

EUROPEAN CIVIL SOCIETY: AN EMERGING AGENDA

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ABSTRACT

EUROPEAN CIVIL SOCIETY: AN EMERGING AGENDA

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The European Union as a *sui generis* political system has become an attractive subject of inquiry especially within the last decade. By expanding into ever new areas of integration and by widening its competences, the Union has become a complex structure. As a result, the Union has started to be perceived as an entity remote from its citizens. Therefore the debate on the future of Europe has intensified and the legitimacy of the Union has started to be questioned. With this questioning process, the emphasis has begun to be put on creating new channels to reach the Union's citizens.

Within this context, the literature has focused on the importance of a European civil society. The desire to establish a deeper European political integration by constructing a European public space has made the “European civil society” a popular concept. On the other hand, the community institutions have also started to introduce policies to increase the role of civil society in order to close the gap between the Union and its citizens. In this respect, it can be argued that this process has been intensified after the publication of White Paper on European Governance. In the White Paper, the Commission has underlined the significance of a European civil society to strengthen the ties between the citizens and the EU. Then, a further step was taken by the Convention on the Future of the European Union. With the Convention, for the first time citizens and their representatives participated in the decision-making concerning the future shape of the Union. This is an important departure from the past and an essential step in the direction of a public debate on the prospective characteristics of European governance and democracy. This debate has raised interesting questions about the relationship between democracy, subsidiarity, efficiency and governance.

Within this context, the purpose of this thesis is to analyze whether the development of an organized European civil society, which gains prominence by forms of governance developed by the EU, is perceived as a part of the solution to get the Union closer to its citizens. In this respect, the question of to what extent the European civil society is perceived as an arena, where EU citizens can exercise their rights beyond the nation-state will be discussed. In addition, different attitudes of the community institutions concerning European civil society will be also examined.

Keywords: European Union, European Civil Society, Democracy, Legitimacy, Participation, Economic and Social Committee, European Commission

ÖZ

AVRUPA SİVİL TOPLUMU: YÜKSELEN GÜNDEM

UZUNÇAKMAK, Şule Özge

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Kendine özgü bir politik sistem olarak Avrupa Birliği, özellikle son on yılda ilgi çekici bir araştırma konusu haline gelmiştir. Birliğin, entegrasyon sürecinde yeni alanlara dahil olmaya başlaması ve sahip olduğu yetkilerini genişletmesi sonucunda ortaya karmaşık bir yapı çıkmış ve Birlik, vatandaşlarından uzak bir yapı olarak algılanmaya başlanmıştır. Sonuç olarak da Avrupa Birliği'nin geleceğine ilişkin tartışmalar yoğunlaşmış ve Birliğin meşruiyetinin de sorgulanmaya başlanması ile AB vatandaşlarına ulaşmak için yeni yolların yaratılması konusu önem kazanmıştır.

Bu çerçevede, akademik çevreler Avrupa sivil toplumunun önemi üzerinde durmaya başlamıştır. Bir Avrupa kamu alanı oluşturmak suretiyle daha derin bir politik entegrasyon oluşturma isteği “Avrupa sivil toplumu”nu popüler bir kavram haline getirmiştir. Diğer taraftan, topluluk kurumları da Birlik ve vatandaşlarını birbirine yakınlaştırmak için sivil toplumun rolünü artıracak politikalar üretmeye başlamışlardır. Bu bağlamda, söz konusu sürecin Komisyonun, Avrupa Yönetişimi üzerine Beyaz Kitabı yayımlaması ile hızlandığı söylenebilir. Beyaz Kitap’ta Komisyon, Avrupa sivil toplumunun Birlik ve vatandaşları arasındaki bağların güçlendirilmesi konusunda önemini vurgulamaktadır. Avrupa Birliğinin Geleceğine İlişkin Konvansiyon ise bir diğer önemli adımdır. Konvansiyon ile vatandaşlar ve onların temsilcileri Birliğin geleceğine ilişkin karar alma sürecine ilk kez katılmışlardır. Bu, Avrupa yönetişimi ve demokrasisi için önemli bir adımdır. Böylece demokrasi, yetki ikamesi, etkinlik ve yönetim arasındaki ilişkiler sorgulanmaya başlanmıştır.

Bu bağlamda, bu tezin amacı, AB tarafından geliştirilen yönetim şekilleri ile önem kazanan Avrupa sivil toplumunun gelişiminin Birliğin vatandaşlarına yakınlaştırılması konusunda bir çözüm sağlayıp sağlayamayacağını incelemektir. Bu çerçevede, Avrupa sivil toplumunun ulus-devletin ötesinde AB vatandaşlarının haklarını kullanabilecekleri bir alan olup olmadığı tartışılacaktır. Ayrıca, Avrupa sivil toplumuna ilişkin topluluk kurumlarının farklı yaklaşımları da ele alınacaktır.

Anahtar Kelimeler: Avrupa Birliği, Avrupa Sivil Toplumu, Demokrasi, Meşruiyet, Katılım, Ekonomik ve Sosyal Komite, Avrupa Komisyonu

To my family

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I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Date: 05.12.2003

Signature:

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CHAPTER I

INTRODUCTION

There has been an increasing worldwide interest in the role of civil society since 1990s. Especially after the collapse of communism in the East European Countries, the interest on civil society has been picked up. Generally the role of civil society has been related to the democratization of these countries. Thus, the concept has been viewed as a means to consolidate democracy and to enhance participation by creating new channels between citizens and the state. The creation of these new channels is depending on the assumption that a rich associational life can supplement the role of political parties in stimulating political participation and increase the political efficacy and skill of democratic citizens.¹ Therefore, although there are different tendencies on the definition and the role of civil society, there is almost a consensus upon its importance as an arena for participation.

In addition to this important linkage, which is established between democracy and civil society, number of the issues in which civil society organizations get involved have been increased and varied widely. Moreover, nongovernmental organizations, informal associations, and loose coalitions have been forming a vast number of connections across national borders. By transcending the national borders and involving into a wide range of decision-making processes on the issues varied from

¹ Ruud Koopmans, "New Social Movements and Changes in Political Participation in Western Europe", *West European Politics*, 19, 1996, 28.

environment to human rights, transnational civil society has gained a crucial role in the global governance. Since the transnational agenda is becoming more intensive by the realization of information revolution, the growing integration of national economies, and the rapidly increasing number of people in the world, human activity is less constrained than ever by national borders. People travel, migrate, communicate, and trade in ever-growing numbers. Therefore, civil society organizations have gained significant roles at all levels where they function (local, regional, national and transnational) and produce more appropriate solutions to address the world's growing agenda of border-crossing problems. Thus this growing role of civil society has increased the interest and resulted in attributing different meanings to the concept.

This renewed interest can also be observed in the European Union. The Union is a major catalyst behind the dynamic changes taking place in Europe. European integration today is deepening in the sense that decision-making has been made more communitarian in a larger number of policy areas. However it is also widening, both in scope, by bringing new policy areas into the realm of the European Union, and geographically, by embracing the countries of Central and Eastern Europe through enlargement.

One of these dynamic changes is the successful introduction of the European Monetary Union. Euro is a substantial expression of European integration for EU citizens. In addition, the pursuit of economic competitiveness is recently accompanied by the emphasis on employment, social inclusion and sustainable development. Furthermore, cooperation has been strengthened in the areas of foreign,

security and defense policy and justice and home affairs. Finally, the debate on the future of Europe is one of the most important processes, which will affect the policy processes. Thus, European integration is expanding into ever-new areas of political life.

Therefore, the European Union as a *sui generis* political system needs new channels to reach its citizens who have difficulties in understanding its complex structure. Moreover apart from its complex structure, generally EU policies have a market-based approach that stems from its economic integration success and usually consider the citizens as consumers. This approach widens the gap between citizens and the Union. On the other hand, while some people strive for a larger role in designing public policies, the Union faces problems of fulfilling its citizens' expectations. Therefore, there is an increasing concern that a democratic system could not be established at the EU level and the number of people who share this feeling has been increasing gradually within the Union. After years of successful economic integration and with the results of these policies in the daily lives of people, the lack of public involvement has now become a great concern. In addition, the EU is seen as out-of-reach and European integration has been usually perceived as an elitist project. Accordingly, its bureaucratic structure leads to a resistance against Brussels. Thus, the legitimacy of the Union has started to be questioned with the widening of EU's competences.

With this questioning process and establishment of a deeper European political integration by constructing a European public space, the literature focused on the importance of a European civil society. Thus, "European civil society" has become a

popular concept. Although there are different approaches concerning the role and content of the civil society at the European level, there is almost a consensus within the academic community on the importance of developing a European civil society.

On the other hand, the community institutions have also started to introduce policies to increase the role of civil society in order to close the gap between the Union and its citizens and to boost European democracy. In this respect, it can be argued that this process has been intensified after the publication of White Paper on European Governance. In the White Paper, the Commission has underlined the significance of a European civil society to strengthen the ties between the citizens and the EU. Then, a further step was taken by the Convention on the Future of the European Union, which has been perceived as a reform process in parallel with the White Paper. With the Convention, for the first time citizens and their representatives participated in the decision-making concerning the future shape of the Union. This is an important departure from the past and an essential step in the direction of a public debate on the prospective characteristics of European governance and democracy. This debate has raised interesting questions about the relationship between democracy, subsidiarity, efficiency and governance. On the other hand, the question of “what kind of polity the EU is or should be” is another issue and within this context, concepts of “democracy”, “legitimacy” and “governance” needs to be redefined in the EU context.

However, there is still a gap between the expectations of the citizens and the efforts, which are made by the EU to fulfill these expectations. In this respect, this thesis argues that although a number of positive efforts concerning the participation of civil

society in the formal procedures have been made, these efforts are not enough to create new channels for the participation of civil society in procedures to boost democracy within the EU. Therefore main argument of this thesis is that the emphasis on civil society within the context of European integration has to be increased and more concrete solutions have to be produced by the EU institutions.

In proceeding with this argument, the thesis will first concentrate on theories of civil society and different perspectives on the role of the civil society. In order to understand the concept of civil society within the context of its present form, the evolution of the concept will be analyzed. Therefore, the Hegelian notion of civil society and the current debates on the concept will be discussed. Thus first chapter will serve to establish the theoretical framework of the thesis as well as to provide an insight for the notion of civil society and its relation with the concept of “democratic consolidation”. Therefore, in the second part of this chapter the relationship between civil society and democratic consolidation will be examined. In the third part, the relationship or correspondence of civil society with its organizational forms will be analyzed. Finally, in the last part, different perspectives on European civil society will be discussed.

The idea of civil society is emphasized frequently together with non-governmental organizations (NGOs) because the existence of NGOs is generally presumed as evidence of civil society. However, they are a part of civil society and a more comprehensive view is required in order to evaluate the issue beyond interest representation. Therefore for the purpose of this thesis, the term civil society organizations (CSOs) is used to refer all kind of organizations since it comprises

unions and chambers in addition to associations and foundations, and also it matches NGO, GRO (grass root organization) and CBO (community based organization).²

The second chapter will serve as a basis to analyze previous efforts of the Union in order to create the sense of belonging. Within the framework of this thesis, concepts such as political and cultural identity, identity construction or cultural policy of the Union will not be discussed in detail as the examination of these concepts exceeds the purpose of this thesis. However, these concepts will be used to explain the ways of creating a sense of belonging among the people. In this context, first part of this chapter will deal with the concepts of democracy, democratic deficit and legitimacy at the EU level. Each of these concepts is analyzed in terms of the contradictions stemming from the differences of policy making at the national and EU level. In terms of democratic deficit, both the institutional aspect of the concept and the absence of a common European identity will be examined respectively. In the second part, historical background of the attempts to make the Union closer to its citizens will be presented.

The third chapter of the thesis will deal with the Union's attempts to develop forms of governance where civil society organizations can participate. While there is almost a consensus upon the importance of the European civil society as an arena for participation within the academic community, the approach and policies of the Union will have a significant effect in defining the path of the debate concerning European

² Besides, there is an increasing tendency to use the term of CSO instead of NGO among social scientists who particularly study on the civil societies in the third world (Naidoo and Tandon, "The Promise of Civil Society", *Civil Society at the Millennium*, 1998; Mbogori, and Ghigudu, "Civil Society and Government: A Continuum of Possibilities", *Civil Society at the Millennium*, 1998).

civil society. Therefore in the first part the Commission's White Paper on European Governance will be analyzed. Accordingly, the Convention on the Future of Europe, which has been perceived as another reform process in line with the White Paper, will be discussed. Finally, the views of Economic and Social Committee (ESC) on civil society will be examined.

The first part of this chapter will deal with the White Paper on European Governance, since after the publication of the White Paper, a hot debate has started on the Commission's attitude towards civil society. Within this context, its preparatory stage will be given briefly in order to examine the incentives of the Commission. Then, the White Paper will be analyzed concerning its suggestions on how to include civil society in the formal procedures of governance. Within this framework, to what extent the Commission is successful to enhance the participation of civil society within the political system will be discussed.

The second part aims to analyze the Convention's discourse on civil society. Therefore, in order to understand the incentives that lead to the Convention, some information about the reform process on the future of Europe, which began with Nice Summit will be given. As being the first initiative to include the citizens to the process that aims to shape the future of the Union, the working procedures will be presented briefly in order to discover to what extent the Convention's discourse is "civil society-friendly". After giving the general information concerning the Convention, for the scope of this thesis, the intentions of Convention in its attitude towards civil society and its success in reaching civil society will be examined in

order to find whether they operate to include or to marginalize civil society's perspectives, issues and actors.

In the third part of this chapter, the Economic and Social Committee will be analyzed since its approach to European civil society differs from the Commission's approach. As in the conclusion, it is argued that an institutional reform based on sustained public dialogue is required in order to bring the Union closer to its citizens, the attention will be given to Committee's institutional position and its ability to provide a forum for functional representation. Accordingly, the differences between the Committee's and the Commission's perception of the European civil society will be underlined by examining the attempts of the Committee to enhance the participation of civil society. Finally, within the context of the Committee's activities concerning civil society, it will be discussed to what extent the Committee can be a forum for civil society.

Within this context, the purpose of this thesis is to analyze whether the development of an organized European civil society, which gains priority by forms of governance developed by the EU, is perceived as a part of the solution to get the Union closer to its citizens. In this respect, the question to what extent the European civil society is perceived as an arena, where EU citizens can exercise their rights beyond the nation-state will be discussed.

In the conclusion, it is argued that, within the theoretical framework of the thesis, when the legitimacy of the EU has started to be questioned, it became obvious that the existent political system at the EU level is not enough to solve the problem. The

lack of demos has started to be emphasized as a deficiency of the political dimension of integration that can be solved by developing a European civil society. Participation is a *sin qua non* for a democratic system and within the context of the EU this can be realized with the help of civil society. However, as it will be analyzed in the third chapter, the policies of the EU institutions concerning civil society differ. While the Commission conducts inadequate policies and do not touch upon the real issue, the Committee perceives the issue with a comprehensive view. Thus with the realization of an institutional reform in favor of the Committee, by increasing the inclusion of civil society in Committee's formal procedures, it can serve as a forum for civil society and can help to bridge the gap between the Union and its citizens.

CHAPTER II

THEORIES OF CIVIL SOCIETY

There has been an increasing interest in the subject of civil society all around the world and therefore, the once forgotten concept of civil society has become the popular subject of recent debates in social theory.

Certainly, there are significant developments behind the revival of the civil society concept such as the transformation of the welfare states into non-interventionist models in the West and the transformation of the former socialist states into liberal democracies based on the free market. These transformations have caused some problems like cultural and political exclusions and deepening of social hierarchies in terms economic injustices. These two main problems resulted in certain improvements of civil society in terms of more participatory, dynamic and responsive public sphere in policy-formation process. Therefore, civil society has begun to be seen as the agents of democratization and development.

There exist different conceptualizations of civil society within the social and political theory since different perspectives attach different functions and meanings to the concept. Therefore, it is difficult to bring all together these perspectives concerning civil society, its relations with the states, its diverse appearance in

different regions of the world and its relationship with Non Governmental Organizations (NGOs) or Civil Society Organizations (CSOs).

Therefore, in this chapter, the boundaries of civil society from different perspectives will be described, and common points of them will be underlined. Hence, in the first section, the historical period of theorizing of civil society is given briefly. This section comprises three sub-sections. In the first sub-section civil society will be submitted in classical terms. In the second sub-section the Hegelian notion of civil society will be analyzed. Current debates on the notion of civil society will be presented in the third sub-section. In the second section the relationship between civil society and democratic consolidation will be examined. Accordingly, in order to clarify the analytical framework, the third section aims to analyze civil society's relationship with NGOs or CSOs. The relationship or correspondence of civil society with its organizational forms will be examined. Finally, in the last section, different perspectives on European civil society and how these different perspectives perceive its functions within the EU context will be given. European civil society is a concept where the literature differs widely and all put the emphasis on a different dimension of the issue. Therefore, in order to gain an insight, all these dimensions will be analyzed.

2.1 The Concept of Civil Society within Political Theory

2.1.1 Civil Society in Classical Terms

There are two phases in the history of civil society theory. The first, dating from the Romans, struggled with why and how humankind should be governed, who should govern and under what conditions. The second, beginning with the Scottish

Enlightenment in the eighteenth century, draws a sharp line between the governed and the governors.³

Traditional meaning of the concept of civil society can be traced back to Aristotle with the term *koinonia politike* but the Latin term *civilis societas*, used by Cicero centuries ago is the literary correspondence of the modern term of civil society. *Civilis societas* designated those living in a civilized political community, creating a State to serve the community's interests. Civil society was therefore different from private or domestic society, it was the company of men who fulfilled their public and social roles. The norms of how to live together in such a society further endowed *civilis societas* with moral value and authority. In the Roman tradition the State is an instrument of civil society, not its antithesis.⁴

Up until the eighteenth century, civil society and political society were interchangeable ideas, vested with moral virtue as expressions of a common good. For Kant, Hume, Rousseau, Hobbes and others up to the Scottish Enlightenment, "State", "civil society" and "political society" were used synonymously. For such thinkers the meaningful division was not between the State and society, but between society and the state of nature.⁵

³ Alison V. Rooy (ed.), *Civil Society and the Aid Industry*, London, Earthscan Publications Ltd, 1998, 5.

⁴ *Ibid.*, 5-6.

⁵ *Ibid.*, 8.

The philosophical turnover comes in the century between 1750 and 1850, with the writings of Adam Ferguson, Thomas Paine, Hegel and de Tocqueville. Ferguson and Adam Smith did not have a theological perspective. In this sense, they faced with the problem of reconciling individual interests and universal morality. With the absence of God in public sphere, they constituted the morality “on the idea of moral affections and natural sympathy...” which in turn established a “public arena of exchange and interaction...an ethical arena in which the individual is constituted in his individuality through the very act of exchange with others”.⁶

Paine emphasizes a more radical idea that the State itself is an obstacle to civil society’s hopes for social equality and liberty. On the other hand, de Tocqueville, states a contradictory idea that even a democratically chosen government might suffocate civil society if sufficient vigilance by independent citizen’s associations was not maintained.⁷

By the definition of Enlightenment, it is emphasized that the citizens should not be excluded from the political policies, on the contrary their interference within the public sphere is an irresistible condition of freedom. Therefore, all the persons mentioned above make significant contributions for a theoretical outcome since they drew a line between the State and civil society that had not existed before.

⁶Adam B. Seligman, “The Fragile Ethical Vision of Civil Society” quoted in Bryan S. Turner (ed.), *Citizenship and Social Theory*, London, Sage Publications, 1993, 144-145.

⁷ Rooy, *op.cit.*

2.1.2 The Hegelian Notion of Civil Society

Hegel criticizes the separation of the private use of reason in one's private daily life and the public use of reason in legal procedures and public sphere. He is very critical about the Kantian formal ethics. According to Hegel, the private morality and the public right are not necessarily distinct from each other.⁸

Hegel uses a three-part framework consisting of family, civil society and the state which are the ethical powers that regulate the life of individuals, to analyze the relationship between civil society and the state.⁹ The concept of family is also an important element in defining the civil society since according to Hegel, civil society is composed of propertied individuals who are also members of a family and the family, as an institution, provides a continuing source of capital, which forms the necessary economic basis for civil society.¹⁰ By using this three-part framework, he defines civil society as “the [stage of] difference that intervenes between family and the state...”¹¹ and the discourse of civil society develops when relations between individuals gain importance beyond their roles within this family unit.

With the formation of civil society, the family ceased to be the singular ethical unity. Individuals' main concern became the satisfaction of their private needs

⁸ Thomas M. Knox, *Hegel's Philosophy of Right*, London, New York, Oxford University Press, 1952, Section 145, 172.

⁹ *Ibid.*, 105.

¹⁰ Harry Brod, *Hegel's Philosophy of Politics: Idealism, Identity and Modernity*, Oxford, Westview Press, 1992, 65-66.

¹¹ Knox, *op.cit.*, section 182A, 266.

by working, producing and exchanging the product of their labor in the market. So dialectic of civil society begins when many members of different families enter into relations with one another as independent persons and when these relations produce a system of complete interdependence.¹²

According to Rooy, Hegelian civil society is equalized with self-interested and egotistical society since Hegel claims “civil society developed as a means of protecting the individual rights and needs of the privileged to guarantee freedom in economic, social, and cultural spheres”.¹³ In this context, civil society is an important stage in the transition from the family to the state, since it is the locus where the two principles of modern society -particularity and universality- are negotiated, and where the tension between them is reconciled.¹⁴

According to Hegel, state control is needed since the society, which gains freedom through economic enterprise and thus relief from all its ties, can be an obstacle for the production. Moreover, he states that “the state was the protector, suggesting that civil society could not remain civil unless it is ordered politically, subjected to higher surveillance of the state”¹⁵ and contrary to the classical liberal thinkers, Hegel does not define civil society in terms of negative freedom and does not consider civil society as an arena of freedom and rights to which the state should not interfere.

¹² Knox, *op.cit.*, section 181, 122.

¹³ Jillian. Schwedler (ed.), *Toward Civil Society in The Middle East: A Primer*, USA, Lynne Rienner Publishers, 1995, 3.

¹⁴ Neera Chandhoke, *State and Civil Society: Explorations in Political Theory*, California, Sage Publications, 1995, 118.

¹⁵ Rooy, *op.cit.*, 10.

Rather, civil society is the active moment where the dialectic between particularity and universality is worked out.¹⁶

Hegel makes a differentiation between civil society and state. The objective of the activities in civil society is related to the particular interests or private rights of individuals or groups whereas the objective of the activities of the state is related to the general interests of the whole community.¹⁷ According to him, modern civil society is like a field of battle where private interests of someone encounter private interests of others. Hence, the vigorous development of one part of civil society may obstruct other parts.¹⁸

Hegel emphasizes the constraint that modern society could not overcome its own particularity and resolve its conflicts by itself. Modern society, that is civil society, would therefore need to have control by the higher authority of state. He argues that state intervention is legitimate under the following two conditions: first, the state may interfere to rectify injustices or inequalities within civil society, such as the domination of one class by another; secondly, it may intervene to protect the universal interest of the people, which is defined by the state itself.¹⁹

¹⁶ Chandhoke, *op.cit.*, 118.

¹⁷ Z. A. Pelczynski, "Introduction: The Significance of Hegel's Separation of the State and Civil Society", in *The State and Civil Society: Studies in Hegel's Political Philosophy*, Z. A. Pelczynski (ed.), Cambridge, Cambridge University Press, 1984, 11.

¹⁸ John Keane, "Despotism and Democracy: The Origins and Development of the Distinction Between Civil Society and the State, 1750-1850", in *Civil Society and the State*, John Keane (ed.), London, New York, Verso, 1988, 51.

¹⁹ *Ibid.*, 52-53.

Hegel's destruction of boundaries between civil, economic and moral spheres, which were already constituted, has an outmost effect on the later formulation of civil society. He was the first philosopher who defined the concept of civil society, but nevertheless conceived it to function under the tutelage of the state. Later thinkers such as Marx and Gramsci have increasingly separated the notion of civil society from the state, moreover perceived the concept in contradiction to the state.

The following section will attempt to show how and in which ways civil society is considered as an antithesis of the state. Mainly there are two diametrically opposite approaches to civil society that can be described as “civil society versus state” approach and “pluralist” approach. Although these two approaches are different from each other in several ways, they have similar grounds in being different from Hegel's approach.

2.1.3 Civil Society Theory from Marx to Present

Marx “reversed the primacy given by Hegel to the state and made civil society the theater of history”.²⁰ That is why the origins of the “civil society versus state” approach lie in Karl Marx's view. Hegel identifies the state as a positive mediating agency over and above civil society, whereas Marx perceives civil society as an arena ideally capable of self-improvement. Hence he states that conflicting interests in civil society had to be moderated within the sphere of civil society itself.²¹

²⁰ Chandhoke, *op.cit.*, 134.

²¹ *Ibid.*

Marx rejects the Hegelian premises that the state represents universal interests and that it is a neutral institution capable of resolving the contradictions within civil society. State is a class-bound institution and represents the interests of the dominant classes, therefore, it needs to resolve the contradictions of civil society. Yet by acting as a partial arbiter it merely delays their resolutions.²²

According to Marx, the structural change in the economic order of medieval society and the transformation of feudalism into capitalism resulted in the abolishment of the political character of society. Civil society as a realm of particular conflicting interests of individuals has no more any chance of realizing moral unity through state as it is manipulated by the bourgeoisie. He do not believe that existing political institutions are capable of resolving the conflicting interests in civil society so he insists that civil society must find its own solutions to the problems of egoism, self-interest, exploitation and oppression. He also states that civil society becomes a transitory phase in history, which would be substituted by the future's cooperative, free and equal civility.²³

Marx, like Hegel, gives primacy to civil society but, unlike Hegel, he subordinates the state to civil society. For Marx, civil society is a dialectical stage where the dialectic between the social and the political, between domination and resistance, between oppression and emancipation is played out. Since civil

²² Chandhoke, *op.cit.*, 137.

²³ *Ibid.*

society is the theater of history, it must find its own solutions to its contradictions. It cannot be emancipated by an imposed system of mediations.²⁴

Another prominent scholar of civil society who also adopts the “civil society versus state” approach is Antonio Gramsci. Gramsci, like Hegel, uses a three-part conceptual framework for the definition of civil society. However, he separates economy and state from civil society and considers all three as separate components in his conceptual framework.

According to Gramsci, the term “civil society” covers organizations in a social formation that belong neither to the economy nor to the state and he supposes these organizations are supported and run by persons who operate outside the realms of the economy and state. For Gramsci, civil society includes mainly religious institutions and organizations that are different from the entirely state-funded and state-controlled ones and some means of communication which are not controlled by the state.²⁵

Gramsci’s notion of civil society is broader than Marxist orthodox tradition, which defines the civil society in terms of only the material aspects, mainly the economic organization of society. For Gramsci, civil society also consists of cultural and ideological spheres²⁶ and encompasses the whole of spiritual and intellectual life in addition, to the whole of commercial and industrial life.²⁷

²⁴ Chandhoke, *op.cit.*, 136.

²⁵ Robert Bocoock, *Hegemony*, London, New York, Tavistock Publications, 1986, 33-34.

²⁶ Chandhoke, *op.cit.*, 151.

Gramsci defines the concept of civil society as a system of control and exclusion and he asserts, “while the state is directly responsible for violent and coercive methods of control, civil society enables capitalists to exert control over social and economic practices through nonviolent means”.²⁸

Gramsci extended the Marxist notion of the state. The “state”, included the means of coercion such as the police and armed forces and also included state-funded bureaucracies such as civil service, as well as legal, welfare and educational institutions.²⁹ In addition to the governmental apparatus, the state was also taken to comprise, somewhat confusingly, the “private” apparatus of “hegemony” or civil society.³⁰ It was the latter that provided legitimacy to the state.

The main emphasis of Gramsci is on the practices of hegemony and domination and the capitalist system is reproduced by these two practices. While coercion is realized by the practice of domination, consent is produced by hegemony and civil society is the place in which consent is produced but also it is the place where this consent can be “withdrawn” and consent for a new form of political organization can be produced and perpetuated.³¹ However, the individual must actively register his or

²⁷ Norberto Bobbio, “Gramsci and the Concept of Civil Society” in *Civil Society and the State*, John Keane (ed.), London, New York, Verso, 1988, 83.

²⁸ Schwedler, *op.cit.*, 4.

²⁹ Boccock, *op.cit.*, 33.

³⁰ Quintin Hoare and Geoffrey N. Smith (eds.), *Selections From the Prison Notebooks of Antonio Gramsci*, New York, International Publishers, 1971, 261.

³¹ Chandhoke, *op.cit.*, 151.

her consent. The passive acceptance of the power of the state does not mean an agreement regarding the legitimacy of the state. Gramsci conceptualizes the production of consent by means of the concept of hegemony. For him, hegemony means the leadership of all people from all classes, and the power exercised by not a small group representing the state.³²

Like Hegel, Gramsci claims that civil society is a conflictual sphere. Civil society has a changing essence, which is defined by the practices of its members. Hegemony can be created by the dominant classes but it can also be created by the subaltern classes.³³ Contrary to Hegel, Gramsci argues that particular interests of civil society are not mediated by the state, but civil society must find its own solutions. Although Gramsci's conceptualization of civil society is Hegelian, his solution to the problems of civil society is Marxian.³⁴

Hegemony, therefore, is a condition for obtaining moral and intellectual leadership in the plural sphere of civil society, and it also helps to achieve unity. Hegemonic leadership encompasses also an emotional dimension; the people of the dominant class are expected to appeal to the sentiments of society.³⁵ In a sense, civil society is a dispersed society, which is held together by the moral vision of

³² Bocoock, *op.cit.*, 35.

³³ Chandhoke, *op.cit.*, 154.

³⁴ *Ibid.*, 152-153.

³⁵ Bocoock, *op.cit.*, 37.

the dominant class, provided that the legitimacy of its rule is actively supported by the whole social spectrum.³⁶

Finally, Gramsci's concept of regulated society must be mentioned. For Gramsci, regulated society is a stateless society and vanishing of the state can be achieved by the "re-absorption of political society into civil society"³⁷ that will continue until the space occupied by political society has been totally eliminated. When this process is completed, the hegemony of civil society becomes universal, thus the coercion becomes unnecessary and the conditions to make transition to a regulated society will be fulfilled.³⁸

As a result, Marx and Gramsci, like liberal theorists, insist on the primacy of civil society. However, opposed to the liberal thinkers, these two theorists do not consider civil society to be a sphere of rights, liberties, individualism, freedom, property and the market. According to Marx and Gramsci, these are superficial aspects of civil society. Civil society, for them, is a sphere distinguished by self-interest, egoism and inhumanity. Although Hegel proposed that the problems could be resolved by means of the state, for Marx and Gramsci these problems could only be resolved within the sphere of civil society itself.

³⁶ *Ibid.*

³⁷ Hoare, *op.cit.*, 253.

³⁸ Bobbio, *op.cit.*, 94.

One of the significant views regarding the “pluralist approach to civil society” belongs to Michael Walzer. He is against the view that civil society is in opposition to the state and he asserts that a state cannot persist for a long time if it is opposed to civil society. Besides, he emphasizes that the basis of loyalty, civility, political competence and trust of authority lies not only in the state but also in civil society.³⁹

According to him, the state is also an association among various associations of civil society. However it determines the boundaries of the civil society and sets the basic rules by which all associations are expected to oblige. Hence the state has a greater control on associational life of civil society.⁴⁰

In Walzer's civil society, people organize voluntarily and communicate with each other, form voluntary associations not for on behalf of any group, but on behalf of sociability itself, since human beings are social beings by nature before becoming political and economic beings.⁴¹

Walzer sees civil society as an arena where there is a low level of polarization, where pressure is used to achieve peace among associations, and where all associations are treated equally before the law. Also he perceives civil society as a solution for the

³⁹ Micheal Walzer, “The Civil Society Argument,” in *Dimensions of Radical Democracy: Pluralism, Citizenship, Community*, Chantal Mouffe (ed.), London, Verso, 1992, 102.

⁴⁰ *Ibid.*, 103.

⁴¹ *Ibid.*, 97.

problems of ideological single-mindedness such as the intolerant universalism of most religions, and the exclusivity of most nations.⁴²

Walzer criticizes the passive role of the citizens in modern democracies which is confined only to voting in elections, thus they don't have any means of controlling politicians. However, these citizens join the decision-making process in associations of civil society, such as unions, parties, movements, and interest groups.⁴³ The civility, which is a characteristic of democratic politics, can be experienced in the associational life of civil society. Equally this associational life has to be favored by the democratic state.⁴⁴

He proposes that civil society needs a political agency and the state is the most appropriate one for this purpose.⁴⁵ There is a two-way relationship between the state and civil society and he adds "only a democratic state can create a democratic civil society; only a democratic civil society can sustain a democratic state". As a consequence one can say that Walzer places much emphasis to the state in his analysis of civil society.

Edward Shils sees civil society as a part of society encompassing various autonomous organizations and economic, religious, intellectual and political ones, which are distinguished from the family, clan, locality and state. Civil society

⁴² *Ibid.*, 101-102.

⁴³ *Ibid.*, 99.

⁴⁴ *Ibid.*, 104.

⁴⁵ *Ibid.*

embraces a broad pattern of civil manners and it enters into relationships with the state as well as other particular institutions that protect the separation of the state and civil society.⁴⁶

However, like Walzer, Shils is also against the view that separates civil society totally from the state. He defends that the state and civil society are not separated because the constitution and judicial traditions connect the two by means of both rights and obligations.⁴⁷ In the relationship between state and civil society, laws have a significant role as the state determines the boundaries of civil society through the law. Therefore, civil society fulfills its functions within the framework set by law. Laws necessitate that rights must be appreciated and duties must be performed in the civil societal arena.⁴⁸

Shils, contrary to Walzer, opposes the view that the state occupies a space within civil society. Civil society needs a state that is limited in its sphere and is bound by law but must be capable of executing the laws, which safeguard the pluralism of civil society.⁴⁹ Both the state and citizens are bound by the rule of law in civil society and the efficiency of the system of justice both in the state and civil society depends on the degree of civility among individuals.⁵⁰

⁴⁶ Edward Shils, "The Virtue of Civil Society", *Government and Opposition*, 26, 1991, 4.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*, 16.

⁴⁹ *Ibid.*, 9-10.

⁵⁰ *Ibid.*, 16.

Shils assumes “civility” as a main component of civil society and defines it as “an attitude of attachment to the whole society, to all its strata and sections and to the institutions which constitute civil society”.⁵¹ For Shils, civility can become individualistic and “holistic” concurrently and he states that civility is an attitude of a person whose collective self-consciousness dominates his individual self-consciousness.⁵²

In addition, Shils has an elitist approach regarding the “civility” notion. He asserts that not all people have a high level of civility. For the proper functioning of civil society, at least some persons like higher judiciary, senior civil servants, leading legislators, academicians, businessmen and journalists who are in authoritative positions must have a high degree of civility.⁵³

Shils, on the other hand, asserts that the autonomy of private organizations, institutions and business firms is the essential requirement for civil society. He sees market economy as necessary, but not a determining factor to achieve civil society.⁵⁴

Shils, like Walzer, also emphasizes the notion of pluralism of civil society. According to Shils, the pluralism of civil society operates in two interrelated connections. First, pluralism includes the interaction, with one

⁵¹ *Ibid.*, 11.

⁵² *Ibid.*, 12.

⁵³ *Ibid.*, 18.

⁵⁴ *Ibid.*, 9.

another of autonomous spheres of economy, religion, culture, intellectual and political activity and secondly, pluralism of civil society also consists of many partially autonomous organizations and institutions within each sphere.⁵⁵

Gordon White contributes to the debate with his distinction between the ideal and real civil society. While the ideal type is mainly based on the notion of division, autonomy and voluntary associations in their perfect form, the real civil society comprises associations among which there is no clear-cut division. Hence, in the real world, the distinction of the state and civil society is generally obscure. Therefore, he refuses the dichotomy of the state and civil society. According to him, people can take roles both in civil society and in the state, so state and civil society can shape each other and these two spheres may overlap.⁵⁶

In addition, White makes a further distinction between civil society, political society and the state. He describes political society as “a range of institutions and actors which mediate and channel the relationship between civil society and the state”.⁵⁷ He accepts political parties and political leaders as the main components of political society. For him these components determine whether civil societal elements would be potentially more democratic or authoritarian.⁵⁸

⁵⁵ *Ibid.*, 9.

⁵⁶ Gordon White, “Civil Society, Democratization and Development (I): Clearing the Analytical Ground”, *Democratization*, 1, Autumn 1994, 380-381.

⁵⁷ *Ibid.*, 381.

⁵⁸ *Ibid.*, 382.

Moreover, White emphasizes that it is necessary to make distinction between various types of civil society. He differentiates these types as, "traditional" organizations, "modern" interest groups, informal social networks as well as formal organizations, non-political/political institutions, legal/illegal organizations and the associations which try to change the existing political regime as well as associations which accept the existing political regime.⁵⁹

Another scholar who adopts pluralist approach to civil society is Larry Diamond. He defines civil society with a comprehensive view and his definition comprises almost all of the elements of civil society. He conceives civil society as “the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or a set of shared rules. It is distinct from “society” in general that involves citizens acting collectively in a public sphere to express their interests, passions, and ideas, exchange information, achieve mutual goals, make demands on the state, and hold state officials accountable”.⁶⁰

Diamond conceives civil society as an intermediary structure between the state and the private sphere. Diamond asserts that this intermediary structure does not include the family, in contrast to Hegel who perceives the family as a component of civil society. Diamond also excludes the inward-looking group activity and business firms which were accepted as essential requirement for

⁵⁹ *Ibid.*, 379-380.

⁶⁰ Larry Diamond, “Rethinking Civil Society: Toward Democratic Consolidation,” *Journal of Democracy*, 5, July 1994, 5.

civil society by Shils. Moreover, he distinguishes civil society from the political society, which is trying to get control of the state. He emphasizes that although civil societal organizations can cooperate with political parties, civil society does not aim to gain state power or state office.⁶¹

For Diamond, civil society is “the sphere that battles the State and keeps it check”.⁶² In this bi-directional relation, the legal order is the main component that binds them together. Although civil society and the state are distinct from each other, the legal order allows civil society both to restrict and make legitimate state power, which is based on the rule of law.⁶³

Diamond differentiates civil society from other social groups in terms of its functions and features. Civil society deals with public interests rather than private ones and since it comprises different groups, no single group could represent the will of the community. Besides, civil society serves as a democratic means by ensuring the control of the state by society and it develops some democratic characteristics like tolerance, moderation, respect for different views and desire for consensus. On the other hand, it increases political-participation and lessens political polarization by generating a wide range of interests through its pluralistic character. Moreover, it creates channels for excluded groups different from the political parties to pursue their interests. Furthermore, it

⁶¹ *Ibid.*, 6.

⁶² *Ibid.*, 5.

⁶³ *Ibid.*

disseminates information, helps citizens to safeguard their interests, and provides citizens' respect to the state and accountability responsiveness of political leaders.⁶⁴

Jean L. Cohen and Andrew Arato, like Hegel, also use a tripartite model to analyze the concept of civil society. Although they distinguish civil society from both political society and economic society,⁶⁵ they are against the view that treats civil society as an opposition to the economy and the state.⁶⁶ On the other hand, they use a society-centered model unlike Hegel's state-centered model and Marx's economy-centered model.⁶⁷ They do not accept civil society as a unified social structure, which is integrating the entire society. On the contrary, they describe civil society as a plural, differentiated and institutionalized social structure.⁶⁸

Cohen and Arato give much emphasis to public spheres and voluntary associations.⁶⁹ In this respect, they conceive social movements as a significant form of citizen participation in the public sphere and as an important element of a modern civil society. For them, social movements are important for the expansion of rights, for the autonomy and further democratization of civil society.⁷⁰ Besides, concerning the relation between civil society and democratic consolidation, democracy can best be developed at the level of civil society

⁶⁴ *Ibid.*, 7-11.

⁶⁵ Jean Cohen and Andrew Arato, *Civil Society and Political Theory*, London, MIT Press, 1992, ix.

⁶⁶ *Ibid.*, x.

⁶⁷ *Ibid.*, 411.

⁶⁸ *Ibid.*, 697, footnote 135.

⁶⁹ *Ibid.*, 411.

⁷⁰ *Ibid.*, 19-20.

rather than political society or economic society due to the coordinating mechanism of communicative interaction.⁷¹

Cohen and Arato define civil society “as a sphere of social interaction between economy and state, composed above all of the intimate sphere (including family) the sphere of associations (especially voluntary associations), social movements, and forms of public communication”⁷² In addition, they state that civil society comprises “the structures of socialization, association, and organized forms of communication of the lifeworld to the extent that these are institutionalized or are in the process of being institutionalized”.⁷³

They also give importance to the concept of legal order like Diamond, in the sense that the boundaries of civil society must be determined by the legal order and the rule of law is necessary for civil society to be institutionalized. Furthermore, the modern state does and ought to intervene to society within the limits provided by law.⁷⁴ Concerning the institutional sphere of civil society, Cohen and Arato identify three sets of rights as cultural reproduction, social integration and securing socialization. Cultural reproduction includes freedom of thought, press, speech, and communication, where social integration comprises freedom of association and assembly. The third one, securing socialization, consists of protection of

⁷¹ *Ibid.*, 417.

⁷² *Ibid.*, ix.

⁷³ *Ibid.*, x.

⁷⁴ *Ibid.*, 414.

privacy, intimacy, and the inviolability of the people.⁷⁵ These rights are the organizing principle of civil society and although the state maintains these rights by means of legal order, state is not the source and these rights should be provided by groups and individuals in the public spheres of civil society.⁷⁶

Within the general context of the thesis, civil society is defined as “the realm of organized social life that is voluntary, self-generating, (largely) self-supporting, autonomous from the state, and bound by a legal order or a set of shared rules”⁷⁷, by referring to Larry Diamond. Among other definitions of civil society in the pluralist tradition, this one is used to understand the relation between European Union and civil society in a more comprehensive way, as it comprises all the elements of civil society indicated by the pluralist approach.

2.2 Civil Society and Democratic Consolidation

Before analyzing the relationship between civil society and democratic consolidation, clarification of the concept of civil society is necessary since there are so many different views concerning the concept as it has been illustrated above. Due to its nature, civil society concept has some paradoxes in terms of its functions, rights and obligations. These paradoxes are the key factors in order to draw a framework that will be useful to understand the practical issues concerning the relationship between civil society and democratic consolidation.

⁷⁵ *Ibid.*, 441.

⁷⁶ *Ibid.*

⁷⁷ Diamond, *op.cit.*, 5.

The one that has to be mentioned first is that civil society is rooted both in individualism and collectivism. As stated by Habermas “the sphere of private people comes together as a public”⁷⁸. There is a tension between the particular rights and obligations and the collective membership in a civil society organization. The ideal notion of civil society emphasizes the respect for individual rights and freedoms as well as pluralism. However, the practices of civil society function on the behalf of the collectivity. Thus, the duality between the individualization and collectivity occurs. Secondly, as it is stated in the previous section, there is no common definition for the concept. Therefore, differentiating civil society from the other spheres, namely the state, economic sphere and public sphere becomes more difficult. The relationship between the state and civil society and its limits are not clear. The only means to determine these limits is the rule of law, which provides the legitimacy to the state. While determining these limits, one must consider that although an autonomous and strong civil society is desirable, it cannot be tolerated that a strong civil society challenges governing institutions to obtain its needs. Moreover the boundaries between civil society and the economic and public sphere cannot be determined precisely since the elements of these spheres sometimes overlap.

Another paradox is the inequality within the civil society. There are many social groups, which try to accumulate resources to provide service. However, not all them have the same capacity. As Trentmann states, “there is no such thing as a civil

⁷⁸ Jeffrey C. Alexander, “Paradoxes of Civil Society”, *International Sociology*, 12(2), 1997, 125.

society without some conflict and inequality”⁷⁹ and this conflict necessitates state involvement to equalize the capabilities of serving of these varying social groups within civil society. This variety among social groups creates another paradox, which can be defined as fragmentation. Walzer emphasizes that trying to pursue particular interests which conflicts with other particular interests causes civil society associations to be excessively particularistic.⁸⁰ Moreover, this fragmentation can also be observed in terms of the main function of civil society, which is to foster political participation. Not all associations promote democracy to the same extent.

In addition to the need for clarification of the concept of civil society, there is also another concept, democratic consolidation, which needs to be explained before examining the relationship between these two. For Linz and Stepan, consolidation is the process of deepening the commitments made in the ritual transition to democracy and making habits routine.⁸¹ Linz and Stepan depicts a set of conditions for democratic consolidation:

The consolidated democracy includes a civil society that is active enough to make its interests felt by the new government, a political society consisting of political institutions-parties, elections, electoral rules, leadership-that can structure and monitor the democratic government, a rule of law that is autonomous and generally applicable standards applied by an independent judiciary in a “spirit of constitutionalism”, a bureaucracy that is usable for governmental functions like taxing, regulation and the provision of basic services, and an economic society with a capacity to balance the interest of state and market.⁸²

⁷⁹ Frank Trentmann, *Paradoxes of Civil Society: New Perspectives on Modern German and British History*, New York, Berghahn Books, 1999, 189.

⁸⁰ Michael Walzer, “Rescuing Civil Society”, *Dissent*, 46(1), 1999, 65.

⁸¹ Diana R. Gordon, “Democratic Consolidation and Community Policing: Conflicting Imperatives in South Africa”, *Policing and Society*, 11, 2001, 122.

⁸² Juan J. Linz and Alfred Stepan, “Toward Consolidated Democracies”, *Journal of Democracy*, 7(2), 1996, 18.

Andreas Schedler, who also puts the emphasis on the concept of democratic consolidation, states that democratic consolidation should include such divergent items as popular legitimization, the diffusion of democratic values, the neutralization of anti-system actors, civilian supremacy over the military, the elimination of authoritarian enclaves, party building, the organization of functional interests, the stabilization of electoral rules, the routinization of politics, the decentralization of state power and economic stability.⁸³

Consolidation of democracy can be perceived as a process which civil society has a significant role in shaping it. The function of the civil society is to limit the state power by monitoring and restraining the exercise of it. Through this function, civil society can control the state. Therefore, there exists a reciprocal relation which both sides become a vital part of the other.

Samuel Huntington evaluates civil society as a precondition for democracy. He also emphasizes the need for the limitation of state power through autonomous groups, which form the differentiated social structure.⁸⁴ Moreover, when civil society limits state power, at the same time it prevents any single group or ideology from dominating society due to the fact that it sustains “open spaces for diverse views and interest”.⁸⁵

⁸³ Andreas Schedler, “What is Democratic Consolidation”, *Journal of Democracy*, 2, 1992, 92.

⁸⁴ Samuel P. Huntington, “Will More Countries Become Democratic”, *Political Science Quarterly*, 99, Summer 1984, 203.

⁸⁵ Trentmann, *op.cit.*

Jean Elshtain, on the other hand, emphasizes that promoting competence and character in individuals, building social trust and directing individuals to become good citizens are the main tasks of civil society.⁸⁶ Similarly, Don Eberly defines the transformation of private individuals into public-spirited citizens as a practical function of civil society.⁸⁷ He also stresses that to build social ties and a sense of mutual obligation by uniting isolated individuals around common objectives is a significant role of civil society to maintain democracy.⁸⁸

Citizenship and civility are the terms that are used as the means of civil society by some scholars. For example, Przeworski stresses the importance of promoting a strong sense of citizenship among the public, holding the leadership accountable and controlling the power of government by a well-organized and vibrant civil society which ensures the sustainability of democratic regimes.⁸⁹ In addition, according to Shils, the effectiveness of civil society to deepen democracy depends on the civility of individuals who perceives such a civility as the virtue of civil society, which is developed within it.⁹⁰

Some scholars, on the other hand, underline the negative effect of civil society on democratization. Among those scholars, Gordon White rejects the

⁸⁶ Jean B. Elshtain, "A Call to Civil Society", *Society*, 36(5), 1998.

⁸⁷ Don E. Eberly (ed.), *The Essential Civil Society Reader: the Classical Essays*, Maryland, Rowman and Littlefield Publishers, 2000, 3.

⁸⁸ *Ibid.*, 7.

⁸⁹ Wilmot James and Daria Caliguire, "Renewing Civil Society", *Journal of Democracy*, 7(1), 1996, 60.

⁹⁰ Shils, *op.cit.*, 16.

idea that civil societal organizations essentially facilitate democratization but in contrast they can obstruct it. Some civil societal elements, depending on conjuncture, would facilitate liberal democracy and some of them would encourage authoritarian regimes. The level of the institutionalization of civil society organizations and their internal democratic structures are significant factors for the consolidation of democracy. Therefore, no one can assert that the idea of a “strong” civil society is likely to produce democratization, neither the idea that a “weak” civil society is contributory to democratization.⁹¹

Larry Diamond, like White, underlines the relationship between civil society and democratic consolidation. He asserts that not all civil societal organizations assist democratization. In order to have a significant role in consolidation of democracy, civil society must be pluralistic and must provide opportunities to individuals to participate in different associations. Moreover, civil societal organizations must be institutionalized and must be democratic within themselves.⁹²

For Diamond, “the more active, pluralistic, resourceful, institutionalized, and democratic is civil society, and the more effectively it balances the tensions in its relations with the state -between autonomy and cooperation, vigilance and loyalty, skepticism, and trust, assertiveness and civility- the more likely it is that democracy will emerge and endure”.⁹³

⁹¹ White, *op.cit.*, 380.

⁹² Diamond, *op.cit.*, 11-12.

⁹³ *Ibid.*, 16.

Moreover, he indicates political participation as one of the functions of civil society for consolidation of democracy. He claims “civil society supplements the role of political parties in stimulating political participation, increasing the political efficacy and skill of democratic citizens and promoting an appreciation of the obligations as well as the rights of democratic citizenship”.⁹⁴ He also points out the importance of creating channels for representation of interest to enhance the representativeness of democracy.⁹⁵ Furthermore, election-monitoring groups, the massive voter education and monitoring efforts, human rights groups, think-tanks devoted to democratic reform and public anticorruption groups play a vital role in consolidation of democracy.⁹⁶

In addition, Diamond argues that accountability, responsiveness, inclusiveness and legitimacy of political system are enhanced by civil society through reinforcing legitimacy and governability.⁹⁷ However a strong civil society can play “a disciplinary role in relation to the state by enforcing standards of public morality and performance and improving the accountability of both politicians and administrators”.⁹⁸ Moreover, he also emphasizes another significant function of civil society as an “intermediary transmission belt between state and society”.⁹⁹

⁹⁴ *Ibid.*, 7.

⁹⁵ Larry Diamond, Juan J. Linz, and Seymour M. Lipset, *Politics in Developing Countries*, USA, Lynne Rienner Publishers, 1995, 28.

⁹⁶ *Ibid.*, 29.

⁹⁷ *Ibid.*

⁹⁸ White, *op.cit.*, 383.

⁹⁹ *Ibid.*, 384.

This section aims to draw a theoretical framework on the relationship between civil society and democratic consolidation. In order to gain a clearer view on the concept of civil society, the paradoxes it has in itself are examined. In addition, different perspectives on civil society within the context of democratic consolidation are presented. In the next section organizational forms of civil society will be analyzed.

2.3 Organizational Forms of Civil Society

Another aspect of civil society, which has to be examined for the purposes of this thesis, is its relationship or correspondence with CSOs or NGOs, namely organizational forms of civil society. Although an exact correlation between civil society and non-governmental organizations, civil society organizations or voluntary organizations is not usually accepted, these organizations are acknowledged as the basic agents of civil society. Moreover, not a universal agreement on the exact definition of NGOs and CSO is accessible.

Rooy claims that today civil society is described as “the sum of all the organizations we feel are responsible for bringing civility closer to home”. It is used synonymous with the voluntary or third sector and with advocacy groups, NGOs, social movements agents while excluding the state and for-profit organizations.¹⁰⁰ However in developmental arenas, civil society is reduced to NGOs and there is a common presumption that acknowledges the mere presence of organizations as the guarantee of a civil society that works for public interest.¹⁰¹

¹⁰⁰ Rooy, *op.cit.*, 15.

¹⁰¹ *Ibid.*, 16.

In contrast to the definition of Rooy whose definition is more inclusive in terms of the organizations, Kumi Naidoo and Rajesh Tandon emphasize that not all organizations belong to the realm of civil society. They state that “...[W]hile associational life includes all civil society organizations, civil society does not include all organizations that comprise a society’s associational life”.¹⁰² Organizations, which do not meet normative principles, such as tolerance, inclusion, non-violence etc. are not civil society organizations. Political character of civil society differentiates the concept of civil society from “the voluntary, independent, third, philanthropic, nonprofit or non-governmental organization (NGO) sector.”¹⁰³

Similarly, Ezra Mbogori and Hope Chigudu state that the political dimension differentiates civil society from non-profit, voluntary, third and NGO sectors.¹⁰⁴ On the other hand, advocacy is a major function of CSOs to promote democracy. Therefore, CSOs are differentiated by their prominent function, which is the advocacy to promote democracy. In other words, civil society organizations play a significant role in the development of a “culture of democracy”.¹⁰⁵

Mary Kaldor, similar to Naidoo and Tandon, emphasizes that civil society does not include all the groups and organizations that are outside of the state. It does not

¹⁰² Kumi Naidoo and Rajesh Tandon, “The Promise of Civil Society”, *Civil Society at the Millennium*, Connecticut, Kumarian Press&CIVICUS, 1999, 13.

¹⁰³ *Ibid.*, 7-9.

¹⁰⁴ Ezra Mbogori and Hope Chigudu, “Civil Society and Government: A Continuum of Possibilities”, *Civil Society at the Millennium*, Connecticut, Kumarian Press&CIVICUS, 1999, 116.

¹⁰⁵ *Ibid.*, 113.

contain groups that support violence and work for self-organized, exclusivist groups like for-profit organizations.¹⁰⁶

According to Iris Young, civil society involves variety of organizations, movements and activities independent from the state and economy such as informal clubs, religious organizations, non-profit service-providers, political actions groups and so on. She states that it is better to understand these three spheres that are civil society, economy and the state “as distinct kinds of activities” rather than distinct spheres of institutions.¹⁰⁷

She describes three kinds of “level” of associations to understand how these activities advance democracy and social justice. Private associations, such as social clubs, private parties, gatherings etc. are self-regarding, in the sense that they are more concerned about their members, whereas civic associations aim to be interested in wider community and collective life. Political associations are interested in what the social collective should do. Young emphasizes that the movement from one of these activities to another is not difficult and some voluntary associations may be involved in all of the levels.¹⁰⁸

In western literature, NGO is defined on the basis of a division between membership and non-membership organizations. Anthony Bebbington and

¹⁰⁶ Mary Kaldor, “Transnational Civil Society”, *Human Rights in Global Politics*, Tim Dunne and Nicholas J. Wheeler (eds.), Cambridge, Cambridge University Press, 1999, 210-211.

¹⁰⁷ Iris M. Young, “State, Civil Society and Social Justice” in *Democracy’s Value*, Ian Shapiro, Casiano Hacker-Cordon (eds.), New York, Cambridge University Press, 1999, 145.

¹⁰⁸ *Ibid.*, 145-148.

John Farrington argue that as authors like Fowler and Carroll emphasize membership and non-membership and base (grassroots) NGOs are different because of the differences between their social origins, ethnic characteristics, and organization skills and manners.¹⁰⁹

In addition, Diana Mitlin also separates NGOs and grassroots organizations. She describes NGOs as “professional, non-profit, non-membership intermediary organizations which are independent of the state and which undertake a range of activities in order to further development objectives”.¹¹⁰ Grassroots organizations, on the other hand, are also independent from state, but they are membership organizations in which risks and cost-benefits are shared by their members. Besides, leadership and administration of organizations are responsible to the membership.¹¹¹ About NGO-civil society relationship Mitlin says:

Although the term “civil society” is commonly used to refer to an aggregate body of non-governmental and not-for-profit agencies, in practice such an aggregation can hardly be said to exist...for the most part, civil society remains an amorphous grouping of organizations and networks of organizations, often with poorly defines boundaries and without a common purpose.¹¹²

Telmo Frantz has also analyzed the relationship between the NGOs and civil society.

According to him, this relationship can be described in two types. Firstly, there are

¹⁰⁹ Anthony Bebbington and John Farrington, “Governments, NGOs and Agricultural Development: Perspectives on Changing Inter-Organizational Relationships”, *The Journal of Development Studies*, 29 (2), 1993, 199-219.

¹¹⁰ Diana Mitlin, “The NGO Sector and Its Role in Strengthening Civil Society and Securing Good Governance”, *Civil Society and International Development*, Amanda Bernard, Henny Helmich, Percy B. Lehning (eds), Paris, OECD, 1998, 83.

¹¹¹ *Ibid.*

¹¹² *Ibid.*, 82.

NGOs that aim at supporting social movements or initiatives, the expression of the free will of the groups that are interested in common needs and aspirations. He states that this kind of NGOs strive for creating a collective society where everyone develops into a citizen. On the other hand, second group of NGOs that are also expression of certain social movements, correspond to institutionalization. Those NGOs express the capacity of civil society for free organization and of its vitality.¹¹³

In this study, the term of CSO (civil society organization) is used, since the term of CSO comprises unions and chambers in addition to associations and foundations and also it matches NGO (non-governmental organization), GRO (grass root organization) and CBO (community based organization).¹¹⁴

2.4 European Civil Society

This part aims to present different perspectives which are perceiving European civil society as a part of the solution to bridge the gap between the Union and its citizens. This concept has been on the agenda with all its attractiveness. However, the approaches widely differ and they do not offer a consensus on the content, role and function of the European civil society. The only common point is that, it has been frequently emphasized in the literature as a part of the solution. Therefore, the main lines of these different perspectives concerning the function of the civil society within the Union will be presented.

¹¹³Telmo R. Frantz, "The Role of NGOs in the Strengthening of Civil Society", *World Development*, 15, 1987, 123.

¹¹⁴ Besides, there is an increasing tendency to use the term of CSO instead of NGO among social scientists who particularly study on the civil societies in the third world (Rojas, 1999; Naidoo and Tandon, 1998; Rooy and Robinsion, 1998; Mbogori, and Ghigudu, 1998).

However, these perspectives differ widely in terms of the issue. By putting the emphasis only on one dimension, they attribute different functions to the European civil society. Some approach the issue within the limits of democratic deficit, while some others have a more comprehensive view such as linking the European civil society with the modern world system.

The ones, who have a more comprehensive view, emphasize the need to relief the roots from the context of nation-state in order to create a stronger sense of democracy, citizenship and belonging. Thus, they point out the dangers of attempting to unify nation through homogenizing their populations, manipulating myths and symbols. On the contrary, they argue that common commitment to equality, democracy, freedom and human rights should be the common base. Putting the emphasis on the common values of democracy, freedom and human rights, civil society has been perceived as an instrument in order to achieve transnational governance within the European Union. The Union itself offers a study case for this approach due to its unique form which has been evolving since its establishment.

Others, who refer to democratic deficit, mainly criticize the Union's traditional approach to democracy. According to them, representative democracy is not enough to meet the demands of all European citizens and other channels of representation must be created. Therefore, they differ representative democracy from participatory democracy and they favor the latter to enhance legitimacy at the EU level by improving the involvement of the organizations of civil society in the European institutions.

One of the scholars who examine the European civil society within a broad perspective is Jürgen Habermas. He has spoken about the self-organized spheres of public life based on solidarity and communication. He refers to them by the well-known phenomenological term *lifeworld*¹¹⁵ and he states “the core of civil society comprises a network of associations that institutionalizes problem solving discourses on questions of general interest inside the framework of organized public spheres”.¹¹⁶ Concerning the question of whether the European democracy should be founded on a “European people” or a “European nation”, Habermas criticizes the understanding that a democratic order must be mentally rooted in a “nation”. On the contrary, in order to create a European identity, he puts the emphasis on the European citizenship, which has to be considered in the context of integration process.¹¹⁷

With the accomplishment of the Single Market, the social mobilization and migration from less developed countries have increased. These two events resulted in a more multi-cultured Europe and this multi-cultured environment within the EU has created a social tension, which is evaluated by Habermas as the possibility for the creation of a post-nationalist citizenship. According to him, an effective transformation of these social tensions would advance political mobilization and would encourage social movements such as ecological, peace and women movements. Since these movements necessitate a particular cooperation, the solution can only be brought at the European level. At this point, Habermas underlines that the European integration

¹¹⁵ Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, 3rd ed., New Baskerville, MIT Press, 1999, 352.

¹¹⁶ *Ibid.*, 367.

¹¹⁷ *Ibid.*

can only be achieved by the support of a public sphere based on a common political culture which exists all over Europe. Accordingly, this common culture can only be constructed by civil society movements consisting of interest groups, civil society organizations and individual movements, which transcend national societies. It also depends on a political party system which establish a direct relation with Europeans. In his theory of communicative action, institutionalization of post-nationalism will be achieved by a civil society that comprises citizens who have communication among themselves at an adequate level.¹¹⁸

Like Habermas, José Magone also has a comprehensive view on the issue. He proposes a future project concerning the European civil society through perceiving the issue within the context of modern world system. He emphasizes the gradual transformation of the system of international relations into a post-national system within last fifty years. In this context, he sees the European Union as a phenomenon *par excellence* that leads to a rethinking of the doctrine of absolute sovereignty and spearheading the post-national system of international relations. However, he adds that the EU is already a political system *sui generis* which is not completed yet and concerning the role of European civil society in the reconstruction of the modern world system, Magone emphasizes that “European civil society may mobilize global governance towards a paradigm shift from nationally oriented capitalism to tamed proactive cosmopolitan capitalism”.¹¹⁹

¹¹⁸ *Ibid.*

¹¹⁹ José Magone, *The Modern World System and European Civil Society: A reconstruction of the longue durée of modernity in the new millennium*, <http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/copenhagen/ws9/magone.pdf> , 3.

He perceives the EU as the most advanced part of a possible scenario of global integration, consequently he regards the emergence of a European civil society as an important experience to understand future global developments.¹²⁰ According to him, a European identity is no longer unidimensional but multidimensional and European Union, by generating its political elites, is diffusing its values in matters that have to be dealt with at the European level.¹²¹ He conceptualizes European civil society as all the efforts done by collective groups by emphasizing European solutions to everyday problems. Yet, he underlines that the creation of a European-wide identity is asymmetrical. Different persons have different kinds of identity according to their level of integration in the different governance systems.¹²²

On the other hand, he emphasizes that the most realistic outcome of the European Union as a political system *sui generis* is, its ability to increase the shared sovereignty of the member states.¹²³ This shared sovereignty necessitates cooperation in particular policy areas. In order to achieve the cooperation, the Union produces a complex institutional and political structure. Therefore, Magoné asserts that constitutionalism itself is not the solution to the integration process and he regards European civil society as a heuristic device to understand the growing transnational mobilization of interest groups, subnational agencies and citizens.¹²⁴

¹²⁰ *Ibid.*, 17.

¹²¹ *Ibid.*, 17-18.

¹²² *Ibid.*, 22.

¹²³ *Ibid.*, 17-18.

¹²⁴ *Ibid.*, 22-23.

William Outhwaite, like Habermas, underlines that the European integration process requires some sort of civil dimension, which is not tied to territorial states and membership. Therefore, he has linked European civil society with a European identity and draws the lines of European identity through democratic identifications and the ideal of a postnational citizenship. Moreover, he puts the European identity as a broader social and cultural form which will be a background to the ups and downs of the political and economic project of European integration in the early twenty-first century.¹²⁵

On the other hand, according to Outhwaite, the emergence of the European civil society is necessary to achieve European integration. By pulling our attention to the differences within the Member States, the East/West and South/North conflicts, multiculturalism, cultural identity and the factors affecting Europeanness such as migration and intermarriage, he puts the emphasis on European civil society as an entity which is much more than just the sum of civil societies in Europe.¹²⁶

Chris Rumford addresses European society as a key feature of recent debates on EU integration and states that this interest has emerged within the context of European governance, post-national citizenship and the democratic deficit discourses. He questions whether the concept of a unified and cohesive civil society could be considered as constituting a European society or not. Therefore, he points out the absence of consensus on how the object of inquiry should be termed. He underlines

¹²⁵ William Outhwaite, *Toward a European Civil Society?*,
http://www.zmk.uni-freiburg.de/Online_Texts/outhwaite_european_civil_society.htm

¹²⁶ *Ibid.*

the fact that the term “European civil society” has emerged as the dominant term when one refers to European society as the result of EU’s own preference for and usage of the term. Thus he uses the European civil society concept instead of European society and perceives civil society as a characterization of the latter.¹²⁷

On the other hand, Rumford emphasizes that the EU integration and European civil society have a global dimension and citizenship, governance and democracy have viewed as transnational in origin.¹²⁸ While the mass communications, technological innovation diverse cultural phenomena and supra-state regulation have all “caused” globalization to happen¹²⁹, defining the EU as an example of transnational space does not mean that the nation-state is no longer important. However, the idea of society has been changing parallel to the changes brought by globalization and this transformation affects the functions of civil society.

He defines civil society as the public interactions of citizens, non-state institutions and autonomous collectives. Paying attention to the underdevelopment of social integration, he sees the absence of a European society as an obstacle for European governance and European democracy. According to him, the nature of society is much less clear due to globalization, post-materialist values and the rise of identity politics.¹³⁰ In addition to this less clearness, the values and responsibilities that are

¹²⁷ Chris Rumford, “European Civil Society or Transnational Social Space? Conceptions of Society in Discourses of EU Citizenship, Governance and the Democratic Deficit: An Emerging Agenda”, *European Journal of Social Theory*, 6 (1), 2003, 25-27.

¹²⁸ *Ibid.*, 26.

¹²⁹ Jan Aart Scholte, *Globalization: A Critical Introduction*, Basingstoke, Palgrave, 2000, 89-108.

¹³⁰ Rumford, *op.cit.*, 25-27.

attributed to the term have been increasing. For example, Rumford evaluates the non-existence of a European public sphere or civil society as a cause of the EU's democratic deficit. Thus, according to him, a European civil society is a must if the EU is to win the confidence of its citizens. Moreover, he considers the European civil society within citizenship, governance and democracy and emphasizes that the emergence of the European society will help us to understand the dynamics of European transnational society within a global frame of reference.¹³¹

One scholar who mainly deals with civil society within the context of democratic deficit, legitimacy issue and the improvement of involvement of the organizations of civil society in the European institutions is Olivier De Schutter. He identifies three developments as the cause of the renewed interest for civil society at the European level. Accordingly, the emergence of a transnational network of organizations which is favored by the strengthening of the "anti-globalization", the experience of the drafting of the Charter of Fundamental Rights which has raised considerable interest within the organizations of the civil society and the existence of a widely diffused impression concerning a more process-based legitimacy of the European process of integration rather than result-based. These three main developments define the approach of De Schutter to the European civil society.¹³²

He asserts that this renewed interest in the involvement of civil society will continue. Yet he also questions the forms and conditions of this involvement, the relation of

¹³¹ *Ibid.*, 37.

¹³² Olivier De Schutter, "Europe in Search of its Civil Society", *European Law Journal*, Vol.8, No.2, June 2002, 198-199.

“participatory democracy” to “representative democracy” and the democratic deficit problem within the context of legitimacy issue. Concerning the latter, he questions the relationship between legitimacy and participation. By emphasizing that “participatory democracy” does not compete with representative democracy but rather complements it, the legitimacy can be achieved by a larger participation of all interested parts in European Union polices.¹³³

Emanuela Lombardo approaches European civil society concerning its role for European democracy. She differentiates political parties and civil society through different logic of representation. According to her, while the political parties based on the logic of electoral representation, civil society based on the logic of identification and participation. She emphasizes that civil society may provide further information on issues and contribute to communication process in the European public sphere. Moreover, civil society’s participatory feature ensures establishing links between the institutions and civil society. Therefore, this would enable groups to make their voices heard. On the other hand, this would also allow decision-makers to represent their citizens’ concerns and thus they gain legitimacy among the people they ought to represent.¹³⁴

According to Kenneth Armstrong, the concept of European civil society takes the pluralism of society as its starting point. He asserts that to underpin the European governance the concept of an organized European civil society does not necessitate

¹³³ *Ibid.*, 202.

¹³⁴ Emanuela Lombardo, *The Participation of Civil Society in the Debate on the Future of Europe: Rhetorical or action frames in the discourse of the Convention?*, http://www.unizar.es/union_europea/archivos/workPapers3 UE.pdf

shared values and shared histories. Moreover, he emphasizes that European civil society is open to a more plural form of membership than is currently offered by EU citizenship. This more plural form ensures the inclusion of non-EU nationals as members of a transnational civil society.¹³⁵

Moreover, Armstrong emphasizes that European civil society can be interpreted in different ways. The rediscovery of the concept as a means to connect society to structures of governance is open to quite contrasting interpretations within the limits of different theoretical projects. By putting the emphasis on democratic deficit of the Union, Armstrong perceives the European civil society as a solution superior to two alternatives which he describes as liberal constitutionalism and strengthening the national constitutional legitimation of transnational governance.¹³⁶

Liberal constitutionalism is one of these alternatives which may help to bridge the gap between society and the structures of transnational governance through granting the rights of citizens. This alternative can be evaluated as a legal contribution to theorizing European integration¹³⁷ but it has some defects. In this alternative, as Armstrong asserts, citizens are perceived as market citizens rather than social or political actors and market citizens are not active concerning the setting of the objectives of transnational governance. Moreover, in this alternative, the connection

¹³⁵ Kenneth Armstrong, "Civil Society and the White Paper- Bridging or Jumping the Gaps?" *Jean Monnet Working Paper*, No.6/01, Symposium: Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance, <http://www.jeanmonnetprogram.org/papers/01/011601.html>

¹³⁶ *Ibid.*

¹³⁷ Kenneth Armstrong, "Legal Integration: Theorizing the Legal Dimension of European Integration" *Journal of Common Market Studies*, 36(2), 1998, 167-168.

between transnational governance and society is based on self-interested consumption of legal rights. In addition, the constitutionalisation of a “higher” economic law may undermine national democratic processes of collective will-formation.¹³⁸

Strengthening the national constitutional legitimation of transnational governance is the second alternative which may bridge the gap. In this alternative asymmetries may appear between Member States and the EU must be able to claim a certain constitutional autonomy. Retreating into domestic constitutionalism cannot be a solution only by itself. Domestic constitutionalism has to remain as one of the relationships between levels in a multi-level constitutionalism. Yet, accepting the existence of the demos solely within the limits of the “nation state” which is a premise of the domestic constitutionalism, creates an obstacle for the constitutionalism “beyond the nation state”, thus for the creation of transnational governance.¹³⁹

Therefore, according to Armstrong, the concept of European civil society can provide an intermediating civic sphere to connect society to transnational governance. That is why the concept of “European civil society” is superior to these two alternatives. Civil society might be differentiated from the ethnically national demos and can be perceived as a sphere of more active civic engagement. With the emergence of transnational governance, one might transcend the traditional conceptualization of European civil society which is defined within the boundaries of

¹³⁸ Armstrong, “Civil Society and the White Paper- Bridging or Jumping the Gaps?”, *op.cit.*

¹³⁹ *Ibid.*

the nation state. Therefore, a sphere of European civil society in terms of transnational organizations participating in the development of EU governance might be possible.¹⁴⁰

This section has served as a basis to show the different perspectives on European civil society. The concept is open to different interpretations and the approaches vary depending on the goals wants to be achieved. While the approaches differ about the kind of civil society they wish to see at the Union level, most scholars agree on giving a greater role to it.

¹⁴⁰ *Ibid.*

CHAPTER III

THE EU AND ITS CITIZENS

European integration has been generally perceived as an elite-driven project and the average European is given few opportunities to influence the policies and procedures of the EU institutions. Having realized this perception, changes made by the Maastricht Treaty mainly focused on creating “an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen”¹⁴¹. However, the gap between the Union and citizens still remains and from time to time policies of the EU are implemented despite the public opinion. In addition, most Europeans are confused by the European Union not only due to the complex structure of the EU but also misrepresentation of the policies that sometimes the citizens do not know who takes the decisions that affect them. As a result, Eurobarometer polls indicate that electors are not interested in the EU and show low performance at European elections.¹⁴² This issue has become a problem, which is labeled as democratic deficit.

On the other hand, the issue of democracy in the European Union has been receiving increased attention. Important questions have been raised about the democratic

¹⁴¹ Treaty on European Union, Article A, <http://europa.eu.int/en/record/mt/title1.html>

¹⁴² European Parliament, Committee on Culture, Youth, Education, the Media and Sport, 13 December 2001, 2001/12192(COS), <http://www.europarl.eu.int/meetdocs/committees/cult/20020107/449527EN.pdf>

legitimacy of governance and decision-making in the EU and of the integration process itself. Therefore, the nature of the EU and the direction of the integration process are the key themes for the ones who perceive the European Union as a polity. Within the framework of contemporary discourse on the European Union, limitations of legitimacy, democracy, accountability, transparency and effectiveness are fundamental issues that have been questioned. Therefore, the first part will address the concepts such as democracy, democratic deficit and legitimacy in order to analyze the relationship between these crucial concepts in more analytical way.

The second part of the chapter deals with the approach of the Union in the framework of these concepts and the solutions that it tries to formulate to get closer to its citizens. EU policy-makers have been paying attention to the gap between European citizens and European institutions since the end of 1960s as a consequence of the politicization of the integration process.¹⁴³ Thus, constructing a common European culture, identity and a sense of shared European history has occupied a strategic place in the thinking of EU elites. However, the peoples of Europe, who are subject to such a construction, have different cultures and histories. Although these peoples have common values such as democracy, the rule of law and human rights, they also have diverse values which can create an obstacle for the construction of a European public sphere. Therefore, those different peoples of Europe may not form a public sphere at the EU level. This issue has been labeled as absent demos in the literature. In this respect, tackling the problem of “absent *demos*”¹⁴⁴ of the Union and

¹⁴³ Cris Shore, *Building Europe: The Cultural Politics of European Integration*, London, Routledge, 2000, 44.

¹⁴⁴ *Ibid.*

creating a “People’s Europe” have become recurring themes during the integration process since creating a political community requires a sense of commonality.

In this framework, the second part will analyze the ways of creating demos and the problems that the EU has been facing.¹⁴⁵ Accordingly, this part will serve as a basis for the historical background of the attempts to get the Union closer to its citizens.

3.1 The concepts of democracy, democratic deficit and legitimacy in the EU

Political arguments about the nature of the EU are mainly based on the indefinite position of the Union itself. Since there is a link between the label put on a political system (e.g. state or international organization) and requirements for its democratic practices and sources of legitimacy, a consensus on what kind of entity the “European Union” is and a common perception of this entity are necessary. However, any discussion about democracy in the EU is bound to be even more complex than a discussion about democracy in a nation-state.

Brigid Laffan has explained this situation as “betweenness”, which poses a challenge for politicians and political theorists. According to her, the EU lies somewhere between politics and diplomacy, between the domestic and the international and between government and governance.¹⁴⁶ Thus we can claim that there is a tension between “national” and “supranational” characteristics of the EU and that makes it

¹⁴⁵ Within the framework of this thesis, concepts such as political and cultural identity, identity construction or cultural policy of the Union will not be discussed in detail. However, these concepts will be used to explain the ways to create the sense of belonging.

¹⁴⁶ Brigid Laffan, “Democracy and the European Union”, in *Developments in the European Union*, Laura Cram, Desmond Dinan and Neill Nugent (eds.), London, MacMillan, 1999, 330.

an ambiguous polity. In this respect, it is essential to discuss three main concepts; democracy, democratic deficit and legitimacy, within the context of the EU.

3.1.1 Democracy in the EU

Trying to find out the limits of the concept “democracy” is a very difficult task since there is no universally accepted definition of the concept. In addition, within the context of the EU, the task becomes more complex since equally ambiguous terms, namely democracy and the EU, have to be dealt with together. It is expected that the debate on democracy in the EU will affect the polity structure of the EU. Therefore, within the last decade, this debate has occupied a significant place and scholars from various disciplines address the issue from different point of views.

Discussions about the concept of democracy within the context of the EU are closely related to the theories of European integration. As it is well known, the origin of the European integration goes back to the Second World War. For the realization of the common goal, which was the prevention of another destruction, there were mainly three approaches, namely, federalism, intergovernmentalism and neo-functionalism. Therefore, thinking on democracy in the EU varies widely depending on the side that one belongs.

The growing politicization of integration caused an increasing attention to the questions of democracy and legitimacy in the EU. At the end of the 1960s, with the accomplishment of transnational phase of market integration, concerns about the relationship between integration and democracy surfaced. In the 1990s, growing distrust against the public institutions at national level and the crises of

representation in Europe intensified the debate on democracy and legitimacy on the EU agenda.¹⁴⁷

Laffan emphasizes that the debate about democracy in the EU is based on twin assumptions that the Union is a polity and that it impinges to a growing extent on the institutions and practices of national democracies. Moreover, she states that democracy and legitimacy are contested concepts in political theory and these concepts are treated in the traditional nation-state. Therefore, on the one hand, the EU constitutes a challenge to the orthodox ways of conceptualizing democracy, authority and legitimacy in contemporary politics.¹⁴⁸ However, on the other, the EU is composed of the established democracies of the Western Europe.

Although describing the concepts within the context of the EU poses difficulties, it has a great significance in order to identify the real problem of this polity. Laffan describes democracy as both “a set of ideals about the exercise of political authority and a set of institutions/processes to organize government and legitimacy as a key component of democratic governance”. However, she emphasizes that the distinction between democracy and legitimacy is crucial, because the existence of one does not entail the existence of the other. According to her, a system may benefit from a reasonably high level of legitimacy while not conforming to key features of democracy and vice versa.¹⁴⁹

¹⁴⁷ *Ibid.*, 333-334.

¹⁴⁸ *Ibid.*, 330.

¹⁴⁹ *Ibid.*, 331.

In less than fifty years, the EU has evolved from an intergovernmental treaty to an increasingly unified entity with many features of a state: territory and flag, currency and central bank, executive, legislature and court, and soon may be armed forces. As Simon Hix argues “politics in the EC is not inherently different to the practice of government in any democratic system”. Therefore, he calls the EU a “quasi-federal state” whose description in terms of “cooperative federalism allows further comparisons to be drawn from politics in other federally organized and territorially pillarized systems”.¹⁵⁰

Larry Siedentop, adopts an entirely fresh approach to the problem of democracy within the context of European integration. According to him, European integration has reinforced executive power and strengthened elites and bureaucracies at the expense of civil society. He emphasizes that a further deepening of the EU on the existing pattern could easily provoke a populist reaction against the whole European project. Therefore, for him, the only ultimate solution is a form of federalism, with decentralization, the constitutional protection of rights and judicial review. However, he is equally convinced that Europe is not yet ready for this step. The strength of existing national traditions, the extent of linguistic diversity, and the continuing dominance of the state as the location for self-government would undermine a premature experiment in federalism. Vibrant democracy, he argues, depends on the existence of political elites, but these must have strong organic links with the society in which they are based. He states that no such European political elite exists and it cannot be created overnight. The enhanced integration sought by the architects of

¹⁵⁰ Simon Hix, “The study of the European Community: the challenge to comparative politics”, *West European Politics*, 17(1), 1994, 8-12.

Maastricht and Amsterdam is of a bureaucratic centralist kind, which is more likely to threaten democracy within the member states than to create a democratic Europe. It is therefore better to proceed slowly, and he views more profound decentralization within the member states as an important step towards the eventual goal.¹⁵¹

According to him, federalism seeks to minimize the need for coercive power while maximizing a willing obedience to laws, which are seen as protecting local and regional as well as national interests. And it promotes not just a welcome dispersal of authority, but also checks and balances, and popular participation in politics. Moreover, he puts the emphasis on etatist political cultures, shaped by a bureaucratic form of the state and states that democratic legitimacy in Europe is at risk. They foster a view of law and public policy as the domain of experts, as strangers who, almost by definition, have an advantage over locals.¹⁵²

According to Siedentop “the crisis of European integration” is above all, “the issue of democracy”. Thus the issue at the bottom is “a crisis of liberal political thinking” about the ends and means of European integration. He believes that federalism is, ultimately, the right future for Europe but that much time and evolution will be necessary for Europeans to be ready for federalism. On the other hand, he states that there is no alternative to a political class or élite if a federal Europe is to enjoy the reality of self-government. Such an élite or political class should be the expression of a healthy civil society.¹⁵³

¹⁵¹ Larry Siedentop, *Democracy in Europe*, London, Allen Lane Press, 2000.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

He classifies appeal for democracy under three types, which are democracy simpliciter, democratic government and democratic society.¹⁵⁴ He emphasizes that appeals for democracy rely on different frameworks of ideas that coexist in our minds.¹⁵⁵ Therefore, when we appeal for democracy, we have in our minds the making of two puzzles that their pieces comprise public and private spaces. However, since we are not aware of the number of puzzles in our minds, we try to fit together pieces which do not and cannot form a single image. Therefore, in order to find the correct places of the pieces, he associates the appeal for a democratic government with the discourse of “citizenship” on the one hand, and the appeal for a democratic society with the discourse of “civil society” on the other.¹⁵⁶

According to him, citizenship and civil society- two traditions of discourse- embodied different assumptions about equality. While the discourse of citizenship begins with the group, the discourse of civil society begins with the individual. Moreover, the discourse of civil society is founded on the assumption of natural or moral equality. He defends that this equality is internally related to the transformation of European society since the early Middle Ages.¹⁵⁷ He argues that this discourse brought about a radical change in role-structures in Europe by introducing a primary role or status which is shared by all people equally.¹⁵⁸

¹⁵⁴ *Ibid.*, 48.

¹⁵⁵ *Ibid.*, 50.

¹⁵⁶ *Ibid.*, 51.

¹⁵⁷ *Ibid.*, 57.

¹⁵⁸ *Ibid.*, 59.

In order to come over the dilemma between these two different traditions of discourse, he suggests a more restrained notion of citizenship, which acknowledges the importance and legitimacy of the private sphere and accepts that the claims of the public sphere on citizens ought to be limited by justice. According to him, such a restrained doctrine of citizenship finds its natural place in a devolved form of the state. Therefore, constitutional forms are so important and they are promising means of reconciling the two potentially conflicting urges towards equality. Moreover, he argues that federalism which is the natural extension of a devolved form of the nation-state, makes it possible in principle to adjust the claims of both citizenship and civil society by helping autonomous individuals who are also citizens to take a new view of their own interest. This new view will lead insensibly from narrowly personal interests through local and regional interest, to national interest and beyond. In that way, he argues, federalism firmly anchors the individual in different layers of association.¹⁵⁹

Erik Oddvar Eriksen and John Erik Fossum argue that the development of deliberative supranationalism, may lessen the EU's democratic deficit more than the formal parliamentarization of EU institutions. They contrast their “deliberative” model of democracy – “democracy as governance based upon the public use of reason” - to more traditional liberal or republican models. Liberals see democracy where individuals with protected rights vote by majority for representatives, who themselves arrive at collective decisions by majority. Republicans see democracy where all members of a polity participate directly in decision-making and ultimately recognize “the will of all”, or common good. In deliberative democracy, legitimate

¹⁵⁹ *Ibid.*, 62-63.

decisions emerge through broad participation in arguments in the “public space” between society and government. The best arguments win, giving good enough reasons to convince dissidents to accept them as legitimate.¹⁶⁰

In this context, we can say that the concept of democracy itself is problematic enough even in the context of nation-state. Therefore, making an analogy between the EU and nation state as political units does not lead us to the main problem of the concept of democracy in the context of the EU. In this respect, Laffan’s term “betweenness” gives us the clue because to overcome the problems of democracy in the EU context, this in-between character of the EU is crucial as it is explained above. As Laffan argues the meaning of the concept itself should be redefined in the context of the EU. If we define democracy in the context of nation-state it becomes problematic in the EU context, since it cannot be realized in a supranational polity as it is in the national level. Therefore the concept of democracy, which is defined at the national level, is not enough as a tool to analyze the democratic deficit problem in the EU.

3.1.2 The Democratic Deficit

Democratic deficit claims had originated in discussions of the European Parliament’s draft treaty for a European Union in the early 1980s and debates leading up to the 1986 Single European Act, whose main objectives included to “rectify the democratic deficit in the Community’s decision-making process”. The term resurfaced in controversies surrounding the Maastricht referenda in Denmark and

¹⁶⁰ Erik Oddvar Eriksen and John Erik Possum (eds.), *Democracy in the European Union*, New York, Routledge, 2000.

France, and was made a fundamental objection by Germany's constitutional court in its Maastricht judgment. The 2000 Nice European Council meeting made the issue only more salient when the member states had to decide whether to transfer even more national powers to Brussels as the Union prepares for further enlargement.¹⁶¹

The democratic problem is attributable, on the one hand, to institutional deficiencies of the electoral and party system, on the other hand, it refers to the absence of a common European identity that would be necessary for the acceptance of an at least partially majoritarian system.

There are different approaches towards the concept depending on the aspect that one adopts. Some claim that the EU has extended its regulatory powers into more and more fields of politics, unnecessarily aggravating (or even creating) the democratic deficit and the others claim that, from a theoretical point of view, the democratic prerequisites of further centralization in Europe cannot be fulfilled, because what are missing are the necessary social and cultural preconditions.

Much research on the EU's democratic deficit sees the EU as *sui generis* – a distinctive entity that cannot be compared to national polities. The term “democratic deficit” downplays the difficulties, which are bound to be faced when the parliamentary model is transferred to the European level. It implies that democracy in the Europe of the future could take on a form similar to democracy in today's

¹⁶¹ Thomas D. Zweifel, “Who is without sin cast the first stone: the EU's democratic deficit in comparison”, *Journal of European Public Policy*, 9(5), October 2002, 812-813.

nation-states. Seen in retrospect, however, the history of democracy is inseparable from that of the nation-state.¹⁶²

3.1.2.1 The Institutional aspect of the democratic deficit

In the official web page of the EU the concept has been defined as follows;

The democratic deficit is a concept invoked principally in the argument that the European Union suffers from a lack of democracy and seems inaccessible to the ordinary citizen because its method of operating is so complex. The view is that the Community institutional set-up is dominated by an institution combining legislative and government powers (the Council) and an institution that lacks democratic legitimacy (the Commission - even though its Members are appointed by the Member States and are collectively accountable to Parliament). As European integration has progressed, the question of democratic legitimacy has become increasingly sensitive. The Maastricht, Amsterdam and Nice Treaties have triggered the inclusion of the principle of democratic legitimacy within the institutional system by reinforcing the powers of Parliament with regard to the appointment and control of the Commission and successively extending the scope of the codecision procedure.¹⁶³

The definition in the official web page of the Union claims that the Union suffers from lack of democracy, and that is why the concept “democratic deficit” stems from. The minimal definition of democracy according to Lord can be given as the opportunity of the citizens –to an equal extent- to influence political decisions in a relevant manner. He argues that there are several minimum requirements that derive from this definition, such as;

- the political leadership (the government) must be *authorized* (appointed) by the people;
- the decisions made by the government must be *representative*, in other words they must correspond, as far as possible, to the interests of the people;

¹⁶² *Ibid.*

¹⁶³ <http://europa.eu.int/scadplus/leg/en/cig/g4000d.htm#d3>

and

- the political leadership must be *responsible* to the people, who have the last word on how a country is governed.¹⁶⁴

It is clear that not all the requirements are met in the EU. This stems from the fact that the EP lacks the right of a popular representative body in a parliamentary system, namely the right to appoint or dismiss the government. The reason for the lack of legitimacy according to Lord is the weak recognition of the institutional system. The democratic problem of the EU consists in the fact that the supranational characteristics of its institutional system find no response at its social base, namely from parties and voters.¹⁶⁵

As it can be seen from the definition which is given at the official web page of the European Union, democratic deficit can be defined commonly in terms of the unequal powers of the European Parliament relative to the other EU institutions. Similarly, Desmond Dinan describes the democratic deficit as “the gap between the powers of the Commission and Council, on the one hand, and those of national parliaments and the European Parliament, on the other”¹⁶⁶, and Clive Archer as “the shift in decision-making powers from the national to the EU level, without accompanying strengthening of parliamentary control of executive bodies”.¹⁶⁷

¹⁶⁴ Frank Decker, “Governance Beyond the Nation State, Reflections on the Democratic Deficit of the European Union”, *Journal of European Public Policy*, 9(2), April 2002, 260 cited from Christopher Lord, *Democracy in the European Union*, Sheffield, Sheffield Academic Press, 1998, 15.

¹⁶⁵ *Ibid.*

¹⁶⁶ Desmond Dinan, *Ever Closer Union, An Introduction to European Integration*, 2nd edition, USA, Lynne Rienner Publisher, 1999, 295.

¹⁶⁷ John McCormick, *Understanding the European Union, A Concise Introduction*, The European Union Series, Neill Nugent, William E. Paterson, Vincent Wright (eds.), 2nd edition, New York, Palgrave, 2002, 146 quoted in Clive Archer, *The European Union: Structure and Process*, 3rd edition, New York Continuum, 2000, 58.

“Governance” is another term, which has been emphasized recently, in particular after the publication of White Paper on Governance in 2001. The concept is defined in the official web page of the EU as follows:

The debate on European governance, launched by the Commission in its White Paper of July 2001, concerns all the rules, procedures and practices affecting how powers are exercised within the European Union. The aim is to adopt new forms of governance that bring the Union closer to European citizens, make it more effective, reinforce democracy in Europe and consolidate the legitimacy of the institutions. The Union must reform itself in order to fill the democratic deficit of its institutions. This governance should lie in the framing and implementation of better and more consistent policies associating civil society organisations and the European institutions.¹⁶⁸

The lack of institutional openness and accountability has been a recurring problem in the EU. The EP is the only directly elected body but most of the power resides with the Commission and the Council of Ministers. In addition, John McCormick emphasizes that the words such as “remote”, “secretive” and “elitist” have been included in most of the works of the EU institutions. He states that the democratic deficit is usually defined as the lack of accountability of the EU institutions or the gap between the powers transferred to the EU and the ability of the European Parliament to oversee and control those powers.¹⁶⁹

Moreover, he puts the emphasis on the other aspects of the democratic deficit, such as the meetings of the Council of Ministers which are held closed to the public, taking key decisions without reference to the people, the limited input of national

¹⁶⁸ <http://europa.eu.int/scadplus/leg/en/cig/g4000g.htm#GOVERNANCE>

¹⁶⁹ John McCormick, *The European Union; Politics and Policies*, USA, Westview Press, 1996, 130.

legislatures into the work of the Commission and feeling that the EU policy process cannot directly influence by the citizens.¹⁷⁰

3.1.2.2 The Absence of a common European identity

The absence of a common European identity marks the other side of the coin. Without the social and cultural preconditions of democracy, the democratization of the EU would solely be a question of institutional reform. The willingness to accept the decisions as an expression of democratic self-determination even if they are not in line with one's own interests is the other significant part of a democratic system.

Although the practice of democracy has some weaknesses or limitations, the high level of public accountability is the most significant feature, which most liberal democracies have. However, the EU contains this feature only partly. Due to the growth of lobbying and direct elections to Parliament, public opinion has begun to play an important role. However, the EU institutions have little direct public accountability and the link between the Union and the people still remains weak.

The problem of affiliation (or identity) has been given little attention by contemporary democratic theorists although it is closely linked with the institutional conditions of democracy. The reason for this can be found in the historical link between democracy and the nation-state. "Wherever democracies of the Western type have arisen, they have taken on the form of the nation-state. It appears that the

¹⁷⁰ *Ibid.*

nation-state fulfils important prerequisites for the success of the democratic self-determination of society which is constituted in its borders”.¹⁷¹

Perceiving the democracy problem from the perspective of the electorate would lead to a better assessment. If democracy means that elected politicians represent and are responsible to the people, then parliament requires, in order to fulfill this obligation, a broad subsystem of mediatory social institutions to which parties, interest groups, grassroots movements and the media belong. The fact that these groups have, up until now, operated solely or primarily on a national level is no accident and cannot be changed even by well-intended reforms. It is caused by the absence of a common public target group which could be used as a reference point for democratization in the EU. With the increasing importance of European politics, we can assume that national interest groups will organize and become active on a European level, similar to the efforts currently being undertaken by political parties.¹⁷²

McCormick, taking the issue of democratic deficit in respect of the gap between the powers of European institutions and the ability of European citizens to influence the work and decisions of those institutions, asserts that the definitions that link the issue only with the institutional aspects are not comprehensive.¹⁷³ In this respect, democratic deficit is not only an institutional problem but also a problem of civil participation. Thus it could not be overcome only by increasing the power

¹⁷¹ Decker, *op.cit.*, 263 cited from Jürgen Habermas, “Die postnationale Konstellation und die Zukunft der Demokratie”, *Blätter für Deutsche und Internationale Politik*, 43(7), 1998, 807.

¹⁷² *Ibid.* 267-269.

¹⁷³ McCormick, *Understanding the European Union, op.cit.*

of the Parliament vis a vis other institutions, as besides representation, participation is one of the main pillars of a democratic system. Since, for a political system, in order to have legitimacy, people do not just need to be content with the outcomes and have a sense of control over the executive, they also need to be part of the debate that forged the policies in the first place.

The rejection of Maastricht Treaty and the Treaty of Nice respectively by the Danish and the Irish people is an important example of the participation problem in the EU policy making. The Treaties were negotiated largely behind closed doors and poorly explained to the European public. Therefore, legitimacy of these Treaties was questioned in the eyes of the people, who were not a part of the process.

As a result, European citizens are not interested in the EU, as they could not become a part of the integration process. This has been made clear by the results of recent Eurobarometer surveys. In late 2002, for example, respondents were asked how much they felt they knew about the EU, its policies and its institutions. 8 per cent admitted they knew nothing at all, no less than 69 per cent of respondents gave themselves (failing) scores of 5 or less, and the average for the sample worked out at 4.51. Just 7 per cent gave themselves scores of 8 or higher. This 7 per cent includes managers, university graduates, people who used the media regularly, and those in the age range of 25-54.¹⁷⁴ Another Eurobarometer survey, which was carried out in late 2000, has reached the same results except

¹⁷⁴Commission of the European Communities, *Eurobarometer, Public Opinion in the European Union*, Report No 58, March 2003.

the percentage of respondents (which is 68) that gave themselves failing scores of 5 or less.¹⁷⁵ Therefore it can be argued that the people's interest in EU affairs has not changed so much within a two years time period.

These figures show that the Europeans know little about the European Union and if the situation continues like that, it will be difficult for Europeans to develop a sense of belonging to the European Union. Moreover, the democratic deficit will remain and decisions will continue to be taken by a political elite. Without developing ties between leaders and citizens, the system will not work and the Europeans will remain disconnected to the EU institutions. However, even if they want to be connected to the institutions, the channels through which Europeans can express themselves directly to the EU are few and insubstantial. Citizens have little influence (almost none) on senior appointments to the Commission and the Court of Justice. Voters have an indirect influence on the Council of Ministers, but ministers are accountable to national governments rather than to the electorate. Finally, their interests are directly represented in the European Parliament, but it is not strong enough to represent the European people at the EU level.¹⁷⁶ The lack of strong European political parties and the lack of a public sphere at the EU level can be given as the reasons for this weak representation. In addition, the European Parliament is critical to scrutinizing the European executive and sometimes it clashes with the Council over its legislative role.

¹⁷⁵ Commission of the European Communities, *Eurobarometer, Public Opinion in the European Union*, Report No 54, April 2001.

¹⁷⁶ McCormick, *Understanding the European Union*, *op.cit.*, 141.

In addition to these few channels, through which Europeans can express themselves directly, average Europeans have difficulties in explaining themselves. Furthermore integration is a relatively new issue hence its direct effects on the lives of the Europeans have begun to be felt only in the last 10-15 years. With the gradual deepening of integration process, new policies have been introduced such as European Monetary Union (EMU), which is a significant example for this direct effect. As a result of these new policies, Europeans have started to question the costs and the benefits of the integration recently. Consequently, both the complex working procedures of the institutions and the inability of the EU institutions to explain themselves makes the EU a puzzle for the European citizens. The confused Europeans on the one side, and the institutions showing inefficient efforts to come over this confusion on the other, the democratic deficit stands as a damaging psychological barrier between Europeans and the EU.

3.1.3 Legitimacy

There are different ways of conceptualizing the term legitimacy, which is also another concept that is defined mainly at the national level, in the EU context. Although the terminology differs widely, there is a common tendency of referring a distinction between the internal or social dimension of legitimacy on the one hand, and external or normative dimension of the legitimacy on the other. The internal or social dimension of the legitimacy mainly refers to the social acceptance of the EU, to the issue of whether, and to what extent, the EU is rooted in popular consent or is otherwise congruent with the customs, beliefs, preferences and aspirations of its various public constituencies. The external or normative dimension of the legitimacy is concerned with the justifiability of the EU in accordance with “external” standards,

including the attractiveness and efficacy of its objectives and whether or not its institutions are democratic.¹⁷⁷

One approach, which belongs to Hermann Schmitt and Jacques Thomassen, define legitimacy as the idea that the existing political order is right. In addition, they link the concept with the demos of the political system and underline two different ways to assess the legitimacy of a political system. The first way is to refer to normative theory and the second is to determine to what extent the political system is right in the eyes of the relevant beholders, the members of a particular political system.¹⁷⁸

On the other hand, they emphasize that “a sense of community” has long been considered as a basic element of legitimacy. Therefore, according to them, the problem of the domain of the European political system can be phrased in the question as to what degree there is a European demos in the hearts and minds of the European people.¹⁷⁹ They state that where the Union switches to its supranational mode, the questions about the legitimacy of this mode and the place of this mode within the democratic theory have been surfaced. However, they emphasize that the legitimacy of the European Union cannot be reduced only to a supranational level, but the process at the national level is also necessary.¹⁸⁰

¹⁷⁷ Neil Walker, “The White Paper in Constitutional Context”, *Jean Monnet Working Paper*, No.6/01, Symposium: Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance, <http://www.jeanmonnetprogram.org/papers/01/011001.html>

¹⁷⁸ Hermann Schmitt and Jacques Thomassen (eds.), *Political Representation and Legitimacy In the European Union*, New York, Oxford University Press, 1999, 3-11.

¹⁷⁹ *Ibid.*, 12.

¹⁸⁰ *Ibid.*, 10.

David Beetham and Christopher Lord, on the other hand, identify three different dimensions of legitimacy. According to them, the political authority is legitimate:

- when established rules are followed in exercising or acquiring the authority,
- when socially accepted beliefs about the rightful source of authority and the proper ends and standards of government are adhered to
and
- when the authority is recognized by other legitimate authorities.¹⁸¹

However they also put the emphasis on the unique form of the Union and add that just because it is unique, it cannot avoid or answer questions about the type of polity it is, including, crucially, whether it should be considered a separate polity at all. In addition, they underline that it lacks a generalizable pattern and background presumption of settled political form. At the level of identity, too, it is well-known and much discussed that the European Union lacks the strong cultural ties of common language, traditions, history, affective symbols, and developed civil society and public sphere, which, in various mixes, are central to many national or pluri-national state identities.¹⁸²

In addition, when we compare international institutions and the European Union, the extent of European integration demands more direct political legitimacy than for other international institutions. EU institutions clearly do require direct legitimation due to the fact that they are supranational. Therefore the problem is the

¹⁸¹ David Beetham and Christopher Lord, *Legitimacy and the European Union*, London, New York, Longman, 1988.

¹⁸² *Ibid.*

distance between its institutions and the citizens and the absence of a common European identity.¹⁸³

Accordingly, Smismans argues that in the EU context, the problem of legitimacy is not only a matter of direct legitimacy of the EU institutions but also the distance between the institutions and the citizens. According to him, despite broad political attention for the European democratic deficit in the 1990s and increase in the powers of the EP, low turn out in the last EP elections have shown that the EP seems not to be able to legitimate European policy-making in the same way as national parliaments can for national policy.¹⁸⁴ This, it is argued, is due to the absence of strong European political parties and to the lack of a European public sphere¹⁸⁵, which finally leads back to the “no demos - no democracy” problem.¹⁸⁶

Parliamentary democracy has traditionally been based on the idea that the expression of the general will via majority decisions in the parliament assume the existence of a common identity of the people. However, this common identity does not exist yet within the Union. Therefore, the concept of democracy has to be redefined at the EU level. In addition, the modern citizen is more politically autonomous and searches for several ways of political expression of its multiple identities resulting from

¹⁸³ Stephen George and Ian Bache, *Politics in the European Union*, Oxford, Oxford University Press, 2001, 15.

¹⁸⁴ Stijn Smismans, “The Economic and Social Committee: towards deliberative democracy via a functional assembly”, *European Integration online Papers (EIoP)*, Vol. 4(12), 2000, <http://eiop.or.at/eiop/texte/2000-012a.htm>

¹⁸⁵ Simon Hix, “Executive Selection in the European Union: Does the Commission President Investiture Reduce the Democratic Deficit?”, *European Integration online Papers (EIoP)*, Vol.1(21), 1997, <http://eiop.or.at/eiop/texte/1997-021a.htm>

¹⁸⁶ Smismans, *op.cit.*

increasing complexity and communication in society. Accordingly, the European citizen can express him/herself as “European” as well as “national” and also as a “member of a region”. Moreover, in addition to this territorial representation, the citizen can also express him/herself politically as member of a particular group, organization or professional activity. Thus Smismans argues that the legitimacy of the European polity should additionally be based on functional representation.¹⁸⁷

On the other hand, the legitimacy concept is closely linked with other concepts such as democracy and democratic deficit. Therefore, legitimacy of transferring sovereignty away from the nation state sometimes presented as a problem of the “democratic deficit” which can be solved by increasing the powers of the European Parliament. However, Eurosceptics often argue that since there is no such thing as a European people, democratic accountability cannot be established at the European level. According to them, democracy can only operate within the context of national cultures and “the peoples of Europe” is not even a supranational culture but a common will. Therefore they argue that the problem is not simply a democratic deficit but a legitimacy deficit.¹⁸⁸

3.2 The People’s Europe

While the gap between the powers of European institutions and the ability of European citizens to influence the work and decisions of those institutions can be labeled and defined in different ways as explained in the previous part, for the purpose of this thesis, legitimacy deficit will be used since a European public

¹⁸⁷ *Ibid.*

¹⁸⁸ George, *op.cit.*

sphere is not existed yet at the EU level as the similar form it existed in the nation-states.

Although this gap has been a problem for a long time, the increasing influence of the integration on the people's daily life has brought the issue at the top of the agenda. However steps to overcome the problem of legitimacy deficit goes back to 1970s and though it took nearly thirty years for political leaders to begin doing something in concrete terms.

The first significant step was in 1973 with the "Declaration on the European Identity", which allows the Commission to define a cultural basis for European unification.¹⁸⁹ The following step was Tindemans Report on European Union (1975) which recommended measures for protecting rights of Europeans and a specific policy for creating a "People's Europe" through "concrete manifestations of the European solidarity in everyday life"¹⁹⁰. A report was drawn up to investigate the steps that might be taken to achieve a more integrated Europe that was "closer" to its citizens.¹⁹¹ However there was not any concrete step until 1983.

The third attempt was the Solemn Declaration on European Union signed in 1983. It emphasized the necessity of promoting European awareness and undertaking joint action in various cultural areas. Shore asserts that it is interpreted by the Commission

¹⁸⁹ Shore, *op.cit.*

¹⁹⁰ Pascal Fontaine, *A Citizens Europe*, Luxembourg, OOPEC, 1991, 6.

¹⁹¹ McCormick, *Understanding the European Union, op.cit.*, 149.

as giving a green light to pursue cultural initiatives “in order to affirm the awareness of a common cultural heritage as an element in the European identity”.¹⁹²

The European Council decided in 1984 to begin promoting “a People's Europe” as an attempt to make Europe more “real” to its people and changes have been made to the treaties in order to promote “transparency”.¹⁹³ Willy Brandt’s support for Europe with a “human face”¹⁹⁴ found echoes in the deliberations of the Adonnino Committee (1985), where Pietro Adonnino, a former Italian MEP, was assigned to chair the committee. This committee was set to put forward suggestions on how the EEC could be closer to its citizens.¹⁹⁵

In the report, several issues were underlined as areas for promoting the “European idea”. With the aim of arising people’s consciousness on political realities, the Committee submitted proposals concerning issues like culture, rights of citizens, youth exchange, free movement of people and symbols in order to create a common identity.

The Committee recommended various symbolic measures like EC emblem and flag, European passport, driving license, a European anthem, EC Youth Orchestra, EC-sponsored sporting competitions and awards, the European Woman of the Year

¹⁹² Shore, *op.cit.*, 45 cited in Bruno De Witte, “Building Europe’s Image and Identity”, in A. Rijksbaron, W. Roobol and M. Weisglas (eds), *Europe From a Cultural Perspective*, The Hague, UPR, 1987.

¹⁹³ McCormick, *Understanding the European Union, op.cit.*, 142.

¹⁹⁴ Brigid Laffan, “The Politics of Identity and Political Order in Europe”, *Journal Of Common Market Studies*, Vol. 34., No. 1, March 1996, 96.

¹⁹⁵ McCormick, *Understanding the European Union, op.cit.*, 149.

Award and Jean Monnet Awards, a European-wide “audio-visual area”, the transmission of more factual information about Community activities and their significance for European citizen, including the historical events, which led to the construction of the Community.¹⁹⁶

“European” passport bearing the words “European Community” on it, ensures that Europeans are given equal treatment by the customs and immigration authorities of other countries, and also helps to give them a sense of belonging to the Community. However these passports do not make their holders European citizens.¹⁹⁷

Meanwhile the European Commission decided to declare the anniversary of the Schuman Declaration (9 May) “Europe Day”, to adopt as the official anthem of Europe Schiller's “Ode to Joy” sung to the final movement of Beethoven's 9th Symphony,¹⁹⁸ and, most importantly, to adopt as its own the flag a circle of twelve gold stars on a blue background described as “the emblem of European unification” and “a rallying point for all citizens of the European Community”.¹⁹⁹

The Single European Act has added a more practical dimension to the process of bringing citizens closer to the Community and achieved more of the Adonnino recommendations. The most significant one was the relief of restrictions on the free movement of people. Removal of the barriers has helped to make Europeans

¹⁹⁶ Shore, *op.cit.*, 46-49.

¹⁹⁷ McCormick, *Understanding the European Union, op.cit.*

¹⁹⁸ *Ibid.*

¹⁹⁹ Shore, *op.cit.*, 47.

more mobile in the last 10-15 years. Therefore the number of non-nationals living in member states has increased dramatically after the removal of barriers to free movement. There were five million immigrants in 1950, ten million in 1970, and there are probably close to fifteen million today.²⁰⁰

Moreover by the removal of the barriers, the Community has become more attractive, where people are moving voluntarily for a variety of different reasons. This has led to an increase in the communication of the citizens and the emergence of a network. However this intensification of communication has not been a direct result of the increasing mobilization. Indeed it has been promoted by the EU through certain programs. Since the Maastricht Treaty, by encouraging educational exchanges and addressing the critical issue of language training, the EU has become more involved in the intensification of communication among the people of Europe. In this respect the most important ones are the programs such as ERASMUS, LINGUA and TEMPUS.

These programs not only provided the mobility of the people but also ensured the communication of people by providing the opportunity of learning different languages. The EU now has 11 official languages and this is a significant barrier, which also curtails efficient functioning of the EU institutions. The issue of language cuts to the core of national pride. Hence, in an attempt to prevent any one language dominating the others it has been suggested that all Europeans should learn Esperanto, an artificial international language developed in 1887, or even that Latin should be revived for the purpose. Despite the efforts to prevent any one

²⁰⁰ McCormick, *Understanding the European Union*, *op.cit.*, 150.

language dominating the others, English will continue its steady progress towards becoming the common language of Europe.²⁰¹ Although almost all secondary school pupils in the EU learn at least one foreign language, it seems that language differences will continue to pose a psychological barrier for a while.

All attempts such as the removal of technical barriers to free movement of people, the promotion of language training, the introduction of the Euro, tourism, mutual recognition of professional qualifications has made citizens of the member states less “foreign” to each other. Nevertheless the treaties say nothing directly about the social and psychological barriers posed by differences in the routine of daily existence. While the Americans can readily travel from one state to another in search of jobs or to improve the quality of their lives without a problem of adaptation, Europeans do not only face different languages, but must also have to learn new social and functional rules. When an Italian wants to move to Denmark, he had to learn how things are done locally, and this involves a demanding process of “acculturation”.²⁰²

However, these kinds of problems cannot be addressed easily by the EU legislation, hence there is a need for a legal base. Concerning this issue, the most notable change introduced by the Maastricht Treaty was the promotion of European citizenship. According to Maastricht “every person holding the nationality of a Member State shall be a citizen of the Union”. Laffan evaluates the inclusion of a chapter on “Citizenship of the Union” in the Treaty of

²⁰¹ *Ibid.*, 152.

²⁰² *Ibid.*, 154.

European Union (TEU) as a process that has began to redefine the boundaries of political community in Europe. Moreover, she adds that the TEU shows a significant shift from EU consumer to EU citizen.²⁰³

Even though the evolution of the European Union has changed the ways that Europeans has been related to each other and to the EU institutions, more attention has to be paid to public opinion. In this sense, citizens of the member states have to have more active role and there should be more emphasis on their participation in the policy making process. Accordingly, the most fundamental weakness in the People's Europe program is the absence of an electoral system that truly holds the institutions of the EU accountable to the wishes of the electorate. Elections to the European Parliament are now held on a fixed five-year rotation, but the stakes are low. In addition, the competing parties are still essentially national parties running on national platforms, and while there are party groups within Parliament, there are still no truly pan-European political parties.²⁰⁴

As a result it can be said that the changes resulting from the Adonnino Committee's Report have had an important effect on the psychological relationship between Europeans and the EU institutions. Therefore, it has helped to build a European identity, which has made the EU more real to Europeans. As McCormick argues icons and rituals are crucial elements of “belonging”, and the European flag has played a vital role in giving the EU a personality that goes beyond the work of its bureaucrats. Moreover, agreement of a uniform voting

²⁰³ Laffan, *The Politics of Identity and Political Order in Europe*, *op.cit.*, 97.

²⁰⁴ McCormick, *Understanding the European Union*, *op.cit.*,155.

procedure, which is now an official EU goal and the Amsterdam Treaty that provides a greater access to the documents of EU institutions, are important developments to promote “transparency”.²⁰⁵

However, although these efforts are crucial concerning the legitimacy of the EU institutions in the eyes of the people, they are all superficial changes, and do not address the real issue. As McCormick asserts the idea that the citizens of the member states also belong to a larger communal entity must take root and grow in their minds if it is to be effective²⁰⁶. In this respect, it can be argued that the citizens of the member states need to understand the implications of integration and they must directly experience the benefits of integration. Thus the citizens must feel that they can have a real impact on the decisions of the European institutions through meaningful participation before the EU can have real significance in their lives.

The Union’s traditional nation-building methods to create a European identity and to legitimize this identity from “top-down” can be evaluated as an example of Monnet method of integration and the evidences of Union’s misperception. In addition, with enlargement, the population within the EU will increase and consequently more people will be affected in their daily lives by the policies which are shaped with this misperception. Therefore, the Union has greater responsibility to perceive the emergency of the gap which will increase gradually if the Union continues to impose its artificial solutions result from its traditional approach. Therefore, the views of the

²⁰⁵ *Ibid.*, 156.

²⁰⁶ *Ibid.*

Union itself have to be analyzed. The Commission as an important actor has a significant effect in defining the path of the debate concerning European civil society. The first step to define the path was taken by publishing the White Paper on European Governance. Therefore the next section will deal with Commission's White Paper as an evidence of its approach concerning European civil society.

CHAPTER IV

THE EU AND CIVIL SOCIETY

This chapter will analyze the Union's attempts in order to get closer to its citizens. The process that began with the publication of White Paper on European Governance and continued by the Convention on the Future of Europe will be evaluated. In addition to these, the approach of the European Economic and Social Committee to civil society will be discussed in order to find in which points its perspective differs from the Commission's views, whether it can serve as a forum for civil society and to what extent it might enhance the participation of civil society within the decision-making procedures.

4.1 White Paper on European Governance: Another artificial solution?

4.1.1 The Process that lead to White Paper on European Governance²⁰⁷

In February 2000, the Commission identified the reform of European governance as one of the four strategic objectives outlined for its entire term of office. President Romano Prodi launched the issue in a speech to Parliament later the same month. The process at that time foresaw a long period of open and accessible public debate, leading to publication of a White Paper and its presentation to the European Parliament in July 2001. The publication of the White Paper by the Commission preceded by internal process, administered by a Governance Working Team in the

²⁰⁷ For more information see http://europa.eu.int/comm/governance/debat_en.htm

Secretariat of the European Commission, working under the direct guidance of the College of Commissioners.

The preparation of the White Paper was organized in the form of six “working areas” and twelve Working groups by the ex-team governance and according to the method set out in the work program approved by the Commission on 11 October 2000. The result of these twelve Working groups is presented in a document called “Preparatory Work for the White Paper”. Each Working group, made up of officials from all the Directorates-General of the Commission, carried out external consultations, which are detailed in the report on the consultations. Reports, that do not express the official position of the Commission, have been published in parallel with the White Paper.

On 25 July 2001 the European Commission adopted the White Paper on European Governance which has been made available to the public on the internet. It has been the subject of debates, seminars, articles and studies. The Paper contained a set of recommendations on how to enhance democracy in Europe and increase the legitimacy of the institutions. The main recommendations of the White Paper were based on twelve reports, two studies and intense consultation of European, national and regional actors, as well as academics and European citizens. Moreover, the Commission in its White Paper invited citizens’ reactions and comments.

The public consultation ended on 31 March 2002 and after the process of summarizing the contributions that were sent, the Commission has published the “Report on European Governance” on 11 December 2002. The lessons drawn from

the consultation, together with the assessment of progress achieved with the implementation of the White Paper's recommendations formed the main substance of the report.

4.1.2 The White Paper on European Governance

In the framework of a wide and structured debate, the European Commission submitted its White Paper on European Governance on 25 July 2001. It has been evaluated by the Commission as one of the major reforms announced by Commission President Romano Prodi at the beginning of 2000. The renovation of the shape of the EU and the simplification and improvement of the European institutions' policymaking and working methods – on the basis of the present Treaty – have been stated as the aims of this reform in order to make the European Union more efficient, better understood, and to bring it closer to its citizens in a more open, coherent, transparent and responsible way.

In the White Paper, the Commission has stated that:

Europeans . . . increasingly distrust institutions and politics or are simply not interested in them. The problem . . . is particularly acute at the level of the European Union. Many people are losing confidence in a poorly understood and complex system to deliver the policies that they want. The Union is often seen as remote and at the same time too intrusive ... [The EU] must start adapting its institutions and establishing more coherence in its policies so that it is easier to see what it does and what it stands for. A more coherent Union will be stronger at home and a better leader in the world . . . Reform must be started now.²⁰⁸

²⁰⁸ European Commission, *European Governance: A White Paper*, Brussels, Commission of the European Communities, COM (2001) 428, 25.07.2001, 3.

Although the White Paper has put the emphasis on the gap between the Union and its citizens by referring to its complex system and call for a reform of EU governance, it also defended the work of EU institutions and this defense has reached the peak in its conclusion by stating that “the Community method has served the Union well for almost half a century”.²⁰⁹ Moreover it has been noted that there is a perceived inability of the EU to act effectively where a clear case exists such as on unemployment, food safety scares, and security concerns on EU borders etc. Furthermore, even where the EU acts effectively it does not get credit for its actions, since people do not see that improvements in their quality of life often come from European rather than national initiatives. Moreover, it has been emphasized in the White Paper that the “Brussels” is too easily blamed by Member States for difficult decisions, which they themselves have agreed or even requested. This situation becomes more serious when combined with the lack of knowledge of Europeans concerning the difference between the EU institutions, and hence they do not understand who takes the decisions that affect them and do not feel the institutions act as an effective channel for their views and concerns.²¹⁰

In addition to these explanations for the perceived inability of the EU and efforts to ascribe the blame for its inabilities to Member States, the White Paper has called attention to not to see the White Paper as a magic cure for everything and has emphasized the need for other partners to undertake reforms. It has underlined that “[I]ntroducing change requires effort from all the other Institutions, central

²⁰⁹ *Ibid.*, 34.

²¹⁰ *Ibid.*, 7.

government, regions, cities and civil society in the current and future Member States”.²¹¹

After the primary actors for change are defined, the White Paper has started to propose principles of good governance. The Commission has mentioned openness, participation, accountability, effectiveness and coherence as five principles of good governance. In addition, it has set out key proposals for changes in four broad action areas: “better involvement”, “better policies, regulation and delivery”, “the EU’s contribution to global governance” and “refocused policies and institutions”. Moreover, by putting the emphasis on change it has stated that “the Union must renew the Community method by following a less top-down approach and complementing its policy tools more effectively with non-legislative instruments”.²¹²

Although in the White Paper wrong perceptions, bad communication, inadequate involvement, and poor knowledge are stated as the reasons of the gap between Europeans and the Union, the White Paper itself can be regarded as the evidence of misperception of the Commission’s approach to the problems. The White Paper made the usual mistake of talking in generalities and employing bureaucratic notions such as better involvement, more openness, greater flexibility, partnership arrangements, a more systematic dialogue, and policy coherence, rather than making specific suggestions for change.

²¹¹ *Ibid.*, 3.

²¹² *Ibid.*, 4.

Under the heading of better involvement, the White Paper has underlined the need for a stronger interaction with regional and local governments and civil society. It has described civil society as an important actor which gives voice to the concerns of citizens and delivering services that meet people's needs. The Commission has accepted the Economic and Social Committee's definition²¹³ for civil society and has stated that:

Civil society includes the following: trade unions and employers' organizations ("social partners"); nongovernmental organizations; professional associations; charities; grass-roots organizations; organizations that involve citizens in local and municipal life with a particular contribution from churches and religious communities.²¹⁴

According to Armstrong, concerning the role constructed for civil society actors within EU governance, the White Paper has made an ambiguous statement and beyond the adaptation of ESC's definition of civil society as an organized sphere of activity, the White Paper fails to provide a more comprehensive conception for civil society. Moreover, he argues that by emphasizing the service-provider role of civil society, the White Paper loses the chance to construct of civil society as a sphere of communication and as reinforcing the democratic process.²¹⁵

Concerning the importance of civil society, the White Paper has underlined its supporting role for people who suffers from exclusion or discrimination and has noted that civil society mobilize people within the Union. In addition, it has

²¹³ Economic and Social Committee, *Opinion on The role and contribution of civil society organisations in the building of Europe* (OJ C329, 17.11.99), Economic and Social Committee *Opinion on Organised Civil Society and European Governance: the Committee's contribution to the drafting of the White Paper* (OJ C193, 10.7.2001).

²¹⁴ European Commission, *European Governance: A White Paper*, *op.cit.*, 14.

²¹⁵ Armstrong, "Civil Society and the White Paper- Bridging or Jumping the Gaps?" ,*op.cit.*

emphasized especially the NGO's and their role in development policy and has noted that "they often act as an early warning system for the direction of political debate".²¹⁶

Although the White Paper has listed a number of organizations, which occupy a "special place" within civil society and has emphasized the important role played worldwide by NGOs in development policy, the organizations active in the fields of environment, social and consumer protection, human rights and culture in the widest sense have not been mentioned. Furthermore, there is a tendency in the White Paper that it presumes European civil society as homogeneous, despite this not being the case even within the different Member States.

Grassroots involvement in all stages of policymaking is one of the main concerns of the White Paper. This involvement is to be exercised, according to the White Paper, via civil society organizations acting within the framework of "structured consultation procedures". It has been noted in the White Paper that:

The Institutions and national authorities must reinforce their efforts to consult better on EU policies. Better consultation complements, and does not replace, decisionmaking by the Institutions. What is needed is a reinforced culture of consultation and dialogue; a culture which is adopted by all European Institutions and which associates particularly the European Parliament in the consultative process, given its role in representing the citizen.²¹⁷

Concerning the structuring of the relationship between "transnational" civil society and the EU institutions, Armstrong criticizes the approach set by the White Paper

²¹⁶ European Commission, *European Governance: A White Paper*, *op.cit.*

²¹⁷ *Ibid.*, 16.

and asserts that although it has envisaged improving the relationship through structured process of consultation, the focus of the White Paper has been more about managing the existent relationship of dialogue rather than building new mechanisms. He adds that civil society's engagement with governance cannot be reduced to a more structured consultation. Moreover, he criticizes that the White Paper has not envisaged displacement of Community method by a transfer or sharing of governance activities with civil society actors, instead it has offered a structured "civil dialogue".²¹⁸

Following up on the ideas presented in the Working Group IIa report,²¹⁹ the White Paper has proposed the adoption of a non-legally binding Code of Conduct which sets out minimum standards for consultation processes.²²⁰ The Code of Conduct is considered as providing standards which "should improve the representativity of civil society organizations and structure their debate with the institutions". Moreover it has been emphasized that legal rules can create excessive rigidity and risk slowing the adoption of particular policies, therefore creating a culture of consultation cannot be achieved by legal rules, rather it should be underpinned by a code of conduct that sets minimum standards, focusing on what to consult on, when, whom and how to consult.²²¹ Armstrong criticizes that these standards structure the civil society relationship through the imposition of responsibilities upon civil society actors.²²²

²¹⁸ Armstrong, "Civil Society and the White Paper- Bridging or Jumping the Gaps?", *op.cit.*

²¹⁹ Report of Working Group IIa "Consultation and Participation of Civil Society", http://www.europa.eu.int/comm/governance/areas/group3/report_en.pdf.

²²⁰ European Commission, *European Governance: A White Paper*, *op.cit.* 17.

²²¹ *Ibid.*

²²² Armstrong, "Civil Society and the White Paper- Bridging or Jumping the Gaps?" *op.cit.*

On the other hand, Paul Magonette argues that these standards mainly focus on sectoral actors.²²³

The Commission has proposed to set up an on-line database with details of civil society organizations in order to increase openness and structure their dialogue with the institutions. By proposing the compilation of an on-line database of European civil society organizations, the White Paper considers that, for listed organizations this “should act as a catalyst to improve their internal organization”.²²⁴ In addition, concerning “partnership arrangements” the White Paper emphasizes that “the arrangements will prompt civil society organizations to tighten up their internal structures, furnish guarantees of openness and representativity, and prove their capacity to relay information or lead debates in the Member States”.²²⁵

Responsibilities of civil society organizations have been emphasized by giving a message like “with better involvement comes greater responsibility”²²⁶ and by being subject to the principles of good governance set out in the White Paper like openness, participation, accountability, effectiveness and coherence, the responsibilities of civil society organizations found more general expression. In the White Paper it has been noted that:

²²³ Paul Magonette, “European Governance and Civic Participation: Can the European Union be politicised?”, *Jean Monnet Working Paper*, No.6/01 Symposium: Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance, <http://www.jeanmonnetprogram.org/papers/01/010901.rtf>

²²⁴ European Commission, *European Governance: A White Paper*, *op.cit.*

²²⁵ *Ibid.*

²²⁶ European Commission, *European Governance: A White Paper*, *op.cit.*, 15.

With better involvement comes greater responsibility. Civil society must itself follow the principles of good governance, which include accountability and openness. The Commission intends to establish, before the end of this year, a comprehensive on-line database with details of civil society organisations active at European level, which should act as a catalyst to improve their internal organisation.²²⁷

Armstrong evaluates all these themes of the need to structure the civil society relationship through the imposition of responsibilities upon civil society actors as key frames which the role of civil society is being constructed within the White Paper discourse. In addition, Armstrong states that the White Paper says little about the civil and political rights of civil society and makes no mention of funding. On the contrary, he emphasizes that a deeper desire to ground civil society in the norms of governance can be seen. Moreover, while the White Paper has given importance to the need for a transnationalized and governmentalized European civil society, Armstrong asserts that this can lead to the exclusion of domestic civil society. Therefore, according to him, the Commission loses the chance to realize the civic engagement with EU governance by emphasizing the Community method instead of Open Method of Coordination.²²⁸

As a result, the White Paper, which indicates the general trend of the Commission's vision of European civil society, fails to bridge the gap between transnational governance and citizens. While trying to bridge the gap between the EU's concrete achievements and the disappointed expectations of its citizens, the White Paper focuses on European civil society. However, Armstrong states, "the White Paper

²²⁷ *Ibid.*

²²⁸ Armstrong, "Civil Society and the White Paper- Bridging or Jumping the Gaps?" ,*op.cit.*

asks what civil society can offer the EU in the delivery of the EU's policies, instead of asking what it might learn from a civil society rooted as much in the structures and traditions of domestic civil society as in those of transnational organizations".²²⁹

4.1.3 Report From the Commission on European Governance²³⁰

A public consultation was formally launched, running up until 31 March 2002 allowing members of the public to submit their comments on White Paper. The Commission announced in its White Paper that, before the end of 2002, it would report on progress achieved with regard to governance initiatives and draw lessons from the public consultation. The Commission considered that this would establish the basis for further cooperation between the institutions on reforming European governance under the existing treaties.

Within this consultation process, 260 contributions were received. It has been stated in the report that the White Paper proposals on "better involvement" and on "consulting civil society" drew, by far, more interest than any other theme. Therefore, in order to show that the Commission is aware of the importance of civil society, in the report it has been emphasized that the envisaged implication and consultation of civil society is distinct from both institutional dialogue and social dialogue. Moreover, as a result of work to improve governance, the Commission has stated that its relations with civil society have now also been formalized and made transparent.

²²⁹ *Ibid.*

²³⁰ Report From the Commission on European Governance Brussels, 11.12.2002, COM (2002) 705 final, http://europa.eu.int/comm/governance/docs/comm_rapport_en.pdf

Concerning the Code of Conduct which has been mentioned in the White Paper and criticized for imposing responsibilities upon civil society actors, the report has stated that the Commission has adopted general principles and minimum standards for consulting non-institutional interested parties on the major policy initiatives it proposes. The minimum standards have been applied as from 1 January 2003. In the report it has been noted that:

The overall idea is that by applying these standards it will be possible to know exactly who must contact whom when a new policy is being drawn up, the aim being that all parties affected by the proposal can become more involved, and on a more equal footing, in the process.²³¹

Therefore one can argue that the overall aim has not been changed since the White Paper. The approach of the Commission concerning the partnership arrangements has also been continued and in the report, the aim of this action has been explained as:

[T]o allow the Commission to consult the partner sectors more widely than would have been required by minimum standards and to encourage, on the basis of these agreements, civil society organizations to rationalise their internal structures, give guarantees of openness and representativeness and to confirm their ability to relay information or to conduct debates within the Member States.²³²

It is obvious that the approach of the Commission has remained the same after the public consultation. It has continued to make proposal to institutionalize the civil society and has perceived the issue with a limited concept rather than recognizing the civil society as a sphere where it can bring the Union closer to its citizens.

²³¹ *Ibid.*, 15.

²³² *Ibid.*, 16.

4.2 The Convention on the Future of Europe

This part aims to analyze the Convention's discourse on civil society. Therefore, it is necessary to give some information about the process, which started in Nice and resulted as the Convention on the Future of Europe. After giving the general information concerning the Convention, for the scope of this thesis, the attitude and the intentions of the Convention towards civil society will be examined.

4.2.1 From Nice to Laeken: The road to the IGC 2004

At the Nice summit in December 2000, EU leaders paved the way for enlargement of the EU by completing the necessary institutional changes. Nevertheless, it was clear that enlargement was not going to make things easier and more reforms were necessary. They therefore called for “a deeper and wider debate about the future of the EU”. The Declaration No. 23 annexed to the Treaty of Nice entitled “Declaration on the Future of the Union”²³³ posed four questions in particular that ought to be addressed by the Convention, namely, the role of national parliaments, a simplification of the treaties, the status of the Charter of Fundamental Rights, and a more precise delimitation of powers between the EU and Member States. Moreover, with this annex, the Swedish and Belgian Presidencies were encouraged to launch wide-ranging discussions with all interested parties including the representatives of national parliaments and all those reflecting public opinion such as the representatives of civil society.

²³³ Bulletin EU 12-2000 Intergovernmental Conference (3/3), <http://europa.eu.int/abc/doc/off/bull/en/200012/p101003.htm>

These discussions would form the groundwork for the start of another round of reforms, to be negotiated within a new Intergovernmental Conference (IGC) in 2004. It was also decided that the candidate countries would be closely associated with this process. At its meeting in Laeken in December 2001, the European Council drew up a Declaration containing appropriate initiatives for the continuation of this process.

4.2.2 The Laeken Declaration: Defining the Mandate of the Convention

In this document, the EU heads of State have decided that:

In order to pave the way for the next Intergovernmental Conference as broadly and openly as possible the European Council has decided to convene a Convention composed of the main parties involved in the debate on the future of the Union. In the light of the foregoing, it will be the task of that Convention to consider the key issues arising for the Union's future development and try to identify the various possible responses.²³⁴

A long list of questions was identified in the declaration to be answered by the Convention. They were divided in the following categories;²³⁵ fundamental questions about the role of the EU, division of competences in the European Union, simplification of the Union's instruments, functioning of EU institutions and their democratic legitimacy, a single voice for the EU in the world and towards a Constitution for European citizens.

As regards the output of the Convention, the Laeken European Council specified that the Convention was to “draw up a final document which may comprise either

²³⁴ The future of the European Union-Laeken Declaration, http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm

²³⁵ *Ibid.*

different options, indicating the degree of support which they received, or recommendations if consensus is achieved”.²³⁶

4.2.3 The Convention on the Future of Europe

The Convention on the Future of Europe was established by the Laeken European Summit in December 2001 to prepare the next Intergovernmental conference and the next set of Treaty changes that will be needed for an enlarged Europe to be able to function. The Convention started to work in March 2002 and the proposals were presented to the European Council in June 2003. Final decisions with a view to ratification will be taken at the next Inter-Governmental Conference (IGC) in 2004.

The European Council at Laeken appointed Valéry Giscard d'Estaing as the Chairman of the Convention, and Giuliano Amato and Jean-Luc Dehaene as Vice-Chairmen. Besides its three-headed Chair, the Convention is mainly a quadripartite body plus with the inclusion of candidate countries and observers. However, candidate countries were allowed to take part in the proceedings without being able to prevent any consensus, which may emerge among the Member States and observers. There were a total of 105 members.

The Presidium of the Convention was composed of the Convention Chairman, Vice-Chairmen, two European Parliament representatives, two Commission representatives, two representatives of national parliaments and the representatives of the Governments of Spain, Denmark and Greece, which were the countries holding the Council Presidency during the Convention. The work of the Convention on the

²³⁶ *Ibid.*

Future of Europe was divided into three phases consist of listening phase, comparing the pros and cons of the proposals put forward for organizing the European Union and drawing together the different proposals and drafting a final document to be presented to the IGC 2004. The listening phase was organized around plenary sessions of the Convention and a Forum, which was meant to ensure dialogue with civil society.²³⁷

According to the Laeken Declaration, the function of the Presidium was to “lend impetus” to the Convention and to provide it “with an initial working basis”. The task of the “Future of Europe” Convention, as set out in the Laeken Declaration was to “consider the key issues arising for the Union's future development and to try to identify the various possible responses”.²³⁸

Regarding the relationship between the Convention and the civil society organizations, one significant aspect that the Laeken declaration recognizes clearly was the importance of NGOs contribution to the debate on the future of Europe. Jean-Luc Dehaene as vice-Chair of the Presidium was given the responsibility for setting up the Forum and for the relations with civil society. Moreover, it was stated in the Laeken declaration that;

In order for debate to be broadly based and involve all citizens, a Forum will be opened for organizations representing civil society (the social partners, the business world, non-governmental organizations, academia, etc.) It will take the form of a structured

²³⁷ For more information see The future of the European Union-Laeken Declaration http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm and the Convention web-site <http://european-convention.eu.int/> and http://europa.eu.int/futurum/index_en.htm

²³⁸ *Ibid.*

network of organizations receiving regular information on the Convention's proceedings. Their contributions will serve as input into the debate. Such organizations may be heard or consulted on specific topics with arrangements to be established by the Presidium.²³⁹

However, the Forum does not exist as a physical body, but is a term used to describe a variety of processes, which are not always easy to follow. A website, meetings held between Jean-Luc Dehaene and various civil society organizations, a Youth Convention, meetings with civil society and conferences have been the initiatives taken in relation to this forum of civil society. In addition, the Economic and Social Committee has organized meetings of civil society organizations, in the presence of Jean-Luc Dehaene.

The Forum site provides information on the role and activities of the Forum, on how to participate, and serves as a database for all contributions to the debate submitted by civil society. NGOs have contributed to this website by sending their contribution as well as a 3000 words summary that will be translated in all official languages of the EU.²⁴⁰

4.2.4 Participation of Civil Society in the Debate on the Future of Europe

The Convention on the Future of Europe is an important development that for the first time, NGOs were also involved in the process of shaping the future of the Europe. The EU wanted the citizens to take part in the process of a new IGC by

²³⁹ The future of the European Union-Leaken Declaration,
http://europa.eu.int/futurum/documents/offtext/doc151201_en.htm

²⁴⁰ For more information see http://europa.eu.int/futurum/forum_convention/how_en.htm#contrib and the Forum site www.europa.eu.int/futurum/forum_convention/index_en.htm.

being able to comment on the issues. Therefore, the Convention has been welcomed as a more democratic alternative to traditional diplomatic negotiations due to the relative openness and transparency of its deliberations. Moreover, by including the voice of “civil society” in the Convention and referring to “the urge to listen to citizens” views²⁴¹, emphasizing the importance of establishing “a genuine dialogue with civil society”²⁴², and the intention of using civil society’s contributions “as input into the debate”²⁴³, the Convention seems as more transparent.

However, in spite of the more democratic elements included in the new deliberative procedure, the Convention has not been able to connect with citizens. As the results of Eurobarometre 57²⁴⁴ indicate, only 28% of the citizens interviewed in Spring 2002 knew about the Convention and only 25% of them trusted this institutional body. In the recent Flash Eurobarometer 142²⁴⁵, which is conducted immediately after the Thessaloniki European Council and focusing on the results of the Convention shows that people's awareness of the Convention is increasing, but that it remains very hazy. Only 45% of people in the enlarged EU have at least heard of the Convention, compared with only around 30% in March. However, 55% of people said they had never heard of the Convention, and 52% were unaware of what kind of text the

²⁴¹ European Convention. “Note on the Plenary meeting Brussels 21 and 22 March 2002”, CONV 14/02, 25 March 2002, <http://register.consilium.eu.int/pdf/en/02/cv00/00014en2.pdf>

²⁴² European Convention. “Note on the inaugural meeting 28 February 2002, Brussels”. CONV 7/02, 11 March 2002, <http://register.consilium.eu.int/pdf/en/02/cv00/00007en2.pdf>

²⁴³ The future of the European Union-Leaken Declaration, http://europa.eu.int/futurum/documents/offiext/doc151201_en.htm

²⁴⁴ European Commission, Eurobarometer 57, “Public Opinion in the European Union”, Spring 2002, EU15 Report, http://europa.eu.int/comm/public_opinion/archives/eb/eb57/eb57_en.pdf

²⁴⁵ European Commission, Flash Eurobarometer 142, “Convention on the Future of Europe” 23.06.2003- 1.07.2003, http://europa.eu.int/futurum/documents/other/oth250703_en.pdf

Convention had come up with. Moreover, throughout the 25 European countries one citizen out of two does not have an opinion on the results of the work of the Convention. Therefore, the attempts of the Convention to reach the people have failed. There are so many reasons that lead to this result and the most significant one lies in the Convention discourse on civil society.

The President Giscard D'Estaing has claimed in the opening of the first substantive debate of the Convention that "the citizens of Europe felt that their voice was not being heard on the future of Europe and that the first phase of the Convention should therefore be a listening phase".²⁴⁶ Moreover, Convention members stressed not only the aspect of listening but also the need "to take account of citizens expectations and give citizens a greater say in and fuller scrutiny of European decision-making".²⁴⁷ All these underline the need to hear the voices of civil society. Although it is often referred to as a "dialogue", the relationship with civil society can better be described as a process of hearing and consultation. One of the reasons for this is the lack of feedback. Therefore, civil society organizations do not know to what extent their contributions will have effect.

In order to increase the contributions of civil society, a Forum is established consisting of a network of civil society organizations whose contributions are explicitly described as providing input into the Convention's debate and whose character is consultative. In addition, hearings with civil society organizations were organized in June 2002, culminating with a public debate on the plenary session of

²⁴⁶ European Convention, CONV 14/02, *op.cit.*, 1.

²⁴⁷ *Ibid.*, 4.

the Convention on 24-25 June. National debates with civil society were supposedly run in the member states, and regular contacts were kept between civil society and Mr Dehaene, the Presidium member in charge of relations between the Convention and civil society groups. While all these efforts contributed to the publicity of the Convention process, at least among the organized civil society, and enabled a great number of actors to express their views on the future of Europe, according to Emanuela Lombardo, the formal openness of the process did not necessarily mean that substantive selection was actually made.²⁴⁸

Lombardo asserts that general attitude of the Convention towards civil society can be described as “listening without committing to an answer” and according to her, the Convention perceives civil society as a means of attracting people’s support to the work and outcome of the Convention. She describes it as a “rhetorical frame”, as it serves the functions of persuasion, justification and symbolic display in policy debates.²⁴⁹

On the other hand, while for the citizens it is important to make their voices heard on the issues that most directly affect them, they have no feedback for their contributions and they even do not have a subject to contribute. Social issues such as work, housing, health, social services and social protection remains secondary in the Convention. While the construction of a social Europe takes into account people’s concerns that would ensure a better legitimacy of its institutions, the Convention is

²⁴⁸ Lombardo, *op.cit.*

²⁴⁹ *Ibid.*

missing an opportunity to construct a “strong Europe” by aiming for a “social Europe”.²⁵⁰

Carlos Closa assesses the role given to civil society in the Forum of the Convention, as a “passive” rather than an “active” nature. According to him, this passive nature limits civil society groups as “receivers of information” and “audience” for the Convention. They secure the publicity for the Convention’s proceedings but have no capability to influence process and outcomes.²⁵¹ On the contrary, the active role would value civil society groups as real actors of a dialogue in which their inputs are seriously taken into account. However, in the Convention documents there is no mention how civil society’s contributions will be used or any reference to the eventual feedback that contributors will receive on the part of the Convention.²⁵²

According to Lombardo, institutional approach and adoption of a neoliberal focus to integration have defined the discourse of the Convention. The institutional approach has lead, on the one hand to the exclusion of debates concerning the nature of the EU project, on the other hand marginalized civil society that was willing to discuss more substantive questions about the type of EU polity that civil society aims for. Hence, as Lombardo underlines, the Convention’s emphasis on the relevance of civil society

²⁵⁰ Jo Shaw, “A Strong Europe is a Social Europe”, *The Federal Trust for Education and Research Working paper*, September 2002, www.fedtrust.co.uk/EU_constitution.

²⁵¹ Carlos Closa, “Improving EU Constitutional Politics? A Preliminary Assessment of the Convention”, *ConWeb 1/2003*, <http://les1.man.ac.uk/conweb/>

²⁵² Lombardo, *op.cit.*

appears once more to be a mere rhetorical device to gain legitimacy rather than a genuine attempt to abandon the EU elitist attitude towards the citizen.²⁵³

A positive outcome of the Convention, in terms of civil society's demands, is the inclusion of the Article I-46²⁵⁴ in the Draft Treaty. This article mentions the "Principle of participatory democracy" which recognizes the role of civil dialogue in the Treaty and opens up the opportunity for citizens to propose legislation to the Commission, thus strengthening the role of civil society in the policy-making process. According to Lombardo, Article I-46 on participatory democracy can be considered as relatively positive, in spite of the fact that it does not match the expectations of civil society organizations in terms of a more structured dialogue and a feedback from the Union institutions.²⁵⁵

4.3 The European Economic and Social Committee

This part will analyze the approach of the European Economic and Social Committee to civil society. Since the Committee's approach to European civil society differs from the Commission's approach and it is the institutionalized representative of organized civil society according to the Nice Treaty, its structure and competences

²⁵³ *Ibid.*

²⁵⁴ *Article I-46: The principle of participatory democracy:* 1. The Union Institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views on all areas of Union action. 2. The Union Institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. 3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent. 4. A significant number of citizens, no less than one million, coming from a significant number of Member States may invite the Commission to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing this Constitution. A European law shall determine the provisions for the specific procedures and conditions required for such a citizens' initiative. Draft Treaty establishing a Constitution for Europe, Brussels, 20 June 2003, CONV 850/03, <http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf>

²⁵⁵ *Ibid.*

will be given briefly in order to gain an insight to propose an institutional reform. Then, the changing discourse of the ESC since 1990's will be examined in order to find in which points its perspective differs from the Commission's views, whether it can serve as a forum for civil society and to what extent it might enhance the participation of civil society within the decision-making procedures. Finally, within the context of the Committee's activities concerning civil society, it will be discussed whether the Committee can be a forum for civil society or not.

4.3.1 Composition of the ESC

In the negotiations that led to the Rome Treaties, it was decided to establish a consultative body composed of representatives of socio-economic interests. According to Article 257 EC Treaty, the ESC is composed of "representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public". The 222 seats of the Committee are divided among the Member States according to the list established in Article 258 which is mainly in proportion with the population numbers, though with overrepresentation of the smaller countries.²⁵⁶

The members of the ESC are proposed by national governments and are formally appointed by the Council of Ministers, by unanimity up to the ratification of the Nice Treaty, and by QMV thereafter.²⁵⁷ According to Article 259 EC Treaty "the composition of the Committee shall take account of the need to ensure adequate

²⁵⁶ Smismans, *op.cit.*

²⁵⁷ Neill Nugent, *The Government and Politics of the European Union*, USA, Duke University Press, 5th edition, 2003, 260.

representation of the various categories of economic and social activity”. Each Member State has to provide the Council with a list containing twice as many candidates as seats allotted to that country. Before appointing the members, the Council shall consult the Commission, and may obtain the opinion of European bodies, which are representative of the various economic and social actors to which the activities of the Community are of concern. However, in practice, the Council simply confirms the proposals made by the Member States.²⁵⁸ Therefore there is no real mechanism to ensure a balanced representation of different kinds of interests in the Committee as a whole. In addition, there is much variety in the actors involved at the national level, their respective role and the procedures to be followed in drawing up the double list. Moreover, the problem of “representativity” is exacerbated by the fact that nominees are appointed in their personal capacity without mandatory instructions.²⁵⁹

To ensure that a broad spectrum of interests and views are represented, the Rules of Procedure of the ESC structure the Committee into three groups that are just about equal in size. Though ESC members are not obliged to join a group, it is very exceptional that they do not. Although the border line between the three Groups is not always easy to draw, these groups are classified as follows:²⁶⁰

Group I: Employers. Just less than half of this group are drawn from industry. The rest are mostly from public enterprises, commercial organizations, banks, insurance companies etc.

²⁵⁸ Smismans, *op.cit.*

²⁵⁹ Deirdre Curtin, *Non-Governmental Representation v. Civil Society Deliberation: A Contemporary EU Governance Dilemma*, <http://www.arena.uio.no/events/Conference2002/documents/Curtin.doc>

²⁶⁰ Nugent, *op.cit.*

Group II: Workers. The great majority in this group are members of national trade unions.

Group III: Various interests. About half of this group are associated with either agriculture, small and medium-sized businesses, or the professions. The rest are mostly involved with public agencies and local authorities, consumer groups, environmental protection organizations and so on.

4.3.2 Organization and Competences of ESC

Every two years the ESC elects a President, two Vice Presidents, and a Bureau from amongst its members. The Presidency rotates amongst the three groups, with the two groups that do not occupy the Presidency each assuming a Vice Presidency. There are 24 members of the Bureau. The groups meet on a regular basis to review matters of common concern, to discuss ongoing ESC work, and to attempt to agree voting positions on proposals and issues that are due to be considered in plenary sessions.²⁶¹

The Article 262 EC Treaty has defined the advisory role of the ESC. According to this, the ESC has to be consulted by the Commission or Council in all the cases “where this Treaty so provides”. In practice this means that there are near to 50 articles which require compulsory consultation, involving the ESC in a wide range of policy areas. The compulsory consultation of the ESC takes place after the Commission has drafted its proposal. The Commission sends its proposal to the ESC and the EP at the same moment, but in general the ESC adopts its opinion before the Parliament debates the issue.²⁶²

²⁶¹ *Ibid.*, 260-261.

²⁶² Smismans, *op.cit.*

In addition to compulsory consultation, the Commission, the Council and since the Amsterdam Treaty, the European Parliament can ask the opinion of the ESC whenever they consider the optional consultation is appropriate. The ESC has obtained, informally since the 1972 Paris Summit, and formally since the Maastricht Treaty, the right to issue own initiative opinions. The right of own initiative is especially useful to take opinions in an early stage of the decision-making process. The Committee can thus bring to the attention of the Commission or the Council a particular issue on which Community action might be desirable, or it can influence the Commission while the latter is still drafting its proposal.²⁶³

4.3.3 The Changing Discourse of the ESC in the 1990s

After the first direct elections to the European Parliament which took place in 1979, the legislative power of the EP has gradually increased. However, in the same period the ESC faced the ever increasing competition of other advisory bodies. In addition, its institutional position was only slightly strengthened by recognizing the right of own-initiative opinions. Therefore, according to Stijn Smismans, the ESC remained completely absent in the debate on the legitimacy of European policy-making. He asserts that “since the “parliamentary model”, or more general “territorial representation”, has always been dominant in the discussion on the EC’s legitimacy, the functional representation, and the eventual role of the ESC therein, did not appear on the agenda”.²⁶⁴

²⁶³ *Ibid.*

²⁶⁴ Smismans, *op.cit.*

On the other hand, Smismans underlines that with the beginning of the 1990s, the approach of ESC concerning its role has shifted slightly and it has tried to redefine its role in the light of the debate on the European democratic deficit. The first attempt to redefine its role was its “Citizens’ Europe” initiative. With this initiative, Smismans argues that the ESC tried to strengthen its relation with the European citizen, and projected itself as a vital contribution to the democratization of the European polity. The initiative included the adoption of an opinion on “The Citizens’ Europe” (1992), and was further based on the organization of hearings intended to deepen contacts between the public and the EU institutions. However, the opinion was a loose gathering on “citizens’ issues” and some of the hearings looked more like proportionate representation (PR) activities than like a serious attempt to make decision-making more bottom-up.²⁶⁵

More recently, the ESC’s attention to its representative character has shifted focus, namely from the individual citizen to the organized citizen by defining the ESC as “the forum of civil society” to stress “its special role as the representative of civil society organizations”. This role has been clarified in the ESC’s own-initiative opinion on the “Role and contribution of civil society organizations in building Europe”²⁶⁶. The Committee argues that it “complements Parliament’s legitimacy” and “helps reduce a certain democratic deficit”.

²⁶⁵ *Ibid.*

²⁶⁶ Economic and Social Committee, “The Role and contribution of civil society organizations in building Europe”, Brussels, 22 September 1999, http://www.esc.eu.int/pages/en/acs/SCO/docs/ces851-1999_ac_en.PDF

The democratic process... -even more so than at national level- must provide a range of participatory structures in which all citizens, with their different identities and in accordance with their different identity criteria, can be represented and which reflect the heterogeneous nature of the European identity. ... People's identity is also defined by membership of interest groups in the diverse shape of civil society organizations. These identity criteria, relating to people's role in civil society organizations, are not covered by representation in the EP. It is precisely these identity criteria, however, which are taken into account by the Committee as the representative of civil society organizations.²⁶⁷

Similarly, Deirdre Curtin also puts the emphasis to the change in the approach of the ESC concerning its role. According to her, since the late 1990's the ESC has tried to re-invent its role as the logical forum for interest representation, both private and public interest, in the EU. In order to achieve this, the ESC organized on its own initiative two meetings (1999 and 2001) of "Organized Civil Society"²⁶⁸. According to Curtin, this was part of the ESC's effort to focus attention on the suitability of the ESC as the most appropriate forum for "civil society" to participate in the EU decision-making process and to conduct a "civil dialogue".²⁶⁹

The ESC has tried to strengthen its links with civil society as a functional assembly since the organization of hearings, collaboration with national socio-economic committees, and especially establishing relations with socio-economic groups in third countries have become central in the Committee's functioning over the last years. Through hearings, ESC members come into contact with a larger diversity of

²⁶⁷ *Ibid.*, 11-12.

²⁶⁸ Economic and Social Committee, "Opinion on Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper", 25 April 2001, http://eescopinions.esc.eu.int/viewdoc.aspx?doc=\\esppub1\esp_public\ces\sous-comité\s-c%20gouvernance\en\ces535-2001_ac_en.doc

²⁶⁹ Curtin, *op.cit.*

socio-economic organizations, which can provide a larger deliberative basis for the drafting of opinions. Moreover, in order to enhance the role of European civil society, since 1978 the ESC has been making efforts to strengthen the link with and between the national and regional economic and social committees. Through bilateral and multilateral agreements and via regular meetings this collaboration provides exchange of information and best practice, which contributes to a common understanding of the role of socio-economic interests vis-à-vis policy-making in Europe and the further europeanisation of organized civil society.²⁷⁰

Therefore as a result of its changing discourse the Economic and Social Committee has not been slow in recognizing the opportunities presented to them by a debate in which the role of civil society interests in EU policy making has been prominent. The debate has been given a very high priority and profile by the ESC, and in its “Opinion on European Governance- a White Paper”, the ESC has put the emphasis on its status as the institutionalized representative of organized civil society that it gains through Nice Treaty²⁷¹ and has noted that:

Over the past three years the Committee has organised debates²⁷²
and has issued a number of opinions²⁷³ focusing more specifically

²⁷⁰ Smismans, *op.cit.*

²⁷¹ Although the Treaty of Nice did not constitutionalise the concept of “civil dialog”, despite the many calls to that effect, it did amend Article 257 EC by providing that the Economic and Social Committee “shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest”.

²⁷²For examples:

- Social economy and the single market – 12 October 1999.
- First Convention of civil society organised at European level – 15 and 16 October 1999.
- Choosing our future: shaping the 6th EU Environment Action programme – Views from civil society – 7 March 2001.
- The Euro: can we anticipate all reactions? – 14 May 2001.
- Shaping the strategy for a sustainable European Union: views from civil society and public authorities – 26 and 27 April 2001.

on the way to ensure an effective participation of organised civil society. In previous opinions, the Committee has made a number of concrete proposals in this area. It is regrettable that several of these proposals have not been taken into account in the Commission White Paper.²⁷⁴

In the same Opinion the ESC has described its role for better involvement of citizens as the formal consultative body composed of representatives of the economic and social elements of organized civil society. Moreover it underlines that the “ESC has a key role to play in the framing of Community legislation and is an essential link between Europe and organized civil society in the Member States as it provides for a permanent and structured forum for dialogue and consultation.

4.3.4 The ESC as “the forum of civil society”?

The European polity, with its heterogeneous demos, needs various participatory structures in addition to its existent political channels and the ESC provides an additional forum of deliberation to the European Parliament with its participatory feature. The respective outcomes of deliberation in the ESC and the European Parliament are not the same since the member of these institutions focus on their personal activities and the origins of these representatives affect their perspectives on

- Conference on the role of organised civil society in European governance – 8 and 9 November 2001.

²⁷³ See for instance:

- “The role and contribution of civil society organisations in the building of Europe” - OJ C 329 of 17 November 1999.

- “The 2000 Intergovernmental Conference – The role of the European economic and Social Committee” – OJ C 117 of 26 April 2000

- “The Commission and non-governmental organisations : building a stronger partnership” – OJ C 268 of 19 September 2000.

- “Strategic objectives 2000-2005” – OJ C 14 of 16 January 2001.

- “Organised civil society and European governance: the Committee's contribution to the White paper” – OJ C 193 of 10 July 2001.

²⁷⁴ Economic and Social Committee, “Opinion of the Economic and Social Committee on European Governance- a White Paper”, Brussels, 20 March 2002,
http://www.esc.eu.int/pages/en/acs/SCO/docs/ces357-2002_ac_en.pdf

the issues they deal with. As ESC members originate from certain socio-economic categories, the outcome of the ESC can touch upon the matters concerning civil society when the EP Members, whose experience is based in political life, can contact with civil society often via political alignment.²⁷⁵ Moreover, the ESC members can realize the task much earlier and clearer.

The ESC also has advantages over other forms of functional participation such as lobbying or advisory committees since it is constitutionally established and therefore provides a more transparent form. Moreover, the ESC can provide access for socio-economic categories that would not find their way via other channels. Whereas lobbying leads to an overrepresentation of business interests, the ESC provides a fixed access for “weaker interests”.²⁷⁶ In addition, the ESC can strengthen these “weaker interests” by providing a permanent fixed institutionalized access.

However, although the representatives of the ESC have an advantage over the EP due to their useful experiences on socio-economic issues, Smismans criticizes the ESC as a body which can hardly be called representative of the socio-occupational categories of today’s European society. He underlines the lack of representatives of, for instance, the artistic world, the media, co-operatives, foundations, charitable associations, the disabled, the unemployed, women’s organizations, consumer and environmental organizations. These organizations are not represented or under-represented in the ESC.²⁷⁷

²⁷⁵ Smismans, *op.cit.*

²⁷⁶ *Ibid.*

²⁷⁷ *Ibid.*

As the Article 257 EC Treaty, describing the ESC's composition, has not been changed since the Rome Treaty, the ESC cannot fulfill the expectations of all organizations. Moreover, since each Member State has only a limited number of seats in the ESC, they tend to propose ESC members from those categories that are explicitly mentioned in the Treaty, which leads to an over-representation of the main employer organizations and trade unions and agricultural organizations. In addition, while the national nomination procedures do not seem to adapt to societal changes easily, the European ESC copy the deficiencies of functional participation at the national level.

In its Opinion on "Organised Civil Society and European Governance: the Committee's Contribution to the Drafting of the White Paper" the ESC has underlined the deliberative feature of its method of decision-making and that the process of opinion forming has reflected civil society dialogue and has geared to achieving a consensus:

The Committee's working methods provide for a "bottom-up" process where decisions are reached by involving a steadily widening circle of people. The vote in plenary session reflects a synthesis of views that may initially have been conflicting, based on the different interests of the civil society organizations represented in the Committee. Within this decision-making process the members are able to gather an optimum amount of information, which often means that their views change as a result of discussion. The added value of this process is that each Committee member can try to reach a consensus on the basis of his or her position and can gauge to what extent this position can also evolve. The Committee's opinions thus accurately reflect the views of organized civil society.²⁷⁸

²⁷⁸ Economic and Social Committee, "Opinion on Organised Civil Society and European Governance: the Committee's Contribution to the Drafting of the White Paper", 25 April 2001, 8.

Although the suggestion made by the ESC is that its working method is deliberative and inclusive, the members “represent” certain socio-economic groups and the structure of the ESC do not comprise all sectors of civil society that are organized. Moreover, Curtin adds the lack of representativity in the eyes of many civil society organizations due to the involvement of Member State governments in the selection of members. At the same time, Curtin argues that the agenda of the ESC is not necessarily that of civil society, since the ESC is responsible for giving opinion on matters put before it by the European Commission. Despite the fact that it has the right to produce “own-initiative” opinions, it is doubtful whether it can serve as a sufficient platform where large segments of civil society require much.²⁷⁹

According to Curtin, the ESC plays an important role in articulating the “social dialogue” between European social partners and this can lead an imbalance on the attitudes towards the different sectors of civil society in favor of NGO’ s that they can try to ensure that the ESC pays sufficient attention to issues of concern to them. Therefore, Curtin asserts that the attempts to make the ESC the “home” for civil society seem to be doomed to failure and lead in any event to some serious resistance from civil society itself. However, on the other hand she emphasizes the benefits of reinforcing the links between the ESC and civil society, in order to ensure that the ESC as an institution becomes more of a *space* where civil society feels at ease and where some useful deliberation can take place on various substantive issues.²⁸⁰

²⁷⁹ Curtin, *op.cit.*

²⁸⁰ *Ibid.*

On the other hand, the White Paper on Governance itself has called for a change concerning the role of the ESC by stating that “the ESC should play a more proactive role in examining policy”²⁸¹, and has recognized the problem that stems from the ESC’s late involvement in the policy process. Justin Greenwood takes the attention to a forthcoming action, the working arrangements between the Commission and the ESC. The working arrangements are in the process of development with a view to the latter playing a more pro-active role. However, he asserts that the basic structural issue of the point at which the ESC is engaged in the policy process seems unlikely to be centrally addressed by these.²⁸²

However, more hopefully, the White Paper also has asserted that the ESC’s “organization and role will have to be reconsidered”. Member States have been called by the paper to “take this new role into account when appointing members to the Committee”.²⁸³ Greenwood asserts that this makes reference to an interesting constitutional point, in that nomination to the ESC is in the gift of member states, which could in theory act unilaterally to reform the organization by nominating representatives of public interests. Therefore he considers the change, which is trying to be done through the appointments made by Member States, as less influential than a revision of ESC through a Treaty change.²⁸⁴

²⁸¹ European Commission, *European Governance: A White Paper*, *op.cit.*, 17.

²⁸² Justin Greenwood, *The White Paper on Governance and EU public Affairs- Democratic Deficit or Democratic Overload?*, <http://www.psa.ac.uk/cps/2002/greenwood.pdf>

²⁸³ European Commission, *European Governance: A White Paper*, *op.cit.*, 15.

²⁸⁴ Greenwood, *op.cit.*

CHAPTER V

CONCLUSION

The gap between the EU and its citizens is one of the most important problems of the European political integration. Although it has been on the agenda of the EU since 1970s, efforts of the Union to overcome this problem did not fulfill the expectations. However, especially after 1990s, developing a European civil society is proposed as a solution to bridge the gap between citizens and the Union. This proposal has been taken seriously both by the Union and academic community. Therefore, in recent times there exist a literature focusing on this issue.

Although the approaches vary widely concerning the role of a European civil society and its current existence at the EU level, there is almost a consensus upon its importance as an arena for participation. Since the EU is a political system *sui generis*, classical methods of nation-states to enhance participation do not work at EU level and the Union needs new channels to overcome this problem. Taking into account its unique entity and the possibility of perceiving the issues of political integration from a national dimension by the officials of the institutions, there exists a requirement to establish an arena outside the formal structures where people can interact with each other. Therefore, by transcending the national frontiers, civil society can play a vital role at the EU level and force the EU in new directions.

Establishing an arena where people can interact with each other might lead a communication among different levels of the Union. Therefore, civil society can serve as a sound base for this communication. As McCormick emphasizes, civil society can promote public awareness for certain issues, influence the content of policies and monitor the implementation of EU law at the national level.²⁸⁵ Although Alex Warleigh criticizes NGO's as the agents of Europeanization of civil society, due to their inability to promote the political socialization of their supporters, he accepts that by improving opportunity structures available to NGOs at the EU level and putting the conditionality of addressing the internal democracy of the NGOs of themselves as the price of access to the EU decision-makers, would benefit the Union and ensure the political socialization of the citizens.²⁸⁶

The practical situation within the Union, on the other hand, has given an impetus to the creation of a European civil society. Business and labor groups have tried to influence the institutions when the EU won new powers over competition policy, mergers and the movement of workers. Individual corporations and cross-sectoral federations have been founded to represent the interests of a broader membership at the Union level. Thus, there is an increase in the number of groups which are working to influence the decisions taken at the European level. Since 1990's there are 700 groups at the EU level, which 60 percent are business groups, 21 percent deal with public interest issues and 16 percent are professional organizations.²⁸⁷

²⁸⁵ McCormick, *op.cit.*, 134.

²⁸⁶ Alex Warleigh, " 'Europeanizing' Civil Society: NGOs as Agents of Political Socialization", *Journal of Common Market Studies*, Vol.39, No.4, November 2001, 619.

²⁸⁷ McCormick, *op.cit.*, 133.

Moreover, these groups contributed to the strength of the EU institutions in some policy areas that were once under the control of national governments.²⁸⁸

The activities of these groups have pulled the attention of their members to EU policies and have led them to involve into the process to find common solutions for shared problems. However, since these groups mainly deals with subjects of sectoral interest, the Union needs the participation of citizens rather than consumers. Although a company approach to the EU was proposed, which would make people aware of the EU's benefits and positive sides and an idea of a branding value system for Europe was defined, including aspects such as a responsible environment policy, the welfare state, education for the masses, a clearly defined, multiculturally-oriented immigration policy, the Union has to lead a focus on the other aspects of political integration.

Therefore, it is a must for the Union to come over the gap by creating a sense of belonging among its citizens. However, it is not easy to find uniquely European values. Although the Community made an effort in order to create a sense of European identity through traditional nation-building policies such as creating icons and rituals which are crucial elements of "belonging", these efforts do not address the real issue. As McCormick asserts the idea that the citizens of the Member States also belong to a larger communal entity must take root and grow in their minds if it is to be effective.²⁸⁹ In this respect, it can be argued that the citizens of the Member States need to understand the implications of integration

²⁸⁸ *Ibid.*

²⁸⁹ *Ibid.*

and they must directly experience the benefits of integration. Thus the citizens must feel that they can have a real impact on the decisions of the European institutions through meaningful participation before the EU can have real significance in their lives.

As of today, there is no common European identity. On the other hand, there are several distinct values shared by most Europeans: democracy, respect for human rights, appreciation of cultural diversity which make it possible to talk about a common European value base. While the difficulty of defining a common demos can be seen as a problem in the development of a European civil society, this common European value base can help to transcend the difficulties of creating a common European identity.

On the other hand, a European identity cannot be imposed upon people from above, but has to develop from the bottom up. Besides, it is a necessity for a democratic system that individuals have the opportunity to make their voices heard through the channels of civil society. However, the Union, especially the Commission's approach to civil society can be evaluated as preserving its top-down approach. The evidence of its top-down approach can be found in the White Paper on European Governance. In its White Paper the Commission states that "the Community method has served the Union well for almost half a century". However, it also emphasizes "despite the Union's achievements, many European fell alienated from its work". Therefore, as

Armstrong states that “it is hardly the clarion call for radical change” and “the white paper itself struggles to cast its gaze beyond the EU institutional context”.²⁹⁰

In order to get the citizens closer to the Union, the White Paper on European Governance emphasizes participation frequently and defines it as a major principle of good governance. Moreover, the Commission perceived participation as a means to enhance the legitimacy of European governance and stated that “the Union must renew the Community method by following a less top-down approach”²⁹¹ and underlined ensuring wide participation in order to ensure the effectiveness of EU policies.²⁹²

Although the participation is stressed as one of the five major principles of good governance, the changes proposed by the White Paper remains limited in content. Paul Magnette criticizes this limited conception of participation and argues that the participation will probably remain the monopoly of already organized groups and White Paper is not encouraging ordinary citizens to become more active.²⁹³

At this point, it has to be clarified that enhancing the general level of participation of citizens requires a common effort from both side. First, the system should establish the necessary structure to ensure participation. However, this is not enough solely, and the involvement of ordinary citizens to the structure is necessary. Yet, this

²⁹⁰ Armstrong, “Civil Society and the White Paper- Bridging or Jumping the Gaps?” *op.cit.*

²⁹¹ European Commission, *European Governance: A White Paper*, *op.cit.*, 4.

²⁹² *Ibid.*, 10.

²⁹³ Magnette, *op.cit.*

involvement necessitates consciousness which requires a certain period of time. As Benjamin Constant states, citizens have many interest in modern societies and politics is only one of them.²⁹⁴ Moreover, as already noticed by Kant that all citizens benefit from the mobilization and vigilance of the more active citizens among them.

Therefore, setting civil society which comprise active citizens, as a target is a right method to follow in order to tackle the democratic deficit and get the Union closer to its citizens. Although involvement of the average citizen should be the duty of a democratic system, at the EU level, with its highly complex structure, this seems like a future project rather than the current situation.

However, while the Commission sets the right target, its method has many deficiencies. Focusing on “stakeholders” and “interested parties”²⁹⁵ and submitting proposals concerning organized groups can be evaluated within the context of a market-based view. Although the White Paper refers to civil society frequently, it seems as if it is addressing only a part of it.

This inconsistency also stems from defining civil society as an actor which plays an important role in delivering services that meet people’s needs.²⁹⁶ At this point Armstrong argues that by emphasizing the service provider role of civil society the White Paper loses the chance to construct civil society as a sphere of communication. Therefore he evaluates this approach of the Commission as a market-based view

²⁹⁴ Magonette, *op.cit.*

²⁹⁵ European Commission, *European Governance: A White Paper, op.cit.*, 15.

²⁹⁶ *Ibid.*, 14.

which fails to grasp civil society as an instrument to reinforce the democratization process.²⁹⁷

Moreover, by proposing a structured process of consultation, the White Paper gives an impression that it is trying to manage the process, instead of improving it. In addition, although it argued that participation should be encouraged throughout the policy chain,²⁹⁸ in real this participation is encouraged only for pre-decision stage since concrete proposals actually focus on the consultative stage. On the other hand, it suggested the structuring of “channels for feedback, criticism and protest”,²⁹⁹ however it did not mention anything concerning the channels for feedback.

The code of conduct which is submitted by the White Paper is a good example to prove that the Commission traditional approach is still continuing. The White Paper argued that creating a culture of consultation should be underpinned by this non-binding conduct. The code of conduct set out minimum standards for consultation processes focusing on when, whom, how and what to consult.³⁰⁰ Although it argued that these standards should improve the representativity of civil society organizations, Armstrong³⁰¹ criticizes that these standards structure the civil society relationship through the imposition of responsibilities upon civil society actors. On

²⁹⁷ Armstrong, “Civil Society and the White Paper- Bridging or Jumping the Gaps?”, *op.cit.*

²⁹⁸ European Commission, *European Governance: A White Paper*, *op.cit.*, 10.

²⁹⁹ *Ibid.*, 15.

³⁰⁰ *Ibid.*, 17.

³⁰¹ Armstrong, “Civil Society and the White Paper- Bridging or Jumping the Gaps?”, *op.cit.*

the other hand, Magnette³⁰² argues that these standards mainly focus on sectoral actors.

The same philosophy is valid for the logic of the Convention. Although the Convention has made some efforts to facilitate the expression of civil society's demands and to expose itself to public accountability, the gap still exists since these efforts are still far from the establishment of a real dialogue with the organized civil society. According to Lombardo, the Convention's emphasis on civil society is more a rhetorical device to gain legitimacy rather than a genuine democratic move towards the creation of a more pluralistic EU democracy capable of including mechanisms of active participation of citizens and social actors in the policy-making process that would complement and enrich representative democracy.³⁰³

With its highly complex structure, the Union stands as an obstacle for itself. Furthermore, it proposes policies which argue that there is no other way. Therefore, civil society remains passive to some extent since new formal channels are not created and the existent ones do not fulfill the expectations. However, since the Commission is the guardian of the treaty, it has to be neutral. Moreover, it considers itself to be a body designed to bypass political conflicts and creates the impression that Europe is governed by a consensual political class. As Magnette emphasized, it will be difficult for the Commission to acknowledge that different policies are possible.³⁰⁴

³⁰² Magnette, *op.cit.*

³⁰³ Lombardo, *op.cit.*

³⁰⁴ Magnette, *op.cit.*

At this point it is necessary to state that the approaches of the Commission and the Economic and Social Committee on civil society differ widely and the ESC perceives civil society as a third part alongside the state and economy which can contribute to political integration. Therefore, ESC is a more suitable platform for the participation of civil society. According to Greenwood, the ESC could play a significant role as a mediator between civil society and the EU if it can go beyond “forums” and “hearings” towards an institutional structure which would embrace the interests of the citizens fully³⁰⁵, which requires an institutional reform in favor of the ESC.

In order to make this body more democratic and efficient, the election of the Committee should be changed. At the moment, the members are nominated by the Member States and appointed by the Council of Ministers. A more democratic way would be to make the European Parliament appoint the members of the Committee. Furthermore, the distribution of seats between the three representative groups – employers, employees, and various civil society groups – should be changed in favor of civil society. Currently, each group gets 80 seats in the Committee, which does not give enough space to the huge diversity of civil society organizations to get involved.

As a result, both the White Paper which indicates the general trend of the Commission’s vision of European civil society and the Convention’s attempts for the involvement of civil society as a genuine move towards a more pluralistic EU democracy, fail to fulfill the expectations. While EU institutions face a distance from the citizens, organizations of civil society, instead, are increasingly gaining

³⁰⁵ Greenwood, *op.cit.*

legitimacy among the people both at the national and European levels. The renewed interest in “civil society” at the European level is a sign of the EU’s awareness of both the current crisis of traditional political representation and the rising role of civil society organizations mobilizing through different forms of participatory democracy. Since there is a conflict between words and deeds of the EU towards civil society, the gap between the Union and its citizens still remains. In addition, without an institutional reform it seems, as the gap will widen. However, besides the institutional reform, the Union has to change its approach and has to perceive the European civil society as a means to enhance the participation of at least its active citizens.

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