Special Book Review Symposium

Power and Legitimacy

Author's Reply: 'Outstripping', or the Question of 'Legitimate for What?' in EU Governance

Peter L. Lindseth*

Peter L. Lindseth. *Power and Legitimacy. Reconciling Europe and the Nation-State* (Oxford University Press), 2010, 364 p.

I want to thank my colleagues Türküler Isiksel, Stefano Bartolini, and Bruno de Witte for their generous, incisive, and – yes, at times – critical reviews of *Power and Legitimacy*. I would expect no less and am very happy to join issue with them here.

But reading their comments has brought to mind an old adage of American trial lawyers: 'When you try a case, you always in fact try three cases: the case you planned to try, the case you tried, and the case you wish you tried.' I suppose the same can be said of a scholarly book – especially the 'wishing' part – at least in order to avoid some misunderstandings about the nature of the argument it is trying to advance.

With *Power and Legitimacy*, I certainly planned to write a book that offered a new legal-historical synthesis of European integration over the last sixty years, elucidating the 'administrative, not constitutional' nature of European integration. The aim was to demonstrate a critical but overlooked feature of integration's public law: its foundation in, and convergence around, the main features of what I call the 'postwar constitutional settlement of administrative governance' ('delegation' and 'mediated legitimacy'). This new synthesis would challenge the long-dominant reading of integration as tending toward, or even already amounting

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to, a new form of autonomous 'constitutionalism' beyond the state, reflecting perhaps some kind of novel supranational 'federalism'.

This traditional view, I have long believed, reflects an incomplete legal-historical perspective, rooted in an ultimately limited comparison of European institutions to international organizations (IOs). Because the EU has considerably greater autonomous power *vis-à-vis* its member states than a typical IO, the EU has often been seen as a quasi-federal, 'constitutional' polity. This traditional perspective operates along a dimension running from public international law (IOs) to purported supranational constitutionalism (the EU). When applied to integration, this becomes what we might call the 'constitutional, not international' framework, to stress the differences between the EU and IOs.

Power and Legitimacy argues that a different framework, as well as a different conceptual vocabulary, is necessary to understand the legal nature of the EU in a coherent fashion. The EU has a great deal of autonomous regulatory power, no doubt. But this power does not render the EU 'constitutional'. As the events of the last decade have made clear, we should not – as arguably many judges, legal scholars, and even political scientists have done for decades – confuse autonomous *power* with an autonomous constitutional *legitimacy*. To call the European public law 'constitutional' is to assume something that is fundamentally in historical and political dispute.

Rather, we should think of both the EU *and* IOs, despite their clear differences in autonomous power, along the same dimension stretching from strongly-legitimated constitutional government (currently centered in the nation-state) to diffuse and fragmented forms of delegated regulatory governance, whether subnational, national, supranational, or international (thus including *both* the EU and IOs). Both types of bodies are manifestations of the diffusion and fragmentation of normative power *away* from the historically 'constituted' bodies of the nation-state over the course of the twentieth century. In my framework, this diffusion and fragmentation is the identifying characteristic of modern administrative governance.

Administrative law, *Power and Legitimacy* thus argues, gives us the more apt conceptual vocabulary to come to terms with these various kinds of diffuse and fragmented exercises of regulatory power, whether national, supranational, or international. I call this the 'administrative, not constitutional' framework for understanding European public law.[1]

[1] Isiksel relates this thesis to 'the recent administrative turn in global governance studies.' I like to think the development of this thesis predates that broader turn, or perhaps anticipated it. See, most importantly, Peter L. Lindseth, 'Democratic Legitimacy and the Administrative Character of Supranationalism: the Example of the European Community', 99(3) *Columbia Law Review* (1999) p. 628-738. Admittedly, Giandomenico Majone's work on integration as a regulatory 'fourth branch' predates even my own entry into the discussion. *See*, e.g., Giandomenico Majone, 'The

Judging from the comments of my colleagues here, I was reasonably successful in advancing this alternative perspective. Each apparently finds this aspect of the book both provocative and compelling, even if they express misgivings about particular aspects of the argument (which I'll try to address below). But it is in the very fact of (inevitable?) misgivings that I am led back to the scholar's version of the old lawyer's adage: If I had to do it all over again, how would I do it differently, at least in order to avoid some of my colleague's concerns, or even misinterpretations, regarding the core of my argument?

The comments of Isiksel, Bartolini, and de Witte prompt me to think of two things I could have done differently, one an amplification, the other a supplementation. In addition, Bartolini's comments in particular brought to mind a third possible change – an extension, if you will – but this is one that, in any circumstances, I would have held off on for a later project.

The amplification

Let us begin, then, with elements of my book that I could have amplified a bit in order to avoid some of the misunderstandings of my argument expressed in some the reviews here. All three reviewers either failed to grasp, or discounted, what I thought were certain obvious implications of my legal-historical synthesis. These flow from the 'separation of power and legitimacy,' a central theme of my book. As I write in the Introduction (p. 19): 'this sort of separation of regulatory power from the ultimate sources of legitimacy has been among the most important elements of the constitutional settlement of administrative governance in the twentieth century, whether national or supranational'. This separation has also been the driving force, I would argue, behind what I regard as the deeper grammar of European public law over time – its convergence around the legitimating structures ('mediated legitimacy') and normative principles ('delegation') of the postwar constitutional settlement of administrative governance on the national level. The effect of this convergence has been to anchor the legal legitimacy of integration, albeit often *sub silencio*, within national constitutional orders, at least to an extent much greater than traditional 'constitutional' interpretations of the integration process would have us believe. This anchoring has occurred even as the member states have otherwise recognized that they lack (indeed, that they *should* lack) the

European Community: An "Independent Fourth Branch" of Government?', in Gert Brüggemeier (ed.), *Verfassungen für ein ziviles Europa* (Baden-Baden, Nomos 1994). But as I argued in my 1999 article and as repeat in *Power and Legitimacy* (*see*, e.g., p. 36-37), Majone's earlier characterization greatly understates the legal and historical complexity of the claim, and thus requires significant modification and refinement. The same can also be said of the concept of *trusteeship* advanced more recently by Alec Stone Sweet, which Isiksel also cites.

ability to fully control delegated supranational regulatory power in furtherance of the integration process.

The purpose of *Power and Legitimacy* was not simply, however, to highlight the convergence of European public law around the key elements of the postwar constitutional settlement. It was also meant, perhaps even more importantly, to suggest *why* the process of supranational diffusion of regulatory authority has suffered from persistent tension, backlash, and even crisis (over the last two decades in particular, as the scope of its normative power has vastly expanded). Integration has not only depended upon, but also disrupted the postwar constitutional settlement. This is precisely because delegated supranational power has often greatly exceeded the legitimating capacity of national oversight (mediated legitimacy), without their being any strongly-legitimated supranational mechanisms to take up the slack. EU bodies are not as yet capable of 'democratic' and 'constitutional' legitimation in a historically recognizable sense. We might call this the problem of the EU's power 'outstripping' its legitimacy.

My response to this challenge has not been, as suggested by Isiksel, simply to argue for ever more mediated legitimacy (i.e., national oversight), at least in the narrow technical sense she implies. This misreading of my argument leads Isiksel, in an otherwise excellent and fair review, to wonder whether I am 'understating the legitimacy crisis currently haunting supranationalism in Europe.' The book's purpose is infact more complex: to problematize the disconnect between power and legitimacy and thus to suggest, *contra* traditional constitutional perspectives, that this disconnect cannot be easily overcome either by supranational mechanisms (the EP or the ECJ) or even by national ones (national parliamentary oversight or heightened judicial review). This in turn raises the fundamentally important question of 'legitimate for what?' in the integration process.

The answer to that question, I believe, has major implications for the scope of authority delegable to the supranational level, as the ongoing Eurozone crisis amply demonstrates (something I'll try to touch on further below). Despite the extensive and often fascinating conceptual theorizing among scholars about alternative or novel forms of 'democracy' or 'constitutionalism' beyond the state in the EU, the integration process has not, as yet, been able to overcome the disconnect between its extensive regulatory power and its lack of autonomous legitimacy, separate and apart from the member states. If the postwar constitutional settlement provides a superior framework for understanding integration, then one thing it teaches is this: in extremis, sometimes an outright *prohibition* against the delegation of certain key powers is required in order to preserve the democratic and constitutional character of the state.[2]

[2] For further development of this claim, see generally Peter L. Lindseth, 'The Paradox of Parliamentary Supremacy: Delegation, Democracy, and Dictatorship in Germany and France, 1920s-1950s', 113(7) *Yale Law Journal* (2004) p. 1341-1415.

Building on an earlier article I published in 2004,[3] chapter 2 of *Power and Legitimacy* outlines this key feature of the postwar constitutional settlement, whose import all three reviews seemed to have missed. In German public law, for example, this sort of delegation constraint is called the *Vorbehalt des Gesetzes*, and in Italian it is called the *riserva di legge* (there are analogues in other national constitutional orders as well). These concepts point to the fact that, under the postwar constitutional settlement, there is a normative domain that the national legislature must 'reserve' to itself in order to preserve some semblance of representative democracy in an age of delegation. I would argue, however, that these doctrinal constraints on delegation are the legal manifestation of a deeper political-cultural reality: Like other citizens in advanced democracies, citizens of the member states in the EU are not prepared to 'live' such extreme forms of delegation (whether national or supranational) in 'democratic' and 'constitutional' terms, regardless of however much oversight, participation, or transparency mechanisms have been created to compensate for the shift in power. These doctrines reflect a continued political-cultural attachment to traditional conceptions of representative government inherited from the past, even as modern governance otherwise depends on broad forms of delegation in order to address pressing functional concerns.

Bruno de Witte, in his thoughtful review here, notes the often-episodic and limited nature of national judicial and parliamentary scrutiny of delegated supranational power, particularly under the new subsidiarity early-warning mechanism. I agree, and have two responses. First, as the book argues in detail, it is in fact the case, responding to de Witte's query with regard to parliamentary scrutiny, that 'the mere *possibility* of exercising oversight' is in fact 'meaningful'. This is so because of the way this possibility has dramatically increased the flow of information to national parliamentarians and activated informal channels of policy influence (e.g., within political parties). Thus, relying on the excellent work of the political scientist Katrin Auel in this regard,[4] I conclude (p. 243) that 'the ultimate effectiveness of national parliamentary scrutiny as a legitimating mechanism is likely to be a function not simply of the formal rights under the Subsidiarity Protocol itself.'

Second, and more to the point of substantive delegation constraints, it is precisely because of the episodic and limited character of national parliamentary scrutiny that substantive constraints on supranational delegation become necessary at the outer margins, where really important normative questions are at issue. This, for example, is why the Conclusion to *Power and Legitimacy* renews my call, originally made in a 1999 article, for the establishment of a European Conflicts

[3] Lindseth, *supra* n. 2.

[4] *See*, e.g., Katrin Auel, 'Adapting to Europe: Strategic Europeanization of National Parliaments', in Ronald Holzhacker and Eric Albæk (eds.), *Democratic Governance and European Integration: Linking Societal and State Processes of Democracy* (Cheltenham/Northhampton, Edward Elgar 2007).

Tribunal, to adjudicate conflicts between the European Court of Justice and national courts over questions of *Kompetenz-Kompetenz*. The purpose of the new ECT would be to police the boundary between permissible and impermissible interpretations of supranational authority – in effect, acting as an additional procedural mechanism to enforce substantive constraints on the scope of delegated supranational normative power in the interest of preserving the core of national democracy.

What an administrative perspective grasps, but a constitutional one arguably does not, is the legal-historical underpinnings of these delegation constraints and why the postwar constitutional settlement sees them as important to preserving the democratic character of the state. The problem with the EU is not merely, as Isiksel suggests, that 'the mechanisms [of mediated legitimacy] have ceased to function and citizens are correct in their sense of runaway European institutions'. Rather, it is also that those same citizens deeply appreciate, consistent with the demands of representative government under the postwar constitutional settlement, that certain types of powers should perhaps have never been delegated to supranational bodies in the first place.

Stefano Bartolini, in his review here, comes closest to grasping this particular normative dimension of my work; indeed, he specifically raises the issue but concludes that outlining 'these implications is a step that Lindseth was not willing to make, at least in this book'. I could have perhaps amplified these implications a bit more fully, but they are clearly already present in *Power and Legitimacy*. In fact in my Conclusion (p. 268) – in the very section discussing the proposal for a European Conflicts Tribunal – I quote Stefano Bartolini's excellent book of 2005, *Restructuring Europe*, on this very point:

> As the Italian political theorist Stefano Bartolini presciently warned in 2005: '[T]he risk of miscalculating the extent to which true legitimacy surrounds the European institutions and their decisions ... may lead to the overestimating of the capacity of the EU to overcome major economic and security crises.'[5] The mismatch between regulatory power and governing legitimacy, in other words, almost certainly leads to a downward pressure on the scope of competences that may plausibly be exercised by European institutions alone, without significant national oversight and even control.

The distinction between oversight and control is crucial here (see the 'control-oversight distinction' in the Index for citations throughout *Power and Legitimacy*). 'Oversight' is an acceptable means of legitimation *within* those domains that are

[5] *See* Stefano Bartolini, *Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union* (Oxford, Oxford University Press 2005) p. 175.

understood as amenable to 'delegation' under the postwar constitutional settlement. Outside those domains, however, the need for genuine democratic and constitutional 'control' kicks in; i.e., in those domains where transfer of authority is understood to threaten the continuing democratic character of the state itself.

A key normative implication of *Power and Legitimacy* is therefore this: European public law needs an integration analogue to the German *Vorbehalt des Gesetzes* or the Italian *riserva di legge*. European public law needs, in other words, to develop a better understanding of the domain(s) of normative authority that must remain with the member states in order to preserve their historically-recognizable democratic and constitutional character, even as they otherwise allow integration to proceed. As I state in the Introduction to *Power and Legitimacy* (p. 24): 'National legitimating mechanisms … do not merely bridge; they *frame* [emphasis in original]. They define, in terms of political and legal culture, *the normative boundaries for the exercise of legitimate authority* [emphasis added] while also establishing mechanisms to scrutinize policy-making within those boundaries – sometimes legally but always politically'.

Consider, then, the Eurozone crisis. As of this writing (mid-January 2012), the functional and political demands for some kind of joint-and-several liability for member states' debt obligations (perhaps in the form of Eurobonds) remain intense. The issue is whether the EU or the Eurozone member states collectively have the autonomous democratic and constitutional legitimacy to achieve this extraordinary expansion of power. The German Federal Constitutional Court, however, has already raised serious questions regarding Eurobonds or other forms of joint-and-several liability, even as the Court apparently would tolerate other forms of supranationally-enforced fiscal discipline (the so-called 'fiscal pact').[6]

Viewed broadly, these developments threaten national parliaments with the loss of a key prerogative – the power of decision over spending and indebtedness – which some observers hope will shift to supranational bodies or otherwise be denationalized in some way. However, under the postwar constitutional settlement on which integration was built, national legislatures retained this prerogative, despite the otherwise vast expansion of delegated governance, both nationally and supranationally. In the integration process to date, including the Treaties of Maastricht and Lisbon, the only delegations that were permissible were those that could be justified under formulas that previously supported domestic administrative delegations ('foreseeability' and 'predictability' in German parlance, or what American administrative lawyers would recognize as the requirement of an 'intel-

[6] *See* Peter Lindseth, 'Understanding the German Constitutional Fault Lines in the Eurozone Crisis: *Der Spiegel*'s interview with Udo di Fabio', *EUtopialaw.com* (Jan. 12, 2012), available at <http://eutopialaw.com/2012/01/12/understanding-the-german-constitutional-fault-lines-in-the-eurozone-crisis-der-spiegels-interview-with-udo-di-fabio/> (last visited Jan. 18, 2012).

ligible principle', 'standard', or 'policy' in domestic enabling legislation). Integration, in other words, is strongest in relation to national constitutional orders when it is acting as a commitment mechanism.

Consequently, the use of the Commission or the ECJ as a mechanism to police prior member-state commitments to fiscal discipline may well be justifiable under those formulas. However, delegation of the right to sell Eurobonds, which might add to a member state's liabilities without a prior vote of their own legislature, is vastly more problematic.[7] Indeed, such a transfer would likely be seen as the negation of one of the historically 'essential' attributes of the national legislature (using the language of the German *Wesentlichkeitstheorie*, or the 'theory of essentialness'). Europe simply can't go there, unless it is prepared to fundamentally alter understandings of what democratic self-government on the national level means, going well beyond understandings reflected in the postwar constitutional settlement.

All this points to the fact that, like any form of essentially administrative governance, supranational governance in the EU is legitimate for certain purposes but not others – unless, again, Europeans are prepared to change fundamentally their understanding of what democratic self-government means, or where it is located. Whenever we talk about the legitimacy of integration, we must always ask the question 'legitimate for what?' It is one thing for a member state to delegate authority to a supranational process to harmonize regulatory standards in various domains (important a task though that may be). It is quite another to denationalize the power over the national purse in an indeterminate way.

In order to resolve the Eurozone crisis, the functional demands for ever-greater delegations outside the confines of the nation-state may continue. But functional demands, I hope my book has shown, are simply not enough, in themselves, to legitimize such delegations in a historically or culturally recognizable sense. Rather, any shifts in authority to the EU must still be reconciled with historical understandings of democratic self-government on the national level, in precisely the way that the history of administrative governance teaches us. This reconciliation is grounded in the concept of delegation; it is operationalized through mediated legitimacy; and it (sometimes) requires the imposition of delegation constraints to preserve the democratic and constitutional character of the state.

A supplementation

In his review here, Bruno de Witte expresses doubt about what he calls my 'continuity thesis' – the claim that the postwar constitutional settlement of administrative governance has provided not merely the foundation, but also the continuing

[7] Lindseth, *supra* n. 6.

template for the evolution of the public law of European integration over time. Together with Isiksel, de Witte points to the changing nature of the European Parliament over the last thirty years as the primary reason for his reservations. Bartolini raises a related issue but in a slightly different way: why do we see institutional isomorphism between the EU and the classic *trias politica* on the national level, particularly as between the EP and national legislatures?

To my mind, despite the effort to replicate a strongly-legitimated legislative assembly on the supranational level, there is no better example of the disconnect between power and legitimacy in European integration than the EP. Just because the EP has many attributes of a typical legislature – it is, after all, elected, and it plays a considerable role both in the EU's legislative process as well as in the supervision of the Commission and other EU bodies – this has not transformed the EP into a 'democratic' or 'constitutional' body on par with a national parliament, at least in terms of how it is popularly perceived.

The persistent legitimacy difficulties of the EP demonstrate the limitations of what, since 1999, I have called the 'parliamentary democratization strategy'.[8] These difficulties suggest, in fact, why the 'no demos' problem in European integration has bite. The EP participates in the exercise of real legislative power; it is isomorphically structured along the lines of a national legislative assembly; and yet it does not represent, as yet, a historically coherent demos capable of legitimizing the EP in an autonomously 'constitutional' sense. The EP's legitimacy, like the legitimacy of the EU as a whole, is derivative of the legal commitments made by the member states in the treaties. The EP serves a critically important *functional* and *political* purpose in integration, no doubt. But the citizens of Europe do not see it as an embodiment or expression of the capacity of a new European 'demos' to rule itself in autonomously constitutional terms.

For this reason, the expansion of the power of the EP has been insufficient to stem the convergence of European public law around the legitimating structures of the postwar constitutional settlement of administrative governance (most importantly national parliamentary and judicial oversight). Indeed, the expansion of the EP's power over the last two decades has *coincided* with the parallel effort to rethink, and indeed to augment, national parliamentary scrutiny and judicial review (as chapters 4 and 5 of *Power and Legitimacy* describe). In this sense, the EP's evolution, contrary to the suggestion of both Isiksel and de Witte, is not orthogonal to my argument. The EP is, rather, a further expression of the diffusion and fragmentation of regulatory power away from historically 'constituted' bodies on the national level, which again is the core characteristic of modern 'administrative' governance.

[8] *See* Lindseth, *supra* n. 1, at p. 672-683.

Nevertheless, my depiction of the EP may be incomplete in one respect, and thus my treatment of it probably could have been supplemented just a bit. The isomorphism of the EP with representative assemblies on the national level is not merely functional and political; it is also cultural. The very existence of the EP is an expression of the normative aspiration of a segment of (elite) European political culture to create a genuine, post-national democratic and constitutional legitimacy for integration. The fact that this effort has, to date, not gained nearly as much traction in *popular* political culture hardly makes this effort any less real or historically worthy of attention. Indeed, Berthold Rittberger's excellent 2005 book, on which my synthesis draws, does an excellent job tracing the institutional consequences of this normative aspiration over time.[9]

But where Rittberger's book falls short, and where mine hopefully advances the argument, is in highlighting the dynamic tension between this normative aspiration, on the one hand, and the increasing reservations of national parliamentarians, on the other, at least in terms of recognizing the autonomous democratic legitimacy of the EP. Poll data suggest that national parliamentarians do not deny the utility of granting the EP a greater role in the supranational legislative process.[10] But the record also suggests ongoing resistance by national parliaments to any suggestion that this process of increasing EP power in turn creates autonomous legitimacy for the EP on par with a member state legislature.[11] Rittberger's book operates within the classic 'democratic deficit' paradigm; it assumes that the legitimacy problem in the EU is solely a function of augmenting the seemingly 'democratic' features of institutions operating at the supranational level (notably through the election and expanded legislative power of the EP). My book argues, from an administrative perspective, that Europeans experience the problem more as one of 'democratic disconnect' between the EU and constitutional bodies on the national level.

This sense of democratic disconnect, I would suggest, is the principal driver behind the convergence, over time, of European public law around the legitimating structures and normative principles of the postwar constitutional settlement (i.e., delegation and mediated legitimacy). This disconnect helps to explain, also, the increasing sense that, with the Eurozone crisis, substantive constraints on supranational delegation in certain key domains (e.g., Eurobonds) may be needed, in order to preserve the democratic character of the state, in the face of evident functional and political demands for further diffusion and fragmentation of regulatory power.

[9] Berthold Rittberger, *Building Europe's Parliament: Democratic Representation beyond the Nation-State* (Oxford, Oxford University Press 2005).

[10] *See Power and Legitimacy*, p. 220-221.

[11] *See Power and Legitimacy*, p. 225-234.

An extension (or 'prequel'?)

I close with the interesting and important point raised by Stefano Bartolini regarding historical sequencing. Bartolini queries whether, because my analysis uses an American baseline for analyzing the relationship between democracy and diffuse and fragmented administration, I miss key differences in that sequencing. As I state in the book (p. 38-39): 'My outlook admittedly stands in contrast with an older European (notably German and French) tradition that sees unification, bureaucratic centralization under the "executive," and the ideal of administration as a *pouvoir neutre* above social divisions as "the very essence of the State."'[12] Bartolini suggests I pay more attention to the legacy of state-consolidation in Europe between the sixteenth and eighteenth centuries, as well as its subsequent impact on the evolution of administrative governance in Europe over the course of the nineteenth century.

The question really boils down to the factors shaping the evolution of administrative governance in the nineteenth century, in both Europe and North America, a period to which my book alludes but of course does not cover in detail.[13] Specifically with regard to the nineteenth century, I suspect the traditional interpretation (in which the absolutist legacy looms large in the European case, at least on the continent) may not adequately capture the key variables driving the evolution of administrative governance in the more recent period. My intuition, admittedly under-developed at this point, is that the growth of a specifically modern administrative state in the North Atlantic world, whether European or North American, owes much more to the functional demands of industrialization, urbanization, and the movement of goods, labor, and capital over the course of the nineteenth and 20th centuries[14] – what the global historians Charles Bright and Michael Geyer have called the 'leaky and porous … vessel' of the modern state.[15]

If that is true, then what is needed, in Hollywood jargon, is perhaps a 'prequel' to *Power and Legitimacy*, tracing the parallel evolution of centralized representative 'government' and diffuse and fragmented administrative 'governance' over the last two centuries, analyzed in relation to deeper processes of social change. This new analytical synthesis should be grounded in the same historiographical theory of

[12] Quoting Luca Mannori and Barnardo Sordi, 'Science of Administration and Administrative Law', in Hasso Hofmann et al. (eds.), *A Treatise of Legal Philosophy and General Jurisprudence, vol. 9, A History of the Philosophy of Law in the Civil Law World, 1600–1900* (New York, Springer 2009), section 6.6 ('The Invention of Administrative Law').

[13] *See*, e.g., *Power and Legitimacy*, p. 37-38.

[14] Cf. Daniel T. Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, MA, Belknap/Harvard University Press 1998).

[15] Charles Bright and Michael Geyer, 'Where in the World Is America?: The History of the United States in the Global Age', in Thomas Bender (ed.), *Rethinking America in a Global Age* (Berkeley, CA, University of California Press 2002), at p. 65.

state transformation as *Power and Legitimacy*, exploring the interaction of the functional, political, and cultural dimensions of institutional evolution and contestation over time (see especially p.13-14 and 37-38). In fact, this is precisely the research project that I am beginning this year at the American Academy in Berlin. Whether I ever finish it remains to be seen. But the aim is to examine in greater historical depth, and perhaps even to challenge, some of the standard sequencing arguments that Bartolini has raised here.

* * *

Once again, let me express my profound gratitude to my colleagues Türküler Isiksel, Stefano Bartolini, and Bruno de Witte for generously taking the time to participate in this symposium. Their comments have been both encouraging and challenging, and it has been an honor to engage their views. I certainly hope to continue the conversation, both as to Europe's past as well as its present and uncertain future.

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