

URS paper

Unexpectedly legitimate

An interdisciplinary assessment of the impact of interest groups on the EU's legitimacy

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Abstract:

Decisions taken in the European Union's (EU) institutions affect the lives of 450 million EU citizens, which is why it is important to understand how interest groups affect legislative processes in the EU. This paper investigates the effect of the EU's current system of interest group representation on its legitimacy. To this end, an interdisciplinary approach utilising the disciplines political history, political science and political philosophy is taken. While political history shows that business associations enjoy a higher access to EU institutions, political science argues that the influence of various interest groups is rather equally distributed. Political philosophy reveals that the concept of pluralism, which sees interest groups as highly desirable, has guided the establishment of EU institutions since its start and influenced how they are perceived. These insights are combined into a framework showing that the current system is fundamentally legitimate but does require further reforms.

Evidence for practice:

- Interest groups are an integral part of the EU's political system.
- The EU's current system of interest group representation is fundamentally legitimate.
- Reforms within the current system are needed to remedy persisting inequalities regarding the access that different interest groups have to the EU institutions.

Keywords: EU, interest groups, legitimacy, political history

A Blessing or A Curse

What unfolded last December in Brussels seemed to be a scene from a crime series rather than an episode of real-world politics. Eva Kaili, a vice-president of the European parliament (EP) was arrested as it was uncovered that she had received payments from the Qatari government so that she would portray the regime in a favourable light (Malingre et al., 2022). This represents a case where an interest group, namely the Qatari government, tried to unduly influence European Union (EU) politics, thus shedding light on a much debated topic in the EU. While this corruption scandal is expected to occupy the EU for some time to come, the topic of interest group representation is not a new one. It has been intensively debated since at least the 1990s when the EU attempted to develop a formal framework for interest group regulation (Smismans, 2014) as the EU's increasing scope of policy-making drew more interest groups into Brussels (Coen, 2009; Laurens, 2017). Today, The 12.000 organisations that are currently on the voluntary lobby register, which the EP and the European Commission (EC) have together, declared a combined annual lobbying budget of 1.8 billion euros (Transparency International EU, 2023).

Looking at this recent scandal and the numbers of interest groups present in Brussels shows the importance of addressing the topic of interest group representation in the EU. However, the situation is not as straightforward as it seems. On the one hand, the current situation poses a challenge because decision makers might vote for legislation that is desired by certain interest groups, but not necessarily in the interest of the public to which they are ultimately accountable. This imperils the EU's legitimacy both in terms of the decision-making procedures but potentially also in terms of the policy outcomes. However, maintaining the EU's legitimacy is of crucial societal importance, as the decisions made in its institutions affect the lives of around 450 million citizens and a loss of legitimacy would thus not justify the scope of influence the EU institutions have today. On the other hand, interest groups cannot simply be banned altogether as lobbyism is an integral part of politics, especially in the EU which is reliant on the expertise that interest groups provide in order to produce good policies. It is therefore imperative to scrutinise how lobbyism is connected to the EU's legitimacy, leading to the research question this paper will investigate: *How does the current system of interest group representation impact the EU's legitimacy?* Since lobbyism is a complex topic, different disciplines are needed to fully understand how the current system of interest group representation impacts the EU's legitimacy, thus showing the need to research this topic in an interdisciplinary way.

How does the current system of interest group representation impact the EU's legitimacy?

Before starting, legitimacy needs to be briefly explained. It refers to "the acceptability of a social or political order" (Lindgren & Persson, 2010, 450), and will be defined in terms of input and output legitimacy. Simply put, input legitimacy looks at decision-making procedures whereas output legitimacy focuses on the outcomes of policies.

The paper will first outline the crucial theories that will be utilised from each discipline used. First off, the theory of historical institutionalism will be explained in the political history section, afterwards the theory of influence will be introduced in the political science section and lastly, the theories of pluralism and republicanism will be discussed in the political philosophy section. Afterwards, the insights from these disciplines will be integrated into a new model that enhances our understanding of the legitimacy of the EU's system of interest group representation.

Mixed Assessments

Political History

This section will investigate the following sub-question: *How has the current system of interest group representation evolved since 1958?* In order to do so, the historical development of the EU's system of interest group representation will be connected to the theory of historical institutionalism. This theory emphasises institutional path dependence and policy legacies, meaning that previous choices about policies and institutions affect the range of subsequent policy options. There are points of critical juncture, which represent rare events in the development of an institution that have a large impact on its further development. Historical institutionalism also stresses the importance of institutional lock-ins where deviations from the initial path become increasingly difficult, thus explaining why institutional changes take place only gradually (Knill & Tosun, 2020).

A Happy Marriage – Business Associations and EEC Institutions (1958-1980).

The European Economic Community (EEC) was established in 1958 through the Treaty of Rome (Hix, 2020). This kickstarted the establishment of many business associations in the 1960s, which was actively supported by the EC. Due to a lack of staff and expertise, the EC needed the knowledge provided by interest groups, leading to growing ties between the business associations and EEC institutions. This provided the institutions with output legitimacy vis-à-vis member states and the business world (Laurens, 2017).

Disruptions of Married Life – New Actors Enter the Stage (1980-2010).

The 1980s saw the further cementation of the importance of business associations whose creation continued to be encouraged by the EC as the staff of the associations was able to synthesise the views of their sector into one position that would be approved by that sector (Laurens, 2017).

The 1990s marked a turning point as many NGOs became established in Brussels as well. However, they had less favourable positions compared to the business associations. First off, they did not help to assert the institutional legitimacy of the EEC in its early days and could thus not benefit from the historical closeness enjoyed by the business associations. Secondly, they also provided less crucial expertise since business associations still provided a synthesis of the sectoral interests of several member states. Thirdly, they had less resources, which limited the capacity of NGOs to gain access to EU institutions (Laurens, 2017).

The Marriage Persists – Historical Institutionalism and EU Legitimacy.

This development of the EU's system of interest group representation can be explained through the theory of historical institutionalism. When the EU institutions started to develop, business associations played a significant role in structuring them. This represents a critical juncture as it was a crucial event that impacted the further development of the EU institutions. From this point onwards, business associations have remained closely interconnected to the EU administration until today. Due to the shift in focus from output to input legitimacy, these close ties could be seen as an impediment rather than an improvement to the EU's legitimacy. However, this is a case of an institutional lock-in where it would be very costly and difficult to change the system that has been established over the past decades.

This shows that the historically grown connections between business associations and EU institutions have created a system of interest group representation where not all interest groups have equal access to the decision-makers. Therefore, in the current system input legitimacy is rather low which is also likely to translate into low output legitimacy since interests that are not represented cannot be considered in the policy-making process (Lindgren & Persson, 2010).

Political Science

This section will attempt to answer the sub-question: *How do interest groups influence the EU policy-making process?* In doing so, it will use the theory of influence and then see how the insights derived from this theory affect the legitimacy of the current system.

Theory of Influence.

To explain how the current system of interest group representation in the EU works, the theory of influence will be utilised. It argues that access does not necessarily imply influence and that the final goal of interest groups is to influence, not merely access, EU-institutions (Klüver, 2013). The model comprises two steps.

In the first step, EU lobbying is conceived of as a bi-directional relationship between interdependent actors where interest groups demand influence on policy-making and EU institutions demand access goods, such as policy-relevant information, citizen support and economic power. Therefore, the ability of interest groups to exert influence depends on their ability to provide these goods (Klüver, 2013). In the second step, Klüver (2013) argues that it is necessary to take into account the context within which lobbying happens. Since policy issues often raise the attention of multiple interest groups simultaneously, lobbying coalitions, which aim to push an EU institution into their preferred direction, are established. The likelihood of this

succeeding is suspected to increase with a higher aggregated amount of information, citizen support, and economic power of that coalition.

Theory of Influence and EU Legitimacy.

Empirical data on the influence of interest groups on the policy-making process shows that influence is not systematically biased in favour of concentrated interests but seems to be fairly equally distributed among societal interests (Klüver, 2013). This is corroborated by Greenwood (2019) who argues that business associations are less successful than public interest actors in influencing EU policy-making, especially when NGOs have managed to raise the salience of an issue. In contrast, business interests are mainly successful when conflict is low, and issues are technical (Coen, 2009). Whereas in terms of access there is a clear bias in favour of business, there is no such systematic favour when it comes to influence. This rather equally distributed influence of interest groups on EU institutions provides the system with input legitimacy which is likely to also translate into output legitimacy since many different interests are considered, making the final policy more inclusive (Lindgren & Persson, 2010). This indicates that the current system of interest group representation seems to enhance the input and output legitimacy of the EU (Klüver, 2013).

Political Philosophy

How do different conceptions of the public interest affect the legitimacy of interest group representation?

This section will investigate the sub-question: *How do different conceptions of the public interest affect the legitimacy of interest group representation?* The answer to this question depends on one's conception of the public interest and the following section will outline two conceptions which have juxtaposed positions regarding the legitimacy of interest groups.

De Tocqueville's Pluralist Vision.

The first perspective on interest group representation is that of pluralism which was markedly influenced by French philosopher Alexis de Tocqueville. He saw interest groups as an essential source of liberty for the citizens. Whereas in aristocracy the people in power wield a considerable amount of power, in a democracy the citizens are individually rather weak. This explains the importance of associations as individually weak citizens need to unite with other citizens to fight for their interests. Larger associations are seen as more valuable as they have a higher chance of success in advancing their interests. This led de Tocqueville to claim that "in democratic countries political associations are (...) the only powerful persons who aspire to rule the State" (de Tocqueville, 2003 [1835-40], 592). Therefore, in a pluralist conception of the public interest, interest groups are seen as highly legitimate. This conception is also guiding the EU today, as the current system of interest group representation is described as elite pluralistic (Coen, 2009).

Rousseau's Republican Vision.

The second perspective that will be considered is a republican one, of which Jean-Jacques Rousseau is one of the most famous proponents. In his social contract, Rousseau proposes the idea of the general will (*volonté générale*), which states that collective decisions should reflect the interests of the whole community in the long-run (de Dijn, 2018). Interest groups are seen as undermining the general will and thus by extension also the rule of the people (Erne, 2020). This shows that in a republican conception of the public interest, interest groups are seen to negatively impact the legitimacy of a political community, such as the EU, since they distort the common good.

Creating A Comprehensive Understanding

Despite having some similarities, the disciplines also show quite some differences, especially regarding their answer to the main research question. Therefore, this section will create a two-step model that provides a more complete understanding of the EU's system of interest group representation through first establishing common ground and then integrating the disciplines.

Step 1: Extension

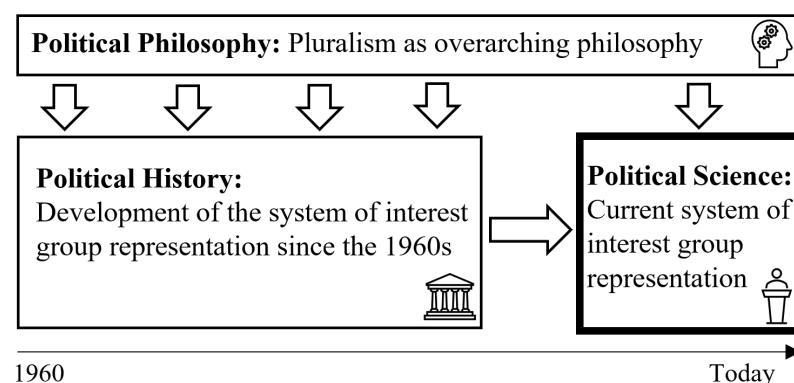
In the first step, the differential understanding of political history and political science of the word “impact” used in the main research question will be addressed since this played a crucial role in their different answers with respect to the main question. Whereas political history has equated “impact” with access, political science has equated it with influence. I will extend the understanding of “impact” that political history has by adding the meaning from political science. Therefore, impact will now mean both access and influence which can be symbolised as follows: $\text{impact} = \text{access} + \text{influence}$.

This is crucial as the conflicting conclusions that political history and political science had with respect to the current system of interest group representation was due to the fact that they had a different understanding of the key word “impact”; not because they disagreed fundamentally on the question of the legitimacy of interest groups in the EU. Therefore, this extension has enabled to resolve this conflict, thus allowing me to create common ground through organising the insights of the three disciplines into one model.

Step 2: Organisation

In this second step, political science, political history, and political philosophy are combined into one model (see *fig. 1*), which enables a more complete understanding of the current system of interest group representation. It explains why this system can be seen as legitimate despite the different conclusions that the three disciplines gave individually.

Figure 1: Model of interest group representation in the EU



Political science has helped in explaining how the current system looks like and that it is legitimate as there is no systematic bias towards one specific type of interest group in the policy-making process. This current system is represented by the bold black square in *figure 1*. Political history is important in explaining how the system of interest group representation has developed since the 1960s and how this influences the current system of interest group representation; it is represented by the black rectangle in *figure 1* and the arrow pointing towards political science signifies how the historical development influenced the structure of the current system. Furthermore, with the extended meaning of “impact”, the current system of interest group representation can be seen as legitimate as the stark inequalities in terms of access that are highlighted by history are softened when using the new meaning that also includes influence. However, history still provides a different angle than political science as it points out the inequalities in terms of access that persist for historical reasons and that still need to be addressed if the system is to become truly representative and wholly legitimate. Political philosophy seems to be rather tricky to include into a model since its view on the legitimacy of interest groups is so agent-centred. However, what can be seen when looking at the system of interest group representation both from a historical and current-day perspective is that it is the conception of pluralism that has guided the EU institutions in establishing their system of interest group representation. Therefore, pluralism can be regarded as the overarching philosophical

framework guiding the system of interest group representation in the EU, as its institutions encouraged the formation and inclusion of interest groups into the political process already since the 1960s but especially in the 1990s where the system became highly pluralist. This fundamental approach persists until today, even though the current system is more restrictive in terms of access, which has given it the name of elite pluralism (Coen, 2009). Political philosophy is represented by the black rectangle placed over both political history and political science in *figure 1* with the arrows pointing downwards representing how it influenced the setup of the system both in the past and the present. The EU's approach of including many interest groups was justified through the idea that the inclusion of more interest groups could compensate for representational deficits (Klüver, 2013). This is highly reminiscent of the logic behind pluralism presented in section 2.3.1 where interest groups are seen to enhance the representativeness of ideas included into the decision-making process, thus heightening the legitimacy of the process and its policy outcomes.

Objection from republicanism

The model established above (see *fig. 1*) could be objected to by republicans who might argue that interest groups still distort the general will even if there is no systematic bias favouring one type of interest group over another. If that proved to be the case, their objection would be reasonable but if it can be shown that interest groups do not distort the general will, then republicans could not reasonably object to the current system in place. The insights from the disciplines presented above show that the current system of interest group representation can be considered to function well. Therefore, the decisions reached in the current system of interest group representation cannot be seen to systematically distort the interest of the public.

A Blessing with Reservations

Interest groups are an integral part of many political systems. This is especially the case with the EU which is heavily reliant on the expertise that interest groups provide. On this reading, interest groups enhance the output legitimacy of the EU. However, interest groups can also be regarded as a challenge since they can be seen to influence the decisions of the policy-makers in their interests, which means that policies would not be in the interest of the public but would serve mainly special interests. Therefore, this paper has investigated the following question: *How does the current system of interest group representation impact the EU's legitimacy?*

In order to do so, the paper has used the disciplines political history, political science, and political philosophy, to provide a more complete understanding of the EU's system of interest group representation than could be gained from looking only at one discipline. Political history has shown that business associations share historical connections with EU institutions, resulting in an unequal access for different interest groups. Political science has shown that there is no systematic bias towards one specific type of interest group in terms of the influence they have on decision-makers, and political philosophy has shown that the legitimacy of interest groups depends on a person's conception of the public interest in showing that from a pluralist perspective interest groups are highly desirable while this is not the case from a republican perspective. The insights gained from these three disciplines have been combined into one model which has shown that the current system of interest group representation is legitimate and that interest groups should not be seen as imperilling the EU's legitimacy, thus answering the research question this paper set out to investigate. However, it is crucial to keep in mind that the inequalities in terms of access that have been highlighted by the political history perspective still exist and need to be addressed. This can be done within the confines of the current system as the main conclusion drawn from this paper shows.

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This paper has set out to contribute to one of the topics which returns as reliably when talking about the EU as the discussion on abolishing summer- and wintertime. It has contributed to the debate by showing that accusations seriously questioning the EU's legitimacy based on its system of interest group representation are unjustified as the system serves the public interest more than might be assumed when reading media reports such as the one on the corruption scandal surrounding Eva Kaili.

A Note from the Author:

My name is Selma Irmer and I am currently completing the last year of my Bachelor programme Philosophy, Politics and Economics (PPE) at Utrecht University. As a daughter of a French mother and a German father, I am aware of the importance of peace among the nations of Europe since I would not be here without it. The European Union which came into being precisely with the purpose of maintaining this peace is today being heavily criticised among other things through the claim that it has a democratic deficit. This is often attributed to its system of interest group representation, which is seen to lack transparency and be skewed towards favouring certain interest groups over others. It is therefore important to understand how the current system of interest group representation affects the EU's democratic legitimacy to be able to properly address one of the key challenges facing the EU today so that it can continue to bring the peoples of Europe closer together.

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