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European Union Constitution Making and the Media. Lessons from Maastricht

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The Maastricht Treaty, the so-called Treaty on European Union, marks a turning point in the history of European integration. Maastricht transformed the European Communities (EC) into the more aspiring European Union (EU). It paved the way for the Euro single currency, formalised, with its three-pillar structure, the internal and external policies of the new Union, and introduced important institutional reforms, including the stronger role of the European Parliament in decision-making. Maastricht started a period of treaty reforms in the 1990s and early 2000s that further adjusted and attempted to democratise decision-making, not least in order to include new member states from behind what used to be the Iron Curtain.

Negotiated in 1991, the Maastricht Treaty only entered into force in 1993, after many difficulties during ratification – with an almost failed referendum in France, and a failed referendum in Denmark – that led to a number of Danish opt-outs. This apparent lack of popular support for more ambitious attempts at European integration triggered a debate among scholars and in the broader public sphere about the »democratic deficit« of the EU. The EU appeared to act out of sync with its citizens, seemed aloof and lacked accountability, notably since the European Parliament's powers continued to be limited until the Lisbon Treaty of 2009.

In the debate about the democratic deficit, the apparent lack of a European public sphere loomed large. The absence of a European public sphere – necessary to form public opinion and to hold authorities to account – fundamentally challenged the legitimacy of the EU, and implied that European democracy was impossible.

Lawyers and law journals played a prominent role in this interdisciplinary debate. The incum-

bent German constitutional judge Dieter Grimm – writing in the then relatively new *European Law Journal* in 1995 – questioned the possibility of a European public sphere. In the absence of a common language and a common culture, this seemed quite obvious to him. Such apparently essentialist claims challenged philosopher Jürgen Habermas to propose a new definition of a European public sphere. He argued that a European public sphere was able to arise and exist across language and cultural divides. The only thing that was necessary was a synchronous debate on common issues of the same relevance.

Habermas' definition marked the starting point of a whole series of studies in the 2000s and 2010s by media scholars, social scientists and historians (including the reviewer's PhD research), since it allowed looking beyond national media systems. A first wave of European public sphere research in the 2000s had attempted to demonstrate the »existence« of a European public sphere, uncover its characteristics and structural features.

Manuel Müller's new book »A Failed Moment of Constitutionalisation. The Treaty of Maastricht and the European Public Sphere 1988–1991« is part of a second wave of this research. This second wave was rather devoted to providing explanations for the structural features and the notable deficits that, according to most researchers, characterised the European public sphere.

Müller's book – based on the PhD thesis in history he defended in Berlin in 2019 – tries to explain an important structural trait of the European public sphere. Why is it that in the debate about EU politics in the European public sphere national perspectives dominate over those party-political alignments that usually shape domestic debates? Why do the media tend to present Euro-

pean affairs as zero-sum battles between the member states rather than as common projects to be assessed in terms of political cleavages?

In order to explain this apparent discrepancy Müller draws on theories of news values. These – largely internalised and tacit – criteria of relevance that journalists apply when writing their stories privilege national governments and conflicts between them in the process of news selection and the framing of news stories. Müller argues that a discrepancy exists between the ambition and rhetoric of making a European constitution – which surrounded Maastricht and subsequent treaty reforms, including the failed constitution of 2005 – and the political process of intergovernmental negotiations that treaty reforms involve. This discrepancy impacted the news values journalists and observers applied and thus militated against the project of constitution-making itself. What should have looked like a process towards the joint enterprise of a European constitution instead looked like intergovernmental wrangling and petty politics in the media.

According to Müller, Maastricht is not simply the beginning of the debate about the European public sphere. He is a self-declared »European federalist« and maintains a very successful and insightful blog on up-to-date issues of European integration from a Euro-federalist perspective. From this point of departure, choosing Maastricht and the analysis of the (deficient) media debates around Maastricht in a case study about the European public sphere is almost self-evident. Maastricht was indeed the event in the history of European integration that various contemporary observers – many of them indeed federalists – had hoped to turn into a »constitutional moment«. Even those more sceptical of European federalism would hardly question the importance of the event in the history of European integration and European history more generally. Müller's book thus provides at the same time an important historical account on Maastricht as an event – from the perspective of German, French and British media.

The book is divided into four parts. In the first part, Müller engages with the very broad interdisciplinary conceptual literature on European integration, legitimacy and the public sphere as well as on the role of Maastricht in the process of constitutionalisation. Based on all this, he presents the core puzzle and his explanation: he argues that the setup of the intergovernmental political process created framings in the media that militated against the goals of constitutionalisation. Part II provides a comprehensive historical overview of the contexts, events and plans that led to Maastricht, and what happened at the December 1991 summit in the Netherlands.

Part III is the main part of the book. It offers a comprehensive qualitative analysis of the debates in the »politics« and »opinion« sections of six major quality newspapers, representing centre-left and centre-right perspectives: *Süddeutsche Zeitung* and *Frankfurter Allgemeine Zeitung*, *Le Monde* and *Le Figaro*, and *The Guardian* and *The Times*. Here, Müller follows a standard selection of sources, similarly used by other researchers. By analysing the debate from 1988 until 1991, he covers ample ground and offers a very comprehensive examination not only of the event but also the path that led to it. Müller limited himself to solely qualitative analyses. This makes a lot of sense given that his approach systematically distinguished between those parts of the debate that focused on the European negotiations and those that dealt with national politics and policies on European affairs. Elements of both can probably be found in one and the same article, which defies the logic of counting articles. In his text, however, Müller makes remarks that relate to quantities, for instance, about the frequency of certain topics being discussed. Hence, the total absence of any numbers, counts, tables and graphs is surprising – even more so given the large number of articles analysed. Conceivably, some quantitative evaluations would have provided orientation and new insights, despite the various methodological challenges any such analysis would pose.

A fourth part discusses the new policies that the Maastricht Treaty was going to introduce as well as the implications for the legitimacy of the European Union, i. e. strengthening the European Parliament, abandoning the national veto and introducing EU citizenship. Also in this section, Müller observes the predominance of framings that present EU politics as battles between the member states rather than focusing on policies as joint projects. Müller's conclusions largely summarise his main points and very persuasive argument. This section could have benefitted from further discussion of the implications of his findings for wider literatures, such as recent debates on Euroscepticism or Brexit. This will be left to the readers to think about.

Müller's book offers important new insights on the logics at work in the European public sphere. It is a treasure trove regarding the events and debates around Maastricht – an event that took place just 30 years ago, but which increasingly feels like ancient history. However, from the historian's perspective, in which archival sources are first made available after a 30-year period, this is very up to date. Müller's accessibly written book clearly deserves the attention not only of legal and political historians dealing with Maastricht now and in the future, but also those interested in the European public sphere, a literature that has received less attention recently, except for the debate about populism. The book is accessible via open-access, which should certainly help in this respect.

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Shlomi Balaban

Taking the Ambivalent Road*

Rotem Giladi is a professor of law at Roehampton Law School and a former practitioner of international law. His book *Jews, Sovereignty, and International Law. Ideology and Ambivalence in Early Israeli Legal Diplomac*y is profound and innovative from several perspectives.

Giladi's book can be included in an impressive group of studies published in recent years that dealt with the influence of Jewish jurists on the evolution of international law. This literature has been published by internationally leading scholars. And yet Giladi's book is a true contribution to the field. For instance, unlike other scholars in the field, Giladi does not conclude his research in 1948, the year of Israel's establishment. Rather, he takes a further step forward in time to inquire into the influence of the establishment of the state of Israel as the Jewish state, and explores how Israeli jurists of the newly established Ministry of Foreign Affairs (MFA) approached international law.

The book examines on a time period of five years. Instead of beginning with the establishment of Israel in 1948, it takes 1949 as its starting point, when Israel was admitted to the UN as a state. It ends around 1954, a time when, as Giladi states, the case studies examined were no longer dealt with by his book's »main characters«.

The author focuses on two legal jurists that were part of the group of the Israeli Ministry of Foreign Affairs' »founding fathers«, but whose gravitas and influence on Israel's foreign policy were exceptional even among these. According to Giladi, these two jurists were »the engines of Israel's early international law diplomacy«. They were the London-born Shabtai Rosenne (born Sefton Wilfred David Rowson, 1917–2010), Israel's first foreign ministry legal advisor, and Jacob Robinson (born Jokubas Robinzonas, 1889–1977), Israel's first legal advisor to its UN Mission. Giladi credits Rosenne and Robinson with having made a pivotal contribution to shaping the newly established state's approach to and practice of international law.

Giladi's book focuses on three case studies: the right of petition to international organisations, the 1948 Genocide Convention and the 1951 Refugee Convention. All case studies were relevant Israeli interests and engaged Jewish scholars both in the pre-state and the pre-sovereignty eras. Giladi's analysis is therefore critical to the examination of the changing or continuing attitudes of the MFA legal jurists towards the three aforementioned examples and towards international law in general – if indeed such a change occurred – in the sovereign phase. These case studies uncover ten-