

Assessing Participation and Democracy in the EU: The Case of the European Citizens' Initiative

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Abstract

The European Citizens' Initiative (ECI) is the latest in a line of institutional innovations that have sought to enhance the participatory nature of EU politics. The extent to which this results in a more democratic EU, however, is questionable because simply having opportunities for participation does not equate to participatory democracy. Participation in the EU has tended to favour the involvement of various 'civil society' organisations rather than individual citizens. Moreover it has been justified largely on the grounds that it results in more democratic and efficient institutions and decision-making processes. The notion of participation and its relationship with democracy found in the writings of theorists of participatory democracy is somewhat more radical. Not only does it address individuals in favouring measures that make democracy count in people's everyday lives, it also views participation as leading to human development by enhancing feelings of efficacy, reducing a sense of distance from political authority, stimulating concern for collective problems and solutions, and encouraging citizens to be active and knowledgeable about politics. This paper argues that the ECI sees the EU move a little closer to a more radical view. It finds evidence of this in an acknowledgement that the ECI is to be valued partly because of the ways in which it can benefit individual citizens (as opposed to the EU's decision-making structures) in the arguments for a 'citizen-friendly' and usable instrument.

Key Words: Participation, democratic legitimacy, civil society

Introduction

Although originally envisaged as a feature of participatory democracy for the EU,¹ the extent to which the implementation of the European Citizens' Initiative (ECI) contributes to a more participatory model of democracy in the EU is not as self-evident as it may seem. The ECI allows one million citizens from at least seven of the EU's Member States to invite the European Commission to take a legislative initiative on a matter deemed necessary for the implementation of the treaties. Over a ten-year period² the ECI has gone through a series of iterations as discussions have moved on from whether there should be an ECI to what kind of ECI there should be; in the process it has brought into sharp focus questions about the relationship between participation and democracy. There are conflicting accounts of this relationship in political theory. One does not have to be a participatory democracy theorist to recognise and support the existence of opportunities for participation in a democratic political system. Rather, participatory democracy theorists make a case for the importance of genuine and effective opportunities for participation based on a radical account of the relationship between participation and democracy. The argument in this paper is that the ECI moves towards a more radical view of participation of the kind espoused by theorists under a participatory model of democracy than has tended to be the case in the EU. However, there are restrictions governing the extent to which the democratic benefits of participation will be realised through the ECI and even if they are, there are serious implications for democracy and legitimacy in the EU.

The first part of the paper discusses different conceptualisations of the relationship between participation and democracy in democratic theory, reflecting upon why participation was for a long time portrayed as in opposition to democracy. It finds the source of the conflict in a persisting yet narrow definition of democracy as a set of institutional arrangements. Under such a definition participation has been viewed as competing with other values that systems of governance hope to achieve, i.e. stability or effectiveness, and even when it is increasingly valued in normative terms, it is most often traded off against the achievement of those other values. The participatory approach is outlined whereby theorists such as Carole Pateman (1970 Pateman, C. 1970. *Participation and Democratic Theory*, Cambridge: Cambridge University Press.) and C. B. Macpherson (1977 Macpherson, C. B. 1977. *The Life and Times of Liberal Democracy*, Oxford, UK: Oxford University Press. challenge not the notion that participation in governance processes might be achieved only at the cost of stability and effectiveness, but the notion that the democratic benefits of participation should be seen only in terms governance processes or institutional arrangements. Instead, they see the essence of democracy in a society that nurtures concern for collective problems and in a knowledgeable citizenry capable of self-development and carrying a sense of political efficacy.

The paper goes on to look at participation in the EU context, finding that over time the EU has become increasingly participatory by developing multiple opportunities for participation. Nevertheless, it identifies some limitations to this: the commitment to participation is more apparent in language or in discursive terms than practical terms; 'participation' is often used in the context of – and even as a synonym for – consultation of organised interests; where opportunities for ordinary citizens to participate exist they have tended to be informal. The democratic benefits of participation have been seen to accrue to the EU's decision-making process, which implies a focus on democracy as a set of institutional arrangements. In turn this has led to a particular interpretation of participation – as interest group or organised civil society participation, as this is a means of controlling participation and minimising its disruptive or destabilising effects.

The third part of the paper analyses the discussions surrounding the shaping of the ECI regulation and focuses upon several issues arising in the discussion that reflect broader issues of political principle and that have been the concern of theorists of participatory democracy. It finds that in the process of these discussions an idea of participation has emerged that is more radical than has tended to be the case in the EU, going beyond a fairly narrow focus on effective governance to broader issues of human development and a participatory political community. The conclusion reflects on some of the implications arising from the move towards a broader interpretation of the relationship between participation and democracy in the EU.

Participation and Democracy in Political Thought

For much of the first part of the twentieth century, extensive citizen participation, beyond periodic voting in elections, was presented as something contrary or anathema to democracy. In *Capitalism, Socialism and Democracy*, Joseph Schumpeter (1943 Schumpeter, J. 1943. *Capitalism, Socialism and Democracy*, London, UK: Allen & Unwin) offers perhaps the most damning critique of participatory processes and their adverse consequences for securing democratic outcomes, and is the basis for much of Pateman's (1970) critique that formed the starting point for her participatory theory of democracy. Schumpeter argued that the so-called 'classical doctrine' of democracy that took as central the participation of people in decision-making was empirically unrealistic in large societies where conditions were much different to those in which classical scholars were writing where citizen participation had been a realistic prospect. Contrary to the notion that democracy was about values or fundamental principles, Schumpeter held that democracy is simply a method or a process for selecting elites to make decisions. The essence of democracy was to be found in 'that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of competitive struggle for the people's vote' (Schumpeter, 1943 Schumpeter, J. 1943. *Capitalism, Socialism and Democracy*, London, UK: Allen & Unwin. , p. 269); in other words, in the competition for leadership. Participation was subsumed under a formalistic understanding of representation – reduced to simply the choosing of representatives, a mechanism for securing authorisation and accountability. More extensive forms of participation beyond the formal exercising of the vote in elections – writing letters to representatives, for example – were viewed with suspicion as attempts to exert control, undermining the notion of leadership, and distorting and destabilising democracy.

Schumpeter took the empirical realities of 1940s Europe as his starting point, observing the emergence of totalitarian regimes characterised by mass participation (albeit participation underscored by coercion and intimidation) after the First World War, prompting a pessimistic view of the potential for ordinary citizens to participate beyond elections, and equating mass political participation with a mob or a stampede. Even as the violence that had called into doubt the relationship between participation and democracy receded, a recurring theme of the so-called behaviouralist revolution during the 1950s was whether democracy could work with mass participation. Post-war studies of American politics and society, such as that of Berelson, Lazarsfeld and McPhee (1954 Berelson, B., Lazarsfeld, P. F. and McPhee, W. N. 1954. *Voting: A study of opinion formation in a presidential campaign*, Chicago, IL: University of Chicago Press. , argued that democracy depended in part upon the indifference of a large proportion of the electorate. Practicality became the main stumbling block. Even scholars such as Almond and Verba (1963 Almond, G. and Verba, S. 1963. *The Civic Culture: Political attitudes and democracy in five nations*, Princeton, NJ: Princeton University Press.), who acknowledged that participation was a key feature of a democratic

society, qualified this by saying that a stable democracy required a 'civic culture' that entailed participation on the part of some of the citizenry being balanced by the non-participation and apathy of other parts of the population. An examination of participation in contemporary democracies also permeated Robert Dahl's work which, like Schumpeter's was based on empirical observations of the political system. 'What we call democracy', Dahl (1958 Dahl, R. A. 1958. "Hierarchy, democracy and bargaining in economics and politics". In *Political Behavior*, Edited by: Eulau, H., Eldersveld, S. and Janowitz, M. Glencoe, IL: The Free Press. , p. 87) argued, was more accurately referred to as 'polyarchy' because it was essentially 'a system of decision-making in which leaders are more or less responsive to the preferences of non-leaders'; and this system did 'seem to operate with a relatively low level of citizen participation'. Normatively (and very much unlike Schumpeter), Dahl was committed to 'effective participation' whereby citizens would have equal and adequate opportunities to form their preferences and place questions on the public agenda, but he thought that this was really a component of an ideal utopian democracy (Dahl, 1989 Dahl, R. A. 1989. *Democracy and its Critics*, 83–90. New Haven, CT: Yale University Press. , which was 'unattained and quite probably unattainable' in the real world (Dahl, 1956 Dahl, R. A. 1956. *A Preface to Democratic Theory*, Chicago, IL: University of Chicago Press. , p. 75). He exhibited a softening of attitude towards participation (in comparison with Schumpeter's hostility) but practicality remained the obstacle.

The issue of scale that made widespread participation problematic at the national level was exacerbated at the EU level, according to Dahl. The transformation of democracy from the national to the international level had important consequences for the prioritisation of certain democratic values and Dahl (1994 Dahl, R. A. 1994. A democratic dilemma: System effectiveness versus citizen participation. *Political Science Quarterly*, 109(1): 23–34, p. 28) observed a trade-off between the ability of citizens to exercise democratic control over decisions of the polity (participation) on the one hand and the capacity of the system to respond satisfactorily to the collective preferences of its citizens (effectiveness) on the other. In describing participation as being traded off against effectiveness, Dahl's account underlines why participation has traditionally been viewed so negatively: because in presupposing an institutional definition of democracy it has been assessed vis-à-vis the system. But participatory democracy theorists go beyond an institutional definition of democracy beloved of scholars of competitive elitism or legal democracy. The focus on participation as performing a merely protective function by ensuring good government through the sanction of loss of office, it is argued, fails to capture the entirety of the relationship between participation and democracy. Instead, this can only be understood if we place 'the problem of participation and its role in democratic theory in a wider context than that provided by the contemporary [Schumpeterian] theory of democracy' (Pateman, 1970 Pateman, C. 1970. *Participation and Democratic Theory*, Cambridge: Cambridge University Press, p. 111).

Participatory theorists do not dispute empirical evidence that the average citizen appears not to be interested in most of the issues that form the basis of government action, nor will be moved to participate in them. They would accept that in decision-making increased participation may often be traded off against efficiency and effectiveness, and it may even appear to be inimical to stability. What they would disagree with is the formulation of the problem – the idea that the stability or effectiveness of the system of governance is the only value that is to be secured, and moreover that questions of democracy refer only to the design and functioning of institutional arrangements. Drawing upon the work of Rousseau and J. S. Mill, participatory democracy theorists have argued that the focus of democratic theory and

practice should include issues of human development and the building of a democratic society. It is in the context of a multifaceted relationship between democracy and participation that the discussion of the extent to which the ECI corresponds to a model of participatory democracy takes place. But before analysing this further, the theory and practice of participation are placed in the context of EU politics since the early days of European integration.

Participation in the EU

Scholarly suspicions about the practicality and even the desirability of participation were reflected in the attitudes of the ‘founding fathers’ of the EU, perhaps unsurprisingly given that the nascent integration processes were contemporaneous with some of the key texts that called into question the relationship between participation and democracy. EU leaders from Monnet onwards, it has been argued, were even frightened of democratic and participatory politics (Marquand, 2011 Marquand, D. 2011. *The End of the West: The once and future Europe*, Princeton, NJ: Princeton University Press. , resulting in a persisting legitimacy deficit that curtails the EU's capacity for decisive action 60 years on. Initial steps towards economic integration sought to address a problem that was formulated in a way that bypassed democracy and citizen participation, making them non-issues. In analytical terms traditional approaches to understanding integration did not take into consideration democracy as an explanatory variable and in much of the literature the EU was portrayed as an enterprise characterised by ‘technocracy, expert dominance and lack of transparency; bargaining and pork-barrelling between sectarian interests; and in general, as marked by a lack of openness and political accountability’ (Eriksen & Fossum, 2000 Eriksen, E. O. and Fossum, J. E. 2000. *Democracy in the EU: Integration through Deliberation?*, New York: Routledge. , p. xi). A popular ‘permissive consensus’ was said to have legitimated integrative action (Lindberg & Scheingold, 1971 Lindberg, L. N. and Scheingold, S. A. 1971. *Regional Integration Theory and Research*, Cambridge, MA: Harvard University Press. through a tacit assumption that leaders (governments, key economic actors, bureaucrats) had to be trusted and left to get on with integration and that the collective outcome would be superior to what would otherwise be achieved through unilateral action.

Since then issues of democracy have become more pressing and it has been increasingly acknowledged that there are perhaps grounds for the direct involvement of citizens in EU politics. The establishment of direct elections to the European Parliament (EP) in 1979 was arguably the first major shift towards a more participatory politics. Maastricht was also an important juncture because the Treaty on European Union (TEU) provided a stronger legal basis for several significant participation opportunities (e.g. the establishment of Union citizenship and the Ombudsman, as well as the development of a more formalised consultation regime) and because the ratification process indicated a visible gap emerging between elites and European publics. A participatory turn intensified and took a particular form throughout the 2000s, in part related to the treaty reform process, which lasted for more or less the entire decade. In looking towards future necessary treaty reform the Heads of State and Government in December 2000 issued a Declaration on the Future of the Union, which called for a deeper and wider debate on the EU's future involving *all interested parties* (European Union, 2001 European Union. 2001. *Treaty of Nice: Amending the Treaty on European Union, the treaties establishing the european communities and certain related acts*, Luxembourg City, Luxembourg: European Union. . The following year the Laeken Declaration picked up the theme in establishing the Convention, including reference to measures that would be taken to ensure the participation (in the process of drafting a new

treaty, a considerable break with the intergovernmental past) *of all citizens* (European Council, 2001). In the event, the Constitution on the Future of Europe went much further than any previous treaty reform process in expanding the number and types of actors involved,³ although the extent to which it really did reach out to citizens was also called into question in light of the outcomes of the 2005 French and Dutch referendums. The period of reflection that followed the referendums also sought to incorporate inputs from citizens through a series of initiatives organised and funded by the Commission.⁴ The Commission for its part was already engaged in a reform programme alongside the treaty reform process that brought participation forward, most notably through the White Paper on Governance and its related discussions. The White Paper established participation as one of five principles of good governance, which it said ought to inform the conduct of the EU political process given that ‘the quality, relevance and effectiveness of EU policies depend on ensuring wide participation throughout the policy chain’ (European Commission, 2001). A subsequent initiative – prompted in part as the Governance White Paper had been by a perceived need to bring citizens and EU institutions closer together – was the Communication White Paper. In a style heavily reminiscent of the Governance White Paper it argued that ‘democracy can only flourish if citizens know what is going on, and are able to participate fully’ (European Commission, 2006).

Over time, and despite not starting with many, the EU has subsequently developed a range of participatory features. Citizens can vote in elections for the EP, and in national elections to form governments that will then become members of the Council. Referendums on EU issues, the number of which has accelerated, represent another voting mechanism for participation. Other EP-related measures besides voting include the right to petition the EP, public hearings organised by the EP and direct contact with MEPs. Commission-related opportunities include direct contact (for instance, letter writing) with Commissioners, periods of consultation prompted by Green and White Papers, and online debate initiatives organised or funded by the Commission. Under the TEU, EU citizens have the right to complain to the Ombudsman. They can be active in national interest groups and through these, in larger federations; the same with political parties. They can also get involved in Europe-wide campaigns and protests.

In quantitative terms, therefore, participation has become more prominent. However, the nature, quality, effectiveness of these participation opportunities and whether they are genuine is questioned. Participation in EP elections is viewed as ineffective as the EP does not function well according to the principles of representative democracy (Mather, 2001 Mather, J. 2001. *The European Parliament – a model of representative democracy?*. *West European Politics*, 24(1): 181–201. , ,); in particular, the outcomes of the elections only have a weak and informal bearing on the nature of the EU executive and do not offer the electorate the choice between competing policy programmes as in a standard parliamentary democracy (Hix & Hoyland, 2011 Hix, S. and Hoyland, B. 2011. *The Political System of the European Union*, Basingstoke: Palgrave Macmillan. . Political parties at the EU level may not be particularly efficient mechanisms for linkage (Hix & Lord, 1997 Hix, S. and Lord, C. 1997. *Political Parties in the European Union*, Basingstoke: Palgrave Macmillan.) and nor are non-governmental organisations (NGOs) or civil society organisations more generally (Greenwood, 2007 Greenwood, J. 2007. *Interest Representation in the European Union*, Basingstoke: Palgrave Macmillan. ; Warleigh, 2001 Warleigh, A. 2001. ‘Europeanizing’ civil society: NGOs as agents of political socialization. *Journal of Common Market Studies*, 39(4): 619–639. , ,). Nentwich (1998 Nentwich, M. 1998. ‘Opportunity structures for citizens’ participation: The case of the European Union’. In *Political Theory and the European Union*,

Edited by: Weale, A. and Nentwich, M. 125–140. London, UK: Routledge.) noted that many of the opportunities for citizen participation in EU politics introduced after Maastricht were indirect, non-binding and informal, a trend that continued throughout the 2000s. Some innovations with web technologies, and earnest attempts by individuals within the Commission to facilitate participation (such as the Debate Europe initiative) have suffered due to lacking a certain focus or clear outcome and have therefore experienced difficulties in ‘recruiting’ participants (see Hoffmann & Monaghan, 2011 Hoffmann, L. and Monaghan, E. 2011. Public debate on the future of the European Union: A viable legitimising strategy. *Politics*, 31(3): 140–147.). Others have noted that the dominant understanding of participation that has emerged is elitist. Magnette (2003 Magnette, P. 2003. European governance and civic participation: Beyond elitist citizenship?. *Political Studies*, 51(1): 144–160. , ,) analysed the idea of participation found within the Governance White Paper and pointed out that although it invoked the role of the citizen in EU governance, the concrete proposals for enhancing participation were addressed to groups that were already organised and active in lobbying and trying to influence EU governance. On this basis his conclusion was that rather than creating opportunities for ordinary citizens to participate in EU governance, the proposals of the White Paper would only enhance the role of ‘elite citizens’.

It has been argued that from the 1990s onwards, we have seen the emergence of a ‘participatory norm’ in the EU (Saurugger, 2010 Saurugger, S. 2010. The social construction of the participatory turn: The emergence of a norm in the European Union. *European Journal of Political Research*, 49(4): 471–495. ,). Thanks to the activism of a number of political, bureaucratic and academic actors, Saurugger argues that the importance of organised civil society involvement in decision-making processes is widely accepted. However, the participatory norm that has emerged is based on the role of organisations in processes of decision-making or ‘governance’. Democracy is viewed as a series of institutional arrangements, and therefore the extent to which this equates to a participatory model of democracy is deeply questionable. Parts 1–3 of article 11 of the TEU, which precede the ECI that is outlined in part 4, adopt this approach, conceptualising participation in terms of the involvement of representative associations and civil society. The co-location of these provisions in a single article led to fears that the ECI was not really for citizens at all, and that it would benefit already-influential actors with their own existing channels of influence. The following discussion of the ECI assesses the extent to which these fears were borne out by analysing the process of defining the Regulation and the approach to participation taken by the various actors involved.

The ECI and a Participatory Model of Democracy

The ECI was first formalised in the text of the Draft Treaty establishing a Constitution for Europe. As is argued elsewhere (De Clerk-Sachsse, in this special issue), its inclusion is attributed to the efforts of a coalition of civil society organisations that engaged in extensive lobbying of Convention and Praesidium members during the Convention process, and that remained active and involved throughout the subsequent implementation process. Following a period of uncertainty after the French and Dutch referendums on the Constitutional Treaty in 2005, the initiative, along with the rest of the article on participatory democracy, made it into the draft Lisbon Treaty.¹ The rejection of the Lisbon Treaty in the June 2008 referendum again threw the initiative into some doubt, but already the EU institutions had begun to consider carefully the tools necessary for implementing it. Although under the terms of the treaty provision the Commission was expected to play a significant role in determining the eventual character of the initiative, the EP also got heavily involved in discussing the shape it

ought to take, adopting a resolution calling upon the Commission to propose a regulation and offering some guidelines on what this might include (European Parliament, 2009 *European Parliament. 2009. Resolution Requesting the Commission to Submit a Proposal for a Regulation of the European Parliament and of the Council on the Implementation of the Citizens' Initiative*, Brussels, Belgium: European Parliament. . Over the course of nearly 10 years therefore, discussions have moved on from whether there should be a citizens' initiative at all, to what kind of citizens' initiative there should be. Theories of implementation tell us that much of the eventual nature of a policy is shaped as it is being put into practice, even though this is often an overlooked part of the policy process: this has been particularly true for the ECI.

An analysis of the discussions surrounding the ECI prior to 16 February 2011 when the Parliament and Council adopted Regulation 211/2011 on the citizens' initiative, indicates a shift towards a more radical understanding of the relationship between participation and democracy than has traditionally been found in the EU. Notwithstanding the fact that whether the ECI ultimately strengthens democracy in the EU will depend in part on the ways in which societal actors use the initiative, this shift is significant. In the following analysis, attention is directed firstly towards the grounds for and justifications for an ECI, and secondly to the conditions underpinning and features of an ECI, from the perspective of the actors involved.

Previous attempts at establishing the importance of greater participation in EU politics have grounded the need for such participation largely in the way in which it is expected to lead to better EU policy. This is the dominant view of the relationship between democracy and participation in the EU and was prominent in the Commission's Governance White Paper, which presented participation as necessary for the quality, relevance and effectiveness of policy outcomes. The benefits of participation on this view are in its contribution to democratic governance and it speaks to democracy in its manifestation as a set of institutional arrangements. Parts 1–3 of article 11 are consistent with this approach, and due to its functions under the Treaty, this was the tone that dominated the Commission's Green Paper, which opened up the public consultation on the ECI measures (European Commission, 2009). Another view of the democratic nature of participation has emerged since the Governance White Paper, viewing participation as contributing to the formation of a European public sphere through deliberative processes on a 'Habermasian' view. In the Explanatory Memorandum accompanying its proposal for the Regulation, and in the context of its proposed admissibility check at an early stage, the Commission gave an indication that the process of an ECI was to be valued as a way of contributing to a European public sphere: 'a major objective is to promote public debate on European issues, even if an initiative does not finally fall within the framework of the legal powers of the Commission' (European Commission, 2010b).

In addition to these two perceived democratic contributions, a further and largely new way of conceptualising the relationship between participation and democracy is evident in the Regulation, and was so in the discussions preceding it. This is much closer to Pateman's (1970) contention that participation promotes human development and that by making democracy count in people's lives, feelings of low political efficacy could be challenged, allowing for a better realisation of the liberal ideal of free and equal citizens. The democratic benefits of participation on this view are for the individual citizen rather than the decision-making process. A recognition of this link can be seen in the EP's May 2009 resolution, which urged the development of a 'citizen-friendly' instrument (European Parliament, 2009 *European Parliament. 2009. Resolution Requesting the Commission to Submit a Proposal for*

a Regulation of the European Parliament and of the Council on the Implementation of the Citizens' Initiative, Brussels, Belgium: European Parliament. and was subsequently emphasised by a parliamentary official who referred to the 'pedagogical' potential for individual citizens.⁵ From within civil society itself, the 'ECI Campaign', a coalition of more than 120 NGOs, has since the incorporation of the ECI into the Lisbon Treaty, been vociferous on the need for citizen-friendly and usable rules.⁶ The notion that the ECI should be citizen-friendly and designed with individual citizens rather than NGOs or the efficiency of the policy-making process in mind was then a recurrent and visible theme in subsequent discussions.

Each of the three interpretations of the relationship between democracy and participation (i.e. in relation to the policy-making process, the European public sphere and the individual citizen) are identifiable in this passage from the Green Paper (European Commission, 2009):

The European Commission welcomes the introduction of the citizens' initiative, which will give a stronger voice to European Union citizens [in policy-making, 1] by giving them the right to call directly on the Commission to bring forward new policy initiatives [3]. It will add a new dimension to European democracy [2], complement the set of rights related to the citizenship of the Union [3] and increase the public debate around European politics, helping to build a genuine European public space [2]. Its implementation will reinforce citizens' and organised civil society's involvement in the shaping of EU policies [1].

A further indication that a more radical view of the relationship between participation and democracy – with the citizen at the centre – characterises the ECI can be found by examining some of its preconditions and features as discussed and shaped prior to the agreement on the final Regulation. Two conditions for participatory democracy identified by David Held (2006) Held, D. 2006. *Models of Democracy*, , 3rd edn, Cambridge, UK: Polity Press. , pp. 209–216) – the minimisation of bureaucratic interference; and an open information system – concern issues that loomed large in the discussions. The Commission's role in the Community method means that bureaucratic involvement could not be eradicated but a recurring theme of the public consultation was whether some of the measures it proposed amounted to bureaucratic interference. One such instance of this concerned the stipulation that there should be a minimum number of signatures from each of the qualifying Member States. The Commission's argument was that such a measure would ensure an initiative's 'representativity', but some respondents to the consultation argued that such a threshold was not explicitly required by the Treaty and therefore was unnecessarily interventionist (European Commission, 2010a). In the end a threshold was included corresponding to the number of MEPs in the Member State in question multiplied by 750 (in order to allow a proportionately lower number of signatories in large Member States). A bigger debate on the appropriate level of involvement on the part of the Commission concerned the so-called *ex ante* 'admissibility check' on whether the proposed initiative was on an issue over which the Commission had the competence to make a legislative proposal. The Parliament challenged a clause in the Commission's original proposal that required organisers to seek confirmation of their initiative's admissibility after having collected 300,000 signatures from three Member States before the initiative could continue, on the grounds that this was too great a burden for organisers and could undermine the legitimacy of the instrument in the eyes of signatories (European Parliament, 2010) European Parliament. 2010. *Report on the Proposal for a Regulation of the European Parliament and of the Council on the Citizens' Initiative*, Brussels, Belgium: European Parliament. , pp. 52–53). In terms of openness and transparency, the Parliament was again vocal. In part to differentiate the ECI from the

existing petitions tool but also ‘to avoid raising false expectations on the nature and scope of the ECI’ (European Parliament, 2010 European Parliament. 2010. *Report on the Proposal for a Regulation of the European Parliament and of the Council on the Citizens' Initiative*, Brussels, Belgium: European Parliament. , p. 8), which it implied could have a de-legitimizing effect, it stressed the need for an information campaign and the availability of guidance notes in all of the Union's languages. Another of its successful amendments concerned the inclusion of a provision to guarantee a top-level meeting with Commission officials for organisers of successful initiatives, but also a public hearing in the EP (EuroparlTV, 2010 EuroparlTV. 2010. Interview: The new tool for direct democracy. *EuroparlTV*, 16 December). The role of the principle of transparency in shaping the Regulation, therefore, chimed with the view of participatory democracy theorists on the importance of making people aware of the opportunities for and consequences of participation as on this view, they would then be more likely to participate, to believe that participation was worthwhile, and to hold that collective decisions made as a result of such participation should be binding.

Beyond the conditions underpinning a participatory model of democracy, Macpherson (1977 Macpherson, C. B. 1977. *The Life and Times of Liberal Democracy*, Oxford, UK: Oxford University Press. , pp. 113–114) got to grips with the features it would exhibit, arguing that participatory politics was possible even in large, complex societies. His account focused on making existing liberal democratic structures, such as those of political parties and parliamentary channels, more open, accountable and ‘participatory’. A parallel can be seen in the structuring of incentives to encourage civil society organisations to engage outwards with members or citizens and to control their oligarchical potential. The Commission's Green Paper (2009, consultation issue 8) sought to address issues of transparency and funding in relation to the organisers of initiatives in order to enhance accountability behind ECIs – or more specifically the civil society organisations that it was predicted would be running them. Concerns that the ECI would empower civil society organisations (as ‘elite’ citizens) more than or rather than individual citizens permeated the discussions. This was unsurprising given both the role played by NGOs in lobbying for the ECI during its early stages and given the tendency discussed above in the EU to interpret civil society in terms of organisations and to design structures to facilitate their participation. As Greenwood (in this special issue) points out, organisations themselves were considering the ways in which the ECI could benefit them, or trying to steer the debate in the public consultation back towards the other parts of article 11; they accounted for one third of the responses to the Commission's public consultation (European Commission, 2010a).

A final parallel between the concerns of participatory theorists and the negotiations over the features of the ECI was the ways in which pre-existing inequalities could distort access to participation opportunities, affecting the participation of certain individuals or groups, and how it could be minimised in order to better realise the principle of equal access. For participatory theorists the main cleavage was between men and woman, although class and race were also seen as hindering access to participation. In the case of the ECI, the discussion has been about whether and how Member State origin affected access to meaningful participation in the ECI and how it should be managed. The aforementioned discussion on what an appropriate ‘threshold’ of signatures from each of the qualifying seven Member States should be was one manifestation of this. Other discussions included whether signatories would have to be EU citizens or residents (in the end, the former); and whether signatories could be 16 and 17 in all Member States (in the end this applies only to Austria, where the voting age is 16). One of the biggest – and ongoing – controversies concerns the

requirement in some Member States for citizens to provide their ID number as a way of allowing the national authority to verify their signature. Pressuring the 18 Member States to withdraw this requirement is the key focus of the ECI campaign and part of its mission for a 'citizen-friendly' initiative (Democracy International, 2011), buoyed by the Opinion of the European Data Protection Supervisor on the Commission's 2010 proposal that the ID number was not required for verification, that there was no added value of the ID number of verifying the signature, and that consequently it should be deleted as a requirement (European Data Protection Supervisor, p. 2). As such, the discussion over inequalities of access is ongoing, despite the fact that the Regulation has applied since 1 April 2012.

Conclusion

This analysis suggests that the ECI reflects a more radical interpretation of participation and participatory democracy than has tended to be the case in the EU in the past: a relationship that can be seen on three different levels: in terms of democratic governance and decision-making; in terms of building a European political community or demos-formation; and in relation to the development and empowerment of individual citizens. There are normative implications for each view of participation.

At the governance level participation has emerged and been accepted as a necessary component of EU decision-making. The idea of the ends justifying the means, which has underpinned the dominance of an output-oriented legitimacy approach, has turned out to be deeply problematic in the EU context. It has even been argued that the lack of citizen involvement in and support for EU action severely curtails the extent to which it will be able to act effectively in solving the current Eurozone crisis (Marquand, 2011 Marquand, D. 2011. *The End of the West: The once and future Europe*, Princeton, NJ: Princeton University Press. . Nevertheless, 'citizen participation' in decision-making has not overridden effectiveness and stability as the preferred value in the trade-off that Dahl (1994) identified. Scepticism about the role of citizens in the decision-making process remains, as the holding of a second referendum on the Lisbon Treaty in Ireland after the first one delivered the wrong answer testifies. Similarly, the debate about the rightfulness of the Greek government in threatening to subject an austerity package negotiated with other governments to approval by the Greek population in a referendum in October 2011, reflects a continuing assumption of the destabilising effects of citizen participation. Furthermore, the dominant approach to participation in decision-making that has emerged is not one in which individual citizens are extensively involved. Instead, an approach that favours interest groups or 'organised civil society' with the emphasis on functional representation actually resembles an associative model of democracy (see e.g. Cole, 1920 Cole, G. D. H. 1920. *Social Theory*, London: Methuen. ; Hirst, 1994 Hirst, P. 1994. *Associative Democracy*, Cambridge, UK: Polity Press. rather than a participatory model.

The idea that democratising institutions and decision-making alone cannot lead to a democratic EU informs those who point out the need for a European public sphere and a European demos to underpin and legitimise EU action. However, there is little empirical evidence that European citizens view their relationship with EU institutions, or with each other, in a way that would legitimise demos-formation as a strategy. This would be based on an assumption of a European political community – however nascent – whereby majority outcomes would be accepted even by those in the minority, with sufficient feelings of 'sameness' to comprise a community with claims to collective self-determination that EU action could meet and in turn be justified by. The extent to which this currently exists or is

likely to emerge in the near future (Jolly, 2007 Jolly, M. 2007. *The European Union and the People*, Oxford, UK: Oxford University Press.), or indeed ought to, remains heavily contested.

Finally, the problems that participatory theorists were trying to solve could be said to form part of the legitimacy problem from which the EU is said to suffer: a lack of a sense of political efficacy; a lack of concern for solving collective problems (or even lack of identification of problems as being collective); and a citizenry that is not knowledgeable about and takes no sustained interest in the governing process. The granting of citizenship rights changes the relationship between the citizen and the state, or in this case the EU, but there is still a difference between conferring rights and their activation. Furthermore, as Cuesta-López points out (in this special issue), supporting an initiative is not expressly enounced as a subjective right in article 20.2 of the Treaty on the Functioning of the European Union in the way that the right to vote and stand as a candidate, the right of access to documents, the right to petition and the right to refer to the Ombudsman are. In addition, the dominance of an output-based approach to EU action suggests that the success of the ECI will be measured in terms of how many initiatives lead to a Commission Green Paper or Proposal for a Regulation rather than because it changes the political reality for citizens, offering opportunities that in any case a large number of EU citizens may not actually be interested in having.

Notes

1. The text of article 11 of the consolidated version of the TEU is (with the exception of the final line on the procedures and conditions for the citizens' initiative, which is slightly reworded) identical to that of article I-47 of the Constitutional Treaty. In the Constitutional Treaty the article was given the title 'The Principle of Participatory Democracy' but this heading did not make it into the Lisbon Treaty.
2. The ECI emerged during the working group stage of the Convention on the Future of Europe in 2002 and eventually made it into the Draft Treaty establishing a Constitution for Europe. Following the French and Dutch referendums on the Constitutional Treaty, there were efforts to implement the ECI outside the treaties. In the event the ECI received a legal basis as part of the Lisbon Treaty that came into force in December 2009. The Regulation governing the ECI's implementation that was called for by the Treaty on the Functioning of the European Union was proposed by the Commission in March 2010 following a public consultation. The EP approved the (amended) Regulation during its December 2010 plenary and after its publication in the *Official Journal* on 16 February 2011 it came into force on 1 April 2011. It applied from 1 April 2012, after the Member States had one year to implement the necessary legislation.
3. Measures included a Forum for Civil Society – a website allowing organisations to monitor Convention proceedings and post contributions for the consideration of Convention members; a plenary session devoted to representatives of civil society; a Youth Convention; observer status for the social partners, transparency and publication of proceedings, including those of the working groups.
4. Including Plan D for Democracy, Dialogue and Debate, which involved the Debate Europe initiative whereby NGOs bid for funding to organise debates with citizens on EU matters (European Commission, 2005).
5. Interview, February 2012.
6. According to the campaign website: <http://www.citizens-initiative.eu>

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