of authority), and legitimation (authorisation to act from those bound by the political system in question, and peer approval from representatives of other political systems which are generally considered to be functioning democratically). See Beetham and Lord 1998.

[x] This remains the case even in the Constitutional Treaty. Europa, the EU's own web-site, says that the CoR's request for institutional status was denied again, with the only change to CoR being its change to a five-year mandate from a four-year one: http://europa.eu.int/scadplus/constitution/institutions_en.htm#CONSULTATION, accessed 25/4/05.

[xi] For a sustained discussion of flexibility and democracy in the EU, see Warleigh 2002; for a more detailed discussion of how flexibility and a 'Europe of the Regions' might fit together, see Warleigh 2003b.