1

European Integration and the Treaty on European Union

CONTENTS

1 INTRODUCTION

This chapter sets out the central features of the European integration process, which provide the historical and political context for EU law. It also introduces some of the central concepts, ideas and developments in European Union law.

Section 2 explores how EU law is centred around an interplay between two themes. The first is the government of many contemporary problems through law. The second is the development of the ideals of Europe and European union. This interplay lays the ground for many of its debates. The European ideal conceives of Europe as the central place of progress, learning and civilisation, placing faith in humanity and her capacity to improve. Its dark side is its arrogance and its dismissal of 'un-European' ways of life or thought as violating these virtues. The idea of European union sets up a political community in competition with the nation State but one, nevertheless, through which government policy is carried out.

Section 3 considers the establishment of the three Communities, the European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (EURATOM). It sets out the central institutions: the Commission, the Parliament, the Council and the Court of Justice. It also considers the central policies, most notably the common market. This section also compares two developments of the 1960s that set out the two dominant models of political authority in EU law: the Luxembourg Accords which set out an intergovernmental vision with political authority and democracy vested in the nation State and *Van Gend en Loos* which set out a supranational one in which these are vested in supranational institutions and the rights of European citizens. Finally, this section evaluates the Single European Act (SEA). This established the internal market, and transformed the legislative and political culture surrounding the European Communities by setting out both an ambitious legislative programme and providing for significant amounts of legislation to be adopted free from the national veto.

Section 4 looks at the establishment and early years of the European Union. It considers the three dominant strategies used to justify the authority of the Union, and how these were deployed in the various treaty reforms. These strategies involve increasing EU competencies to allow it to offer more benefits to its subjects, attempting to generate a sense of common identity, and democratic reform of its institutions. At Maastricht, the treaty which instituted the European Union, the central elements of each were, respectively, the establishment of economic and monetary union, European Union citizenship and increased powers for the European Parliament. The Treaty of Amsterdam, signed in 1997 to deal with unfinished business from Maastricht, established the area of freedom, security and justice. Its central features were the abolition of internal border controls between all States other than the United Kingdom and Ireland; the establishment of a supranational immigration and asylum policy; and police cooperation and

judicial cooperation in criminal and civil matters. Amsterdam sought to orient Union identity more strongly around fundamental rights. In terms of democratic reform, it increased the powers of both the European Parliament and national parliaments.

These strategies were only partially successful. Devices were also introduced to offset tensions generated by the increased centralisation and supranationalisation of lawmaking. The subsidiarity principle provides that the Union should only act when Member States cannot realise its objectives unilaterally and, by reason of the nature or scale of the action, these are better realised through Union action. Differentiated integration was also introduced. In some instances, such as economic and monetary union, it took the form of special regimes for individual Member States. At Amsterdam, a more general form of differentiation was adopted, enhanced cooperation, which allowed a majority of States to enact EU laws where others were unwilling.

Section 5 considers the enlargement of the Union. Initially agreed between 6 States, the Union had grown to fifteen States by the mid-1990s. Almost all were prosperous and almost all came from Western Europe. The accessions from 2004 onwards brought the number of Member States to twenty-eight with most of the new States being from Central and East Europe and having a post-communist past. This has made the Union a genuinely pan-European organisation but it has made it much more heterogeneous, posing new preferences and challenges, and raising the question of whether it is possible to have a 'one size fits all' EU law.

Section 6 analyses the period of institutional reform which led up to the Treaty of Lisbon. It looks, first, at the European Union Charter for Fundamental Rights and Freedoms (EUCFR). This pioneered the convention method for institutional reform, where instead of everything being decided by governments behind closed doors a body was established meeting in open session, taking evidence from civil society, to put forward proposals. The section then goes on to consider the limited institutional reforms agreed at the Treaty of Nice in 2004 and the failure of the Constitutional Treaty. It is then given over to discussion of the Treaty of Lisbon.

The Treaty settles the European Union around two treaties, the Treaty on European Union and the Treaty on the Functioning of the European Union (TFEU). The Treaty catalogues EU competencies, for the first time. In addition, whilst special arrangements are made for foreign and defence policy, all other policies are brought within a common supranational framework. The Treaty next orients the collective identity of European Union around a particular mission, respect for democratic values and democratic identities. In this regard, the Union must now respect the values set out in the EUCFR and is to be founded on representative democracy. It must also respect the fundamental democratic structures of Member States. Finally, the Treaty of Lisbon continues the process of democratic reform with yet further powers for both the European Parliament and significant power for national parliaments, who can now police the subsidiarity principle. As a counterweight, it accelerates the process of differentiated integration, with a number of special regimes provided for both the EUCFR and the area of freedom, security and justice.

Section 7, finally, considers how the financial crisis has affected the European Union and led to its re-evaluation. It first considers the mechanisms, notably the European Stability Mechanism Treaty, set up outside the formal structures of EU law to provide financial support to those States which were no longer able to sustain their public finances. It looks at the limited controls on these, and how these have moved the Union more directly into the world of fiscal and welfare policy, albeit in an asymmetric way where some States have considerably more influence than others. It then looks at the more general vision now set out by both EU legislation (the 'six-pack')

and by the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (the fiscal compact). These put in place a series of extensive controls on fiscal and macroeconomic policy for the euro area States in particular. It ponders the nature of this vision in these, and the challenges posed for democratic politics by it. Finally, the crisis has led to a re-evaluation of the Union. Some see the crisis as a reason for stronger Union institutions with wider competencies whilst others consider the crisis exposes the difficulties of the European integration and throws the project into further doubt.

2 EUROPE AND THE EUROPEAN UNION

This book is about the European Union which is an organisation that uncomfortably straddles two different agendas. It was established, on the one hand, to deal with a series of problems and realise a set of goals that individual States feel unable to manage alone. On the other, it is to lay claim to and to further a European heritage. The opening words of the Preamble of the Treaty on European Union establishing the European Union state:

> RESOLVED to mark a new stage in the process of European integration undertaken with the establishment of the European Communities,
>
> DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law ...

EU law involves a constant interplay between these two agendas, with elements of both permeating all the chapters of this book. If other chapters of this book focus on particular problems, which have been addressed by the European Union, it pays to reflect at the beginning of this book on the central elements of this European inheritance, so we know the sort of venture upon which the European Union is embarked.

If discussion of the Ancient Greeks and Charlemagne seems removed from that on the single currency, Brexit or the migration crisis, it is worth considering whether we discuss these topics differently because we think of them as European ones. Is it a term, therefore, which comes with cultural baggage, reflects certain values or a view of power with certain people invariably at the centre of this and others at its periphery? Also, how do the European Union's own practices contribute to our views of what Europe is about? None of these questions have easy answers but that makes them no less significant in helping to appraise what we think of EU law.[1] And if that makes EU law a little more complex, it also makes it more interesting.

(i) The Idea of Europe

The term 'Europe' has been used for a variety of purposes. The first references to 'Europe' depict it as a woman and the sun. The most famous early reference to Europe is that found in Greek mythology. Europa was a Phoenician woman seduced by the Greek god, Zeus, to come from Lebanon to Crete.[2] Europa was also, however, a Phoenician word that referred to the setting sun.

[1] For a good introduction to this debate see A. Triandafyllidou and R. Gropas, *What Is Europe?* (London, Palgrave Macmillan, 2015).
[2] D. de Rougemont, *The Idea of Europe* (New York, Macmillan, 1965) 6–19.

From this, Europe was associated in Ancient Greece with the idea of 'the West'. Originally used to designate the lands to the west of Greece, usage shifted as the Ancient Greek territorial centre of gravity changed with incursions into modern Turkey and Iran. In his wars, Alexander the Great used it to denote non-Persians and it became associated with the lands in Greece and Asia Minor (today's Turkish Mediterranean coastline). Following this, the term was to lie largely dormant for many centuries. The Roman Empire and Christianity dominated in the organisation of political life, and neither had much use for the term.

Europe re-emerged as an important political idea from the eighth century AD onwards. It acquired then many of the associations that we currently make when we use the word 'European'. In part, it became an expression of a siege mentality. The advance of Islam from the South and the East led to Europe being associated with resistance to the religion. An army of Franks, which fought against the Moors, was referred to as a 'European army'.[3] At this time Europe also became associated with the idea of Western Christianity. The Frankish Empire stretched across much of West Europe under the rule of Charlemagne in the ninth century AD. He styled himself as the father of Europe and sought to impose a political system across the region, based on communication between a large number of political and administrative centres. Alongside this, common economic practices were developed: shared accounting standards, price controls and a currency. Finally, he also sought to build a common Christian culture, which fostered learning, Christian morality, the building of churches and the imposition of a single interpretation of Christianity.[4]

However, it was only from the twelfth century onwards that Europe was used to refer to a place whose inhabitants enjoyed a shared way of life. This way of life was based on Christian humanism, revolving around images of God with Christ portrayed as human.[5] Alongside particular religious beliefs, Europe also became associated with a particular form of political economy, namely that of rural trade.[6] Increasingly, the rural town became the centre of the local economy. Trade relations between towns expanded across Europe, so that from the fifteenth century onwards, trade flourished between the Italian ports in the south and Flanders in the North, in which the role of the merchant was pivotal. The final feature of this European region was the persecution of non-Christians, be they pagans or followers of other faiths, such as Judaism or Islam. Those whose conduct offended the central values of Christianity were also maltreated, such as heretics and homosexuals, as were those perceived as socially unproductive, in particular, lepers.

Developments in the sixteenth and seventeenth centuries were to shape the subsequent evolution of the European idea. The establishment of the modern nation State consolidated power in centralised, impersonal bureaucracies and led to certain core policies, such as tax, law and order and foreign policy being the exclusive competence of these bureaucracies.[7] This

[3] D. Lewis, *God's Crucible: Islam and the Making of Europe 570–1215* (Norton, New York, 2008).
[4] R. McKitterick, *Charlemagne: The Formation of a European Identity* (Cambridge University Press, 2008); O. Phelan, *The Formation of Christian Europe: The Carolingians, Baptism and the Imperium Christianum* (Oxford University Press, 2014).
[5] J. Le Goff, *The Birth of Europe* (Oxford, Blackwell, 2005) 76–80.
[6] On the earlier origins of this in the developments of crops of rye and oats which led to new divisions of labour within agriculture, to trade and to sustaining centres of population see M. Mitterauer, *Why Europe? The Mediaeval Origins of Its Special Path*, trans. G. Chapple (Chicago University Press, 2010) ch. 1.
[7] C. Tilly (ed.), *The Formation of Nation-States in Europe* (New Jersey, Princeton University Press, 1975); G. Poggi, *The Development of the Modern State: A Sociological Introduction* (California, Stanford University Press, 1978); M. Mann, 'The Autonomous Power of the State: Its Origins, Mechanisms and Results' (1984) 25 *European Journal of Sociology*

hegemony of the nation State over political life led to Europe increasingly being identified with coordinating peaceful relations between these States. Europe became about the pursuit of peace.[8] These associations with peaceful coexistence morphed easily into Europe being identified with what human beings had in common. Europe set out what was universal, and required States to act in the light of it. Europe became, therefore, about acting in the name of humanity, science or progress.[9]

A further twist has come from the political conflicts that took place within national societies across Europe in the nineteenth and twentieth centuries. These have left a particular shared legacy across Europe in which Europe is attributed, because of this experience, with a particular approach to these conflicts.[10]

J. Habermas and J. Derrida, 'February 15, or, What Binds Europeans Together: Plea for a Common Foreign Policy Beginning in Core Europe' in D. Levy, J. Torpey and M. Pensky (eds.), *Old Europe, New Europe, Core Europe: Transatlantic Relations after the Iraq War* (London, Verso, 2005) 5, 10–12

[T]he spread of the ideals of the French revolution throughout Europe explains, among other things, why politics in both of its forms – as organizing power and as a medium for the institutionalization of political liberty – has been welcomed in Europe. By contrast, the triumph of capitalism was bound up with sharp class conflicts, and this fact has hindered an equally positive appraisal of free markets. That differing evaluation of politics and markets may explain Europeans' trust in the civilizing power of the state, and their expectations for it to correct market failures.

The party system that emerged from the French revolution has often been copied. But only in Europe does this system also serve an ideological competition that subjects the socio-pathological results of capitalist modernization to an ongoing political evaluation. This fosters the sensitivities of citizens to the paradoxes of progress. The contest between conservative, liberal and socialist agendas comes down to the weighing of two aspects: Do the benefits of a chimerical progress outweigh the losses that come with the disintegration of protective, traditional forms of life? Or do the benefits that today's processes of 'creative destruction' for tomorrow outweigh the pain of modernity's losers?

In Europe, those affected by class distinctions, and their enduring consequences, understood these burdens as a fate that can be averted only through collective action. In the context of workers' movements and the Christian socialist traditions, an ethics of solidarity, the struggle for 'more social justice', with the goal of equal provision for all, asserted itself against the individualist ethos of market justice that accepts glaring social inequalities as part of the bargain.

185; H. Spruyt, *The Sovereign State and Its Competitors: An Analysis of Systems Change* (New Jersey, Princeton University Press, 1994).

[8] M. L'Abbé de Saint-Pierre, *A Project for Settling an Everlasting Peace in Europe,* 2nd edn (Santa Venera, Midsea Books, 2009); I. Kant, *Perpetual Peace* (New York, Cosimo, 2005); J. Rousseau, 'On the Writing of the Abbé of Saint-Pierre' in J. Rousseau, *The Plan for Perpetual Peace, On the Government of Poland, and Other Writings on History and Politics*, trans. C. Kelly and J. Bush (Dartmouth, Dartmouth College Press, 2005) 23–122. On the role of this association in current debate see C. Kølvraa, 'European Fantasies: On the EU's Political Myths and the Affective Potential of Utopian Imaginaries for European Identity' (2016) 54 *JCMS* 169.

[9] E. Husserl, 'The Vienna Lecture: Philosophy and the Crisis of European Humanity' in *Crisis of European Sciences and Transcendental Phenomenology*, trans. D. Carr (Chicago, Northwestern University, 1970). R. Gasché, *Europe, or The Infinite Task: A Study of a Philosophical Concept* (Stanford University Press, 2009).

[10] J.-W. Müller, *Constitutional Patriotism* (New Jersey, Princeton University Press, 2007) ch. 3.

Contemporary Europe has been shaped by the experience of the totalitarian regimes of the twentieth century and by the Holocaust – the persecution and annihilation of European Jews in which the National Socialist regime made the societies of the conquered countries complicit as well. Self-critical controversies about the past remind us of the moral basis of politics. A heightened sensitivity to injuries to personal and bodily integrity reflects itself, among other ways, in the fact both the Council of Europe and the EU made the ban on capital punishment a condition for membership.

Europe as an idea, according to Habermas and Derrida, conveys an ambivalent attitude towards both the market and towards progress, as well as concerns about social justice and human rights.[11] However, there are a number of challenges in associating Europe with noble ideals. Many authors have noted that such interpretations airbrush too easily Europe's history of intolerance, colonialism, slavery and racism.[12] These phenomena have contributed to European thought and ways of life, and are, thus, also part of what Europe is about. They formed, moreover, the context for development of much of Europe's economic progress and its liberal ideals. Europe's idea of itself, therefore, as the cradle for universal ideals, such as liberalism and democracy, occurred, therefore, at a time when Europe thought of itself as the world, and the rest of the world as empty space to be discovered and colonised. In this worldview, Europe did not merely sit at the centre of the universe but set out what was the universe.[13]

Today, this can permeate through into a belief that European values or views are universal views,[14] Europe's role is to civilise others, and an intolerance of things 'non-European'. Such views manifest themselves in the European integration process. Time and again, the process is emphasised as a form of particularly enlightened cooperation between nations. This leads to an assumption about the desirability of its policies, with opponents of integration often dismissed as nationalistic (and thus unreasonable and chauvinistic). It may be, however, that they simply disagree with the policy or the procedure, or that they believe in values or ways of life that they think should not be appropriated by the European idea.

(ii) The Idea of 'European Union'

The idea of European union has different associations from that of Europe. After all, many self-avowed Europeans oppose European union! Independent proposals for a 'united Europe' first emerged at the end of the seventeenth century. However, they firmly vested ultimate authority in the State, with pan-European structures acting as little more than a fetter upon the autonomy of States. In 1693, the English Quaker, William Penn, wrote *An Essay towards the Present and Future Peace of Europe*. Penn suggested that a European Parliament be established, consisting of representatives of the Member States. Its primary purposes would be to prevent wars breaking

[11] See also the famous 1935 lecture by E. Husserl, 'Philosophy and the Crisis of European Humanity' reprinted in E. Husserl, *The Crisis of European Sciences and Transcendental Phenomenology* (Chicago, North Western University Press, 1970) Appendix I.

[12] For alternate accounts attempting to do this see P. Pasture, *Imagining European Unity since 1000 AD* (Basingstoke, Palgrave, 2015); G. Bhambra and J. Narayan (eds.), *European Cosmopolitanism: Colonial Histories and Postcolonial Societies* (Abingdon, Routledge, 2017).

[13] E. Wolf, *Europe and the People Without History*, 2nd edn (Berkeley, University of California Press, 2010); D. Guénoun, *About Europe: Philosophical Hypotheses*, trans. C. Irizarry (Stanford University Press, 2013).

[14] R. Kanth (ed.), *The Challenge of Eurocentrism: Global Perspectives, Policy and Prospects* (Basingstoke, Palgrave, 2009).

out between States and to promote justice. A more far-reaching proposal was put forward by John Bellers in 1710. Bellers proposed a system based upon the Swiss model whereby Europe would be divided into 100 cantons, each of which would be required to contribute to a European army and send representatives to a European Senate.

The first proposal for a Europe with a sovereign central body came from the Frenchman, Saint-Simon, and was published in a pamphlet in 1814, entitled *Plan for the Reorganisation of the European Society*. Saint-Simon considered that all European States should be governed by national parliaments, but that a European Parliament should be created to decide on common interests. This Parliament would consist of a House of Commons peopled by representatives of local associations and a House of Lords consisting of peers appointed by a European monarch. Saint-Simon's views enjoyed considerable attention during the first part of the nineteenth century. Mazzini, the *éminence grise* of Italian nationalism, allied himself with Proudhon and Victor Hugo in declaring himself in favour of a United Europe. Yet, the nineteenth century represented the age of the nation State and the relationship between that structure and that of a united Europe was never fully explored.

The balance was altered by the First World War, which acted as a stimulus for those who saw European union as the only way to prevent war breaking out again between the nation States and to respond to increased competition from the United States, Argentina and Japan. Most prominent was the pan-European movement set up in the 1920s by the Czech, Count Coudenhove-Kalergi.[15] This movement not only enjoyed considerable support amongst many of Europe's intellectuals and some politicians, but was also genuinely transnational, having 'Economic Councils' both in Berlin and in Paris. During the 1920s, the idea of European unity received governmental support in the shape of the 1929 Briand Memorandum. This Memorandum, submitted by the French Foreign Minister to 26 other European States, considered the League of Nations to be too weak a body to regulate international relations, and proposed a European Federal Union, which would better police States, whilst not 'in any way affect[ing] the sovereign rights of the States which are members of such an association'. This proposal, despite acknowledging the authority of the nation States, was still regarded as too radical and received only a lukewarm response from the other States.

Understandings of what European union meant took, however, an exponential leap with the coming into being of the European Communities and its transformation into the European Union in the early 1990s. The term was now identified with a powerful political organisation. This has sharpened three debates, in particular.

First, European union was, increasingly, seen as something which competes with the nation State. In some instances, this was done by replicating the symbols and tools of nationhood at a pan-European level: the (re)discovery of European flags, anthems, Cities of Culture or common passports.[16] In others, notably European citizenship,[17] it was done by setting out a model of political community which is an alternative to the nation State rather than a mimic of it.[18]

[15] N. Coudenhove-Kalergi, *Pan-Europe* (New York, Knopf, 1926). An excellent discussion can be found in C. Pegg, *Evolution of the European Idea 1914–1932* (Chapel Hill, University of North Carolina Press, 1983).
[16] C. Shore, *Building Europe: The Cultural Politics of European Integration* (London-New York, Routledge, 2000).
[17] See Ch. 11.
[18] In some cases, EU policies adopt elements of both models, M. Sassatelli, *Becoming Europeans: Cultural Identity and Cultural Policies* (Basingstoke, Palgrave, 2009).

The second association ran in an opposite direction to the first. The European Union is also a vehicle through which national governments pursue their interests. As such, the narrative of Europe and the European Union are deployed to justify and redefine national government policy. Bickerton has argued that this has led to a subtle and problematic shift in national government understandings of what they are about. They have moved from being nation States to Member States of the European Union.

C. Bickerton, *European Integration: From Nation States to Member States* (Oxford University Press, 2012) 60, 68–9

[W]e can point to two critical features of member statehood that stand out in terms of how they contrast with dominant assumptions and practices of modern nation states. The first is that central to member statehood is a presumed *opposition* between state and society. The purpose of limiting national power in ways that appear external to the national polity is in order that domestic populations are distanced from policymaking and decision-making. National elites seek to insulate themselves from the force and compulsion of public opinion because of the risk that 'vile people' . . . will generate vile policies. The idea of membership thus belongs to this sought-for separation between state and society. The contrast with modern nation states is striking: here the goal was to achieve a unity in what was a fractious and divided social space. Problems of economic and ideological conflict have generally been sublimated through unifying categories such as the people and the nation, even if those categories have themselves been subject to long-standing disagreements about their precise meaning.

Whilst modern nation states have sought unity, member states assume division. The state-society relationship is thus reconfigured in a way very alien from traditional thinking about the state: a presumed relationship of representation is replaced by one of insulation and separation.

The second feature is the way constraints upon the exercise of national power are based not upon a political ideal or principle but rather on an institutional and bureaucratic understanding of such limits. The picture we thus have of the member state, where its central principle of legitimization resides in the actions of public officials, is one of an administrative machine rather than a political community.

European union, for Bickerton, has, thus a couple of undesirable consequences. It allows national governments to distance themselves more easily from their citizens by adopting a 'Them' and 'Us' approach, and it results in a more managerial form of politics in which civil servants and executives are more pre-eminent.[19] Others are less pessimistic. They observe that European union provides new opportunities for other actors to advance their interests, and these can be often quite emancipatory. EU rights may provide possibilities for domestically marginalised actors to challenge that marginalisation.[20] European union can provide incentives for social movements and interest groups from across Europe to come together to identify common challenges, and to mobilise for change at both a European and a national level.[21] Finally, the

[19] This has led him to see Brexit as a significant democratic opportunity. C. Bickerton and R. Tuck, 'A Brexit Proposal – Bickerton and Tuck', *The Current Moment*, 20 November 2017, https://thecurrentmoment.files.wordpress.com/2017/11/brexit-proposal-20-nov-final1.pdf.

[20] D. Kelemen, *Eurolegalism: The Transformation of Law and Regulation in the European Union* (Cambridge, MA, Harvard University Press, 2011).

[21] L. Parks, *Social Movement Campaigns on EU Policy: In the Corridors and in the Streets* (Basingstoke – New York, Palgrave Macmillan, 2015); D. della Porta and L. Parks, 'Social Movements, the European Crisis, and EU Political Opportunities' (2018) 16 *Comparative European Politics* 85.

actions of the European Union can themselves mobilise protest and contestation at a domestic level, leading to greater debate and accountability there.[22]

Thirdly, the European Union, has stimulated more intense and wider forms of interaction across Europe's borders. It has led not merely to increased travel, migration, investment and trade across Europe, but also to high levels of debate about Europe and what is taking place in other European States.[23] Furthermore, in a number of ways, European States and societies increasingly imitate each other. Similar laws are often adopted across Europe on matters which have little to do with the European Union.[24] The types of culture consumed by Europeans – be it free newspapers, stuff downloaded from the Internet, or films watched at the cinema – are increasingly similar.[25]

If this has led to talk of a European society,[26] some cynicism has been expressed about its qualities. Its central advocates include transnational elites: transnational companies who trade across Europe, mobile professionals who like the increased opportunities offered by Europe for work and play, and those heavily involved in making policy who see it as providing a venue for getting what they want.[27] A culturally dislocating side to it has also been observed. It has claimed that the processes of change and movement generated by it have made people less sure of who they are, destabilised familiar reference points, and created a generic sameness with high streets across Europe having a similar look which is, nevertheless identified with nowhere in particular.[28] These wider processes of European union are, thus, marked by high levels of economic, political and cultural polarisation.[29]

L. Hooghe and G. Marks, 'Cleavage Theory Meets Europe's Crises: Lipset, Rokkan, and the Transnational Cleavage' (2018) 25 *Journal of European Public Policy* 109, 114–15

Transnationalism also has transparent distributional consequences, biasing the gains from trade to those who have mobile assets. Losers who feel they are slipping with no prospect of upward mobility resent the dilution of the rights and protection of citizenship by a global élite that views national states and their laws as constraints to be finessed or arbitraged. As Wolf wrote in the *Financial Times*: '[t]he share of immigrants in populations has jumped sharply. It is hard to argue that this has brought large economic, social and

[22] D. Imig and S. Tarrow (eds.), *Contentious Europeans: Protest and Politics in an Emerging Polity* (Lanham, Rowman & Littlefield, 2001); S. Hutter *et al.* (eds.), *Politicising Europe: Integration and Mass Politics* (Cambridge University Press, 2016).
[23] T. Risse, *A Community of Europeans? Transnational Identities and Public Spheres* (Ithaca, Cornell University Press, 2010).
[24] M. Gelter and M. Siems, 'Citations to Foreign Courts – Illegitimate and Superfluous, or Unavoidable? Evidence from Europe' (2014) 62 *AJCL* 35; D. Studlar *et al.*, 'Tobacco Control in the EU-15: The Role of Member States and the European Union' (2011) 18 *JEPP* 728; A. Piatti-Crocker, 'Veil Bans in Western Europe: Interpreting Policy Diffusion' (2015) 16 *Journal of International Women's Studies* 15.
[25] D. Sassoon, *The Culture of the Europeans: From 1800 to the Present* (London, Harper Collins, 2006).
[26] W. Oughton, *European Society* (Oxford, Polity, 2008); K. Eder, 'The EU in Search of its People: The Birth of a Society Out of the Crisis of Europe' (2014) 17 *European Journal of Social Theory* 219; H.-J. Trenz, *Narrating European Society: Toward a Sociology of European Integration* (Lanham, Rowman & Littlefield, 2016).
[27] A. Favell, *Eurostars and Eurocities: Free Movement and Mobility in an Integrating Europe* (Oxford, Blackwell, 2008); N. Fligstein, *Euroclash: The EU, European Identity, and the Future of Europe* (Oxford University Press, 2008).
[28] C. Rumsford, 'The Strangeness of Europe' (2016) 14 *Comparative European Politics* 504.
[29] N. Gidron and P. Hall, 'The Politics of Social Status: Economic and Cultural Roots of the Populist Right' (2017) 68 *British Journal of Sociology* S57.