

## CHAPTER 14

# THEORIZING DIVERSITY IN THE EUROPEAN UNION

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Classical European integration theories provide us with limited knowledge about the interaction of diverse minority groups with and within the European Union (EU), as they tend to be teleologically wedded to the furthering of unity by way of integration. In contrast, as pointed out in our introduction, research programs exploring multilevel politics, identity, and citizenship can provide insight into understanding diversity in the EU. In this conclusion, we discuss the findings of our contributors in light of these research agendas and point to some areas worthy of further analysis.

The approaches taken by our contributors are strongly influenced by sociological and constructivist ideas. Those who take a legal approach to exploring the influence of EU legislation on the valuing of diversity (Swiebel, Toggenburg, Elman, Vasiljevic) emphasize the relevance of European norms, assess their value, and judge them in their application. The topic of diversity in the EU pushes them to consider the ways in which EU policies and directives convey rights on those subject to discrimination. Their considerations lead them to the complications of intersectionality, that is, of the fact that different axes of identity often intersect to form unique constellations of experience. Like all lived experiences, intersectional identities are unstable, produced in everyday lives and through state and EU policies. In this way, intersectionality is a

profoundly social phenomenon and a challenge for legal approaches that operate on the basis of generalized principles.

Those of our contributors who focus on multilevel politics and minority activism similarly employ constructivist ideas. Martin Schain emphasizes the central relevance of national models to explaining different approaches to migrant integration, Connor O'Dwyer and Katrina Schwartz argue that national culture helps explain homophobia, Dovile Budryte and Vilana Pilinkaite-Sotirovic similarly point to a political culture of intolerance as the source for homophobia and discrimination against Roma. Other authors draw on social movement theory, focusing on political opportunities that have enabled the passage of the Race Directive (Uçarer) and encouraged ethnic mobilization (Bucsa). Indeed, Bucsa argues that understanding the way in which the EU has made possible ethnic mobilization in Romania requires a discursive analysis of language deployed in Romanian minority politics.

Social constructivism is particularly well suited to emphasizing the significance of diverse political actors, each with their own interests, ideas, and identity, and in connection with European integration, the norm development that occurs as these actors use political opportunity windows to create nontraditional policy solutions and norms for many of the challenges of the European integration process. Jeffrey Checkel distinguishes between conventional constructivists and radical, critical ones, the latter emphasizing power and discourse.<sup>1</sup> Because it is self-reflexive and often takes a considered standpoint, critical constructivism can provide unique insight into the marginalization of minorities. Indeed, some of our contributors provide such a critical perspective and develop prescriptions from their critique. Most explicitly, Colin Williams not only traces the discursive shift toward a stronger regard for minority languages but, based on the situated perspective of Catalan health care, develops prescriptions for a European language policy. Similarly, Helen Schwenken probes the political effects of various EU equality instruments from the perspective of minority women, identifying problems and strengths and pointing to the importance of political organization. And finally, Murat Somer and Gönül Tol provide an engaged analysis of the relationship of Turkey and Turks with the EU and its member states, suggesting that Turkish EU membership would prove beneficial for democracy in both the EU and Turkey by providing a pluralist platform for Muslims that avoids essentializing Islam. The interpretive approaches employed by our authors thus lead them to prescribe better policies and strategies.

As a social sciences approach, constructivism remains too unspecific to become a substantive European integration theory, but it provides a

fruitful ontology for the development of new theorizations of European integration sensitive to issues of diversity. In reflecting on the findings of our authors through the lenses of multilevel politics and activism, identity and citizenship studies, we draw the initial contours of what such theorizations could look like.

### MULTILEVEL POLITICS AND ACTIVISM

This perspective argues that the EU, in its multinational outlook and multilevel governance structure, enables civic groups, epistemic communities, and other civil society actors to lobby on behalf of their causes, while European rules in turn influence local politics and activism. Two sets of questions emerge from the chapters in this book when looked at through the lens of this approach. The first set of questions pertains to activism targeting policy making at the European level. The second set focuses on the way in which European rules are received domestically, the processes typically described by the label “Europeanization.”

The salience of activism in policy making at the EU level is particularly visible in the chapters on language politics, migrant and gender politics. Colin Williams shows that networks on the ground, such as the European Bureau for Lesser Used Languages or the Network to Promote Linguistic Diversity, lobby on behalf of regions, using the EU’s legal provisions for the recognition of regional languages. Similarly, Emek Uçarer stresses the role of nongovernmental advocacy groups in the development of migrant policy at the EU level. Despite the limited input of migrant rights organizations in the law-drafting process, they constitute an increasingly vocal nexus between the EU institutions and migrants. Helen Schwenken, in her chapter on women migrants, agrees and complicates the matter. She argues that migrants are represented through multiple venues, from self-organization and inclusion in other organizations to electoral politics and administrative advisory bodies. This multiple representation combined with the fact that advocacy organizations rarely collaborate along intersections of discrimination makes it difficult to judge whether the EU has been responsive to the demands of migrant women.

All three cases show that activist organizations have limited power in influencing or directing EU integration. The cases also illustrate the degree to which the Commission itself has enabled networks and how close these are to European and state institutions—particularly in the case of language and gender politics. This raises important conceptual questions. First, it calls for a differentiation of institutionalized civil society actors: not all may have the same degree of influence on EU policies. Second, it calls for an investigation of issues of legitimacy.

How do transnational interest group associations and peak civil society organizations add legitimacy to the integration process—if at all, if one considers the powerful role of business lobbyists and public interest organizations? How does the closeness of activists to institutions affect their legitimacy? In a related manner, what indeed is the link between national organizations and their transnational interest representations in Brussels? Is their activism a Brussels-initiated reactive response (as perhaps in the case of cultural minorities), or do these nongovernmental organizations build transnational coalitions based on the neofunctional insight that there exists a new power center that may better address existing issues, thus creating an interactive relationship with EU institutions (as perhaps in the case of gender; lesbian, gay, bisexual, and transgender [LGBT]; and minority rights activism)?

A number of our cases deal with the domestic impact of European rules. They find significant differences in such repercussions ranging from the encouragement of cultural minorities to backlash against gays and lesbians to little impact at all. Lavinia Bucsa argues that for the Hungarian minority in Romania, the EU's legal and political framework, particularly its border-crossing Euro-region program, constituted an opportunity structure that allowed it to formulate political demands for territorial autonomy at home and abroad. In contrast, Dovile Budryte and Vilana Pilinkaite-Sotirovic's study of Lithuania did not find a similar sort of empowerment effect for minorities there. Precisely because the EU pushes for civil rights and upon accession attests the member states a sufficient level of these, there has been a normative backlash directed against minorities perceived as threatening Lithuanian identity. Conor O'Dwyer and Katrina Schwartz find similar limits to EU norm diffusion in the cases of Poland and Latvia but doubt that backlash alone provides the explanation. Like Budryte and Pilinkaite-Sotirovic, they find domestic discourses to be relevant to understanding antigay agitation. In addition, they suggest that different degrees of party institutionalization explain why some polities are more susceptible to extremist gay bashing than others. Martin Schain similarly cautions against overemphasizing the degree of EU influence on domestic policies toward migrants. Instead, he argues that national policy models guide the way in which member states have responded to migrants, color-blind policies of nondiscrimination in the French case and multiculturalism in the United Kingdom.

The different findings in our cases suggest the need to more systematically address the question of when EU norms of nondiscrimination and equal rights matter and why they produce different results in different circumstances. This involves more clearly delineating the relationship of activists to European and national institutions—including parties—in

order to explain their impact on the outcomes of institutional choices as expressed in policy legacies, legislative outputs, and discourses.

It is fair to say that most of the societal actors examined here work in response to regulations and declarations initiated by the EU, or are at times, as Della Porta reminds us, sustained by “the galvanizing potential of a shared antagonist”<sup>2</sup> as some of the EU-directed criticism depicted by Budryte and Pilinkaite-Sotirovic or O’Dwyer and Schwartz have shown. Finding out to what extent reactive protest and a projected enemy contribute to the emergent activism of nongovernmental actors as opposed to the activist participation based on civic understandings of European solidarity and input legitimacy remains a challenge for future research.

### IDENTITIES AND DIFFERENCE

The recognition of diversity intersects with questions of European identity construction and adds a new dimension to debates over what it means to be European. Joke Swiebel emphasizes that identity politics in the EU, as expressed in the language of valuing diversity, initially pertained to national diversity only. It was extended to encompass subnational diversity and regional minorities in successive enlargement waves. Furthermore, the nationalist and culturalist framings of diversity were profoundly challenged in the extension of individual rights to populations typically considered “different” and sometimes threatening in nationalist discourse, including Roma, LGBT people, and migrants. To the extent that the EU has positioned itself as a champion of the rights of these “others,” European identity becomes associated with a valuing of a different kind of diversity, and European integration has been portrayed as a challenge to homogeneous national and subnational identities.

Several of our chapters illustrate the clashes that the recognition of difference has produced for national identifications. Illustrating the conflict between subnational group rights and national constructions of identity, Bucsa argues that the empowerment of the Hungarian minority entailed a challenge to the understanding of Romania as a unitary nation as codified in its constitution. Budrytė and Pilinkaite-Sotirovič extend this argument to individual rights in addition. Although Lithuania enacted minority legislation, as required by the EU, the relationship between the ethnic majority and the Russian, Polish, and Roma minorities remained problematic, and sexual minorities became an additional target of contention. While not using the language of identity politics, the case can be read as a struggle over Lithuanian identity in a context of integration that required the

adoption of European norms. Schain's exploration of migrant integration policies in France and the United Kingdom documents the tension between European norms of protecting migrants' rights and national aspirations in a different way. Schain shows that the two countries have developed different national models, arguably reflecting their distinct national identities. The difficulty that the EU has had in developing a common migration and integration policy, as described by Uçarer, is no doubt a reflection of anxieties over the preservation of uniform national identities.

Several of our chapters seek to break through the solidification of identities that is apparent in the way the conflicts between various groups are constructed and in political approaches to minorities in general. They introduce the notion of intersectionality, which disturbs essentialist formulations of identity and clean boundaries between categories of minorities. They also point out that the resulting destabilization of identity provides a challenge to legal and policy interventions. Helen Schwenken's discussion of migrant women shows how easily this population is marginalized both in feminist and migrant contexts. Although it encounters problems in practice, Schwenken finds the strategy of gender mainstreaming most suitable to addressing complex inequalities. Legal approaches and diversity management have more difficulty with the issue. The two chapters by Snjezana Vasiljevic and Amy Elman support Schwenken's contention. Vasiljevic finds considerable conceptual difficulties and an expectations-capabilities gap in legal cases dealing with multiple discrimination, which becomes particularly pronounced in her account of Croatia. Typically, courts think of such discrimination in an additive fashion and ignore the detrimental interaction between axes of discrimination, which leads to profoundly unjust outcomes. The practice of using a comparator only aggravates the issue in Amy Elman's case study. Deploying gay men rather than unmarried heterosexual partners as a comparator in a discrimination case brought by a lesbian woman in the United Kingdom failed to yield her justice. But the question of comparators becomes increasingly difficult the more courts abandon additive reasoning and take seriously intersectionality, as Vasiljevic and Elman argue. As identities emerge as multiple and unstable, abstract principles are more difficult to apply. The inclusion of diversity into the project of constructing a European identity that values difference thus encounters practical problems and fierce political contestation, especially when such diversity is extended to populations traditionally excluded or marginalized in nationalist projects, that is, when a valuing of diversity encompasses a valuing of difference.

One question arising from an exploration of European identity focuses on the connection between transnational identity formation and institutional change in European governance. Such an exploration encounters operational problems concerning how to best track interrelated changes in European identity, EU policy making, and public discourses. They also encounter epistemological issues related to the causal relationship between identity and policy changes. These are compounded by the question whether a European identity consisting of unique, specifiable values and attitudes can coexist with an increasingly pluralistic concept of EU integration. As some of our contributors show, European identity is a moving target and possibly has become more so under conditions of increased pluralism, differentiation to the outside, and the coexistence of nationalized European identity-lenses according to which each country perceives of European identity in a slightly different manner.

A second implication in considering diversity through the lens of identity arises from the shift of the scholarly focus to popular imaginations and political discourses that bring into view the social correlate of political integration. This focus invites interdisciplinary investigations that are currently underdeveloped in the study of the EU. The location of such research may be Brussels or national capitals, but also situated events and local contexts that can illustrate contestations over Europeaness in the encounter of EU norms of equality and nondiscrimination with efforts of identification and boundary construction. It investigates European society as a site of integration and sketches out new constructions of reality in social spaces that spill beyond national and nationalist boundaries. Such situated inquiry could provide insight into the way in which individuals and communities negotiate intersecting identities (as European, national, or regional; as LGBTs, Muslims, or cultural minorities in the EU and/or nationally; as migrants or Muslims in the EU and/or nationally). It could show how people labeled differently find ways to coexist in concrete circumstances and problematize essentialist constructions of their difference. It could bring into broader view the issue of intersectionality—not only as a problem for legal and policy intervention but as a challenge and enrichment of everyday life in Europe.

### CITIZENSHIP

Contestations over identity are closely linked to debates over European citizenship. A postulated increase in identification with the process and values of European integration, termed European civic identity, has been

at the heart of recent debates over a constitutionalization of the EU that includes respect for human rights, the development of solidarity among citizens, and the formation of a common identity.<sup>3</sup> Recognitions of difference and diversity provide tests as to the inclusiveness of such formulations and ultimately about the type of democracy the EU is able to construct alongside national governments.

Our authors acknowledge that EU equality and antidiscrimination legislation has helped to secure rights for a broader range of populations in the member states. At the same time, they find flaws in this legislation and argue that it often does not go far enough. The issue is particularly salient in the case of third-country migrants. Uçarer shows that the Race Directive is a strong instrument for ensuring the rights of third-country nationals (TCNs). However, subsequent efforts to improve the status of long-term residents and regulate family unification practices are long on restrictions and exclusions. Somewhat less pessimistically and looking at intersections of discrimination, Schwenken finds a “European equality patchwork” that activists have employed creatively to improve the situation of migrant women. Yet, she also recognizes that large groups of TCNs lack the rights provided through EU citizenship. National security and identity considerations still outweigh the need for a uniform approach to the issue of (im)migration.

European citizenship implies both legal guarantees and socially conducive provisions of belonging and norms of recognition that could address some of the tensions in an increasingly diverse polity. The broad adoption of such norms domestically is highly contested, as many of our chapters illustrate. Gabriel Toggenburg shows how the European Court of Justice’s reluctance to interfere with member states’ prerogative to regulate matters pertaining to civil status and family law has prevented it from issuing forceful judgments ensuring nondiscrimination against gays and lesbians, as codified in the EU’s Framework Directive. Vasiljević describes a gap in implementation in Croatia, which may be reduced as the country continues to prepare for membership. The literal transposition of laws may be less problematic in current member states, but existing legal practices clash with EU norms here as well. Moreover, there often are discrepancies between laws and social norms prevalent in society. Budryte and Pilinkaite-Sotirovic as well as O’Dwyer and Schwartz show a continuing disparity between civil rights legislated during the process of membership negotiations and actual civic attitudes in Lithuania, Latvia, and Poland.

Finally, European citizenship entails empowerment, the ability to participate on equal terms politically, socially, and economically. Clearly, in Bucsa’s case study, the Hungarian minority in Romania has been



empowered through European citizenship norms that value cultural and regional diversity. The same is true for Catalans and other linguistic minorities as described by Colin Williams. The case of Catalonia—which has secured possibly the most extensive set of rights of any European region—provides an interesting laboratory for exploring the practical aspects of integration with diversity, the formation of a democracy that makes possible the participation of all. Williams's starting point is a practical context, that is, the health care system. Rather than seeing immigrants, who tend to be much more likely to speak Spanish than Catalan, as a threat to the preservation of the local language, authorities have adopted mechanisms—such as cultural mediators—that enable an accommodation of minority cultural rights with the rights of immigrants. Williams also considers the preservation of regional minority languages and immigrant minority languages as related matters. The multicultural constitution of the Union provides, in his view, for a transformation of the perception of linguistic rights as integrated in mainstreaming and “holistic” policy planning across Europe, rather than a parochial invocation of national and subnational rights.

According to Murat Somer and Gönül Tol, democracy also is at the heart of debates over the integration of Turkish migrants in Europe and Turkish membership in the EU. Their discussion brings into view a new axis of diversity, that is, religion, and challenges us to develop approaches that do not a priori define religion (Islam in particular) as a threat to democracy. Indeed, a stronger appreciation of Turkish secular democracy and its handling of Muslim pluralism could prove instructive for European citizenship based on a pluralistic understanding of democracy. Vice versa, admitting Turkey into the EU would help it uphold its identity as a secular democracy. Somer and Tol remind us that empowering Muslims, including fundamentalists, to participate in democratic processes is likely to yield superior outcomes than their exclusion from institutional mechanisms of political participation.

European citizenship has been constructed as a source of rights for the protection of minorities. Looking at diversity in the EU through the lens of citizenship raises questions about inclusion and exclusion. Debates over minority rights thus amount to debates over the boundaries of European citizenship—over who can claim its benefits and who will be allowed to participate in European democracy. The rights of migrants and Muslims, sexual minorities, and cultural minorities in the EU differ, and their claims are considered legitimate to different degrees. Looking at European practices through the lens of citizenship, researchers are able to explore flaws in current legal practice and

contribute to constructing a more robust European citizenship regime. By implication, such scholarship may entail a normative component. Indeed, the ongoing construction of European citizenship and democracy calls for empirically grounded, practical knowledge that can guide the project.

### **TOWARD A SCHOLARSHIP RECOGNIZING DIVERSITY IN THE EU**

Questions related to equality and the backing of an increasingly diverse European integration project have become more important in public discourse and supplied feedback to decision makers in Europe. However, even significant synopses of the current state of integration submit that theories dealing with norms, equality, and identity have received fairly little attention in integration theory.<sup>4</sup> Such an undertaking should not be considered minor, but actually could provide a blueprint for the accommodation of diverse populations while offering new interpretations of integration beyond economic and statist-institutionalist or economic models.

Our comparative synopsis of the experiences of diverse groups at the national and supranational level makes a beginning in outlining the issues that emerge from a consideration of diversity in the European integration project. We have highlighted a few avenues for future scholarship recognizing diversity in the EU that can contribute to developing new theorizations of European integration. They encompass problem-solving research interests about the domestic effects of European norms—when do they matter and how; when do they attract activism and when backlash. They also include practical research interests geared toward producing knowledge that offers understandings beyond “othering” and envisions inclusive forms of citizenship. Such research needs to employ a range of methodologies and, we argue, would be well advised to draw from the richness of various sociological and constructivist approaches.

The EU’s emphasis on an inherent value of diversity, coupled with transnational solidarity and respect for minorities and human rights, represents a fairly high ethical benchmark. Assimilationist models may have worked at one time on a national level, but the nationally, culturally, ethnically, and socially diverse constitution of the EU precludes such a model. Images of unitary national communities may have informed the European state system at the Union’s founding, but are proving increasingly elusive. In this context, scholars are called upon to produce better

knowledge about the way the EU lives with diversity—about the interaction of the EU's diversity politics with the politics of minority groups, about constructions of European and other collective identities in multiple contexts, and about the meaning of citizenship in a diverse European polity.

#### NOTES

1. Checkel 2006.
2. Della Porta 2007, 212.
3. Rittberger and Schimmelfennig 2005.
4. Wiener and Diez 2005, 237.