

# Normative Power Europe: A Contradiction in Terms?\*

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## Abstract

Twenty years ago, in the pages of the *Journal of Common Market Studies*, Hedley Bull launched a searing critique of the European Community's 'civilian power' in international affairs. Since that time the increasing role of the European Union (EU) in areas of security and defence policy has led to a seductiveness in adopting the notion of 'military power Europe'. In contrast, I will attempt to argue that by thinking beyond traditional conceptions of the EU's international role and examining the case study of its international pursuit of the abolition of the death penalty, we may best conceive of the EU as a 'normative power Europe'.

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## Introduction

'Europe' is not an actor in international affairs,  
and does not seem likely to become one ... (Bull, 1982, p. 151)

With these now renowned words Hedley Bull, the pre-eminent writer of the 'English School' of international relations theory, dismissed the suggestion that the European Community (EC) represented a 'civilian power' in international relations and endeared himself to a generation of European studies scholars. Bull was responding to the suggestions of writers such as François Duchêne who claimed that traditional military power had given way to progressive civilian power as the means to exert influence in international relations (Duchêne, 1972, 1973). Bull's argument forms the starting point for my dis-

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cussion of the international role of the European Union (EU) as a promoter of norms which displace the state as the centre of concern. It may be the case that Bull was correct to argue that ‘from the perspective of “the return to power politics” of the 1980s’ the civilian power of the EC *was* conditional upon the military power of states. However, I will further claim that the developments of the 1990s in international relations lead us to rethink both notions of military power and civilian power in order to consider the EU’s normative power in world politics.

My argument begins by briefly surveying the conceptual history of civilian power and military power Europe over the past 20 years in order to locate these traditional conceptions of the EU’s international role. I will then introduce the idea of normative power Europe, including the EU’s normative difference, the EU’s normative basis, and an explanation of how EU norms are diffused. In order to demonstrate the value of considering the normative power of the EU, I will then look at the case of its international pursuit of the abolition of the death penalty. Finally, I will conclude by arguing that the concept of normative power represents a valuable addition to our understanding of the EU’s civilian and military power in world politics. Thus, the notion of ‘normative power’ when applied to the EU is not a contradiction in terms, as the ability to define what passes for ‘normal’ in world politics is extremely rich.

### **I. Civilian or Military Power Europe**

On 9 May 2000, to celebrate the 50th anniversary of the Schuman Declaration on ‘Europe Day’, the EU issued publicity material declaring ‘50 Years of Solidarity, Prosperity and Peace’. Although the claim to being solely responsible for the achievement of peace is questionable, the slogans do reflect the fact that since the creation of the European Coal and Steel Community, the EU has increasingly ‘domesticated’ relations between Member States (Manners and Whitman, 2000, p. 257). As Duchêne was to suggest in the early 1970s, Europe at age 20 represented a ‘civilian power’ which was ‘long on economic power and relatively short on armed force’. As Romano Prodi pronounced at the start of his presidency, the status of the EU as a global civilian power is one which is still central to a discussion of its role in international relations: ‘We must aim to become a global civil power at the service of sustainable global development. After all, only by ensuring sustainable global development can Europe guarantee its own strategic security’ (Prodi, 2000, p. 3).

Twitchett and Maull have both defined civilian power as involving three key features which I interpret as being the centrality of economic power to achieve national goals; the primacy of diplomatic co-operation to solve inter-

national problems; and the willingness to use legally-binding supranational institutions to achieve international progress (Twitchett, 1976, pp. 1–2; Maull, 1990, pp. 92–3).

It was this notion of civilian power which Bull criticized in 1982 for its ineffectiveness and lack of self-sufficiency in military power. Bull's remedy was to suggest that the EC should become more self-sufficient in defence and security through seven steps: the provision of nuclear deterrent forces; the improvement of conventional forces; a greater role played by west Germany; more involvement on the part of France; a change of policy in Britain; careful co-existence with the Soviet Union; and careful co-existence with the United States. Bull's solution, unimaginable during the 1980s cold war, was to turn the EC into a military power Europe.

Since the defeat of the European Defence Community by the French national assembly in 1954, the question of the EC assuming a military dimension had remained taboo until the agreeing of the Treaty on European Union (TEU) in 1991. As Whitman has suggested, 'the TEU had signalled the intent of the Member States of the Union to move beyond a civilian power Europe and to develop a defence dimension to the international identity of the Union' (1998, pp. 135–6), shattering that taboo. The expectation was that the move from the single structure of the EC to the three-pillar structure of the EU was part of a fundamental shift from civilian to military power, assuming that the development of a common foreign and security policy was eventually to include defence policy. However, for the next seven years the expectations of foreign policy and military power were not matched by the hoped-for achievements of the EU, a disappointment which Hill felt was a 'capabilities–expectation gap' (Hill, 1993) grounded on unreal expectations which Sjursen termed an 'eternal fantasy' (Sjursen, 1998).

The trend towards military power Europe is now to be found in the common European security and defence policy (ESDP) agreed at the June 1999 Cologne European Council which committed the EU to having a 60,000-person rapid reaction force (RRF) ready by the end of 2003. While the formal preparation for the Petersberg tasks of the RRF might be seen by some as evidence of movement towards a military power Europe, others have argued that these tasks are still within the remit of a civilian power as the questions of defence and nuclear capability still remain the concern of Nato (Jørgensen, 1997; Smith, 2000). This militarization of the EU is not without criticism, with Zielonka arguing that it weakens the EU's 'distinct profile' of having a civilian international identity (1998, p. 229), while Smith suggests that the acquisition of military power 'would represent the culmination of a 'state-building' project. Integration would recreate the state on a grander scale' (2000, p. 27).

Bull's discussion of the utility of military power, and Duchêne's notion of civilian power share more common assumptions than is normally thought. These shared understandings were part of the frozen nature of international relations during the cold war period and included assumptions about the fixed nature of the nation-state, the importance of direct physical power, and the notion of national interest. Although Duchêne was keen to 'bring to international politics the sense of common responsibility and structures of contractual politics' (1973, p. 20) his focus, shared with Bull, was invariably the strengthening of international society not civil society. Thus both Duchêne and Bull shared an interest in the maintenance of the status quo in international relations which maintained the centrality of the Westphalian nation-state. Secondly, while Duchêne emphasized 'civilian forms of influence and action' and Bull stressed nuclear deterrence and conventional forces, they both valued direct physical power in the form of actual empirical capabilities whether 'long on economic power' (Duchêne, 1973, p. 19) or a 'need for military power' (Bull, 1982, p. 151). Thirdly, though Duchêne wanted Europe to overcome 'the age-old processes of war and indirect violence' (1972, p. 43) and Bull wanted 'the regeneration of Europe' (1982, p. 157), they both saw European interests as paramount – later work on civilian power by Maull re-emphasizes this focus on the concerns of a limited audience (1990, p. 92). However, the cold war which structured many of these assumptions ended with the internal collapse of regimes across eastern Europe whose ideology was perceived as unsustainable by its leadership and citizens – by the collapse of norms rather than the power of force. Thus a better understanding of the EU's role in world politics might be gained by reflecting on what those revolutions tell us about the power of ideas and norms rather than the power of empirical force – in other words the role of normative power.

## II. Normative Power Europe

Europe's attainment is normative rather than empirical ... It is perhaps a paradox to note that the continent which once ruled the world through the physical impositions of imperialism is now coming to set world standards in normative terms. (Rosecrance, 1998, p. 22)

As this extract from Rosecrance suggests, Europe's attainment may be more normative than empirical – I would agree with this interpretation, but it raises the question of how we can better understand the international role of the EU. I argue that by refocusing away from debate over either civilian or military power, it is possible to think of the ideational impact of the EU's international identity/role as representing normative power.

The idea of normative power in the international sphere is not new – Carr made the distinction between economic power, military power and power over opinion (Carr, 1962, p. 108). Duchêne was also interested in the normative power of the EC as an *idée force*, starting with the beliefs of the ‘founding fathers’ and extending through its appeal to widely differing political temperaments (1973, pp. 2, 7). Elements of this normative power can also be found in the critical perspective of Galtung when he says that ‘ideological power is the power of ideas’ (Galtung, 1973, p. 33). Galtung argues that ideological power is ‘powerful because the power-sender’s ideas penetrate and shape the will of the power-recipient’ through the media of culture. He differentiated between channels of power (ideological power, remunerative power and punitive power) and sources of power (resource power and structural power), a distinction he argues is ‘fundamental, because it is on the latter that the European Community is particularly strong, even more so than the United States’ (Galtung, 1973, p. 36).

One of the problems with the notions of civilian and military power is their unhealthy concentration on how much like a state the EU looks. The concept of normative power is an attempt to refocus analysis away from the empirical emphasis on the EU’s institutions or policies, and towards including cognitive processes, with both substantive and symbolic components (Manners, 2000). As Smith has argued, ‘the normative dimension’ is important because ‘the debate about civilian power involves fundamental choices about the EU’s international identity’ (2000, p. 27).

Thus the notion of a normative power Europe is located in a discussion of the ‘power over opinion’, *idée force*, or ‘ideological power’, and the desire to move beyond the debate over state-like features through an understanding of the EU’s international identity (Manners and Whitman, 1998). In order to clarify these three different representations of the EU’s power in international relations, it is worth comparing civilian, military and normative power Europe (see table 1).

What I am suggesting here is that conceptions of the EU as either a civilian power or a military power, both located in discussions of capabilities, need to be augmented with a focus on normative power of an ideational nature characterized by common principles and a willingness to disregard Westphalian conventions. This is not to say that the EU’s civilian power, or fledgling military power, are unimportant, simply that its ability to shape conceptions of ‘normal’ in international relations needs to be given much greater attention.

Table 1: Civilian, military and normative powers

	<i>Civilian</i>	<i>Military</i>	<i>Normative</i>
Carr	Economic	Military	Opinion
Galtung	Remunerative	Punitive	Ideological
Manners	Ability to use civilian instruments	Ability to use military instruments	Ability to shape conceptions of 'normal'

*Source:* Manners (2002) based on Carr (1962, p. 108), and Galtung (1973, pp. 2, 7).

### III. The EU's Normative Difference

Is the EU so different in its claim to represent a normative power? From a relativist viewpoint it might be suggested that the EU is simply promoting its own norms in a similar manner to historical empires and contemporary global powers. However, most observers would agree with my observation that the EU's normative difference comes from its historical context, hybrid polity and political-legal constitution. The EU was created in a post-war historical environment which reviled the nationalisms that had led to barbarous war and genocide. Because of this the creation of Community institutions and policies took place in a context where Europeans were committed to 'pooling their resources to preserve and strengthen peace and liberty' (preamble to the Treaty establishing the European Communities: TEC).

The EU has evolved into a hybrid of supranational and international forms of governance which transcends Westphalian norms (King, 1999, p. 313). Four leading political scientists, when surveying the comparative history of polities and international systems from Mesopotamia to post-Westphalia, and from pre-international systems to a post-modern international system, agree that the EU represents a new and different political form. For Ferguson and Mansbach the EU is a cross-cutting polity which is part of 'a strikingly different and more complex picture than traditional models of global politics allow, including less of a distinction between inside and outside the Westphalian state/polity' (Ferguson and Mansbach, 1996, p. 401). Similarly, for Buzan and Little the EU is 'a new type of entity with actor quality' which 'is experimenting with a new form of both unit and subsystem structure' (Buzan and Little, 2000, p. 359). This particular new and different form of hybridity increasingly emphasizes certain 'principles which are common to the member states' (TEU, art. 6).

The constitution of the EU as a political entity has largely occurred as an elite-driven, treaty based, legal order. For this reason its constitutional norms represent crucial constitutive factors determining its international identity. The principles of democracy, rule of law, social justice and respect for human rights were first made explicit in the 1973 Copenhagen declaration on European identity, although the centrality of many of these norms was only constitutionalized in the TEU. As Alston and Weiler have argued, 'a strong commitment to human rights is one of the principal characteristics of the European Union' (1999, p. 6). Von Bogdandy, Lenaerts and de Smijter support this argument when they observe that 'a most prominent piece of evidence is the European Council's decision at its Cologne summit that a human rights charter should be drafted for the European Union because 'protection of fundamental rights is a founding principle of the Union and an indispensable prerequisite for her legitimacy' (presidency's conclusions cited in von Bogdandy, 2000, p. 1307) and that 'some thirty years before this decision, the Court of Justice had already confirmed that "fundamental human rights [are] enshrined in the general principles of Community law and protected by the Court"' (ECJ cited in Lenaerts and de Smijter, 2001, p. 273).

This combination of historical context, hybrid polity and legal constitution has, in the post-cold war period, accelerated a commitment to placing universal norms and principles at the centre of its relations with its Member States (Merlingen *et al.*, 2001) and the world (Clapham, 1999; Smith, 2001). The EU has gone further towards making its external relations informed by, and conditional on, a catalogue of norms which come closer to those of the European convention on human rights and fundamental freedoms (ECHR) and the universal declaration of human rights (UDHR) than most other actors in world politics. The EU is founded on and has as its foreign and development policy objectives the consolidation of democracy, rule of law, and respect for human rights and fundamental freedoms (TEU, art. 6, art. 11, and TEC, art. 177). Furthermore it is committed to pursuing these norms in accordance with the ECHR (TEU, art. 6) and 'the principles of the United Nations Charter' (TEU, art. 11, preamble to TEC). Although we may be sceptical about the application and indivisibility of such core norms, as Alston and Weiler, King, and von Bogdandy are, we cannot overlook the extent to which the EU is normatively different to other polities with its commitment to individual rights and principles in accordance with the ECHR and the UN.

However, there is one more normative difference, as this passage illustrates: '[W]ithout the backing of force and a willingness to use it, 'Europe' is unlikely to become a normative power, telling other parts of the world what political, economic and social institutions they should have' (Therborn, 1997, p. 380).

Implicit in the work of this approach is the assumption that normative power requires a willingness to use force in an instrumental way. I reject this assumption and the instrumentality which accompanies it – in my formulation the central component of normative power Europe is that it exists as being different to pre-existing political forms, and that this particular difference pre-disposes it to act in a normative way. In order to examine this claim of normative difference further, it is necessary to explore the EU's normative basis.

#### IV. The EU's Normative Basis

The broad normative basis of the European Union has been developed over the past 50 years through a series of declarations, treaties, policies, criteria and conditions.<sup>1</sup> It is possible to identify five 'core' norms within this vast body of Union laws and policies which comprise the *acquis communautaire* and *acquis politique*. The first of these is the centrality of *peace*, found in key symbolic declarations such as that by Robert Schuman in 1950, as well as the preambles to the European Coal and Steel Treaty in 1951 and the TEC of 1957. The second is the idea of *liberty* found in the preambles of the TEC and the TEU of 1991, and in art. 6 of the TEU which sets out four foundational principles of the Union. The third, fourth and fifth norms are *democracy*, the *rule of law*, and respect for *human rights* and fundamental freedoms, all of which are expressed in the preamble and founding principles of the TEU, the development co-operation policy of the Community (TEC art. 177), the common foreign and security provisions of the Union (TEC art. 11), and the membership criteria adopted at the Copenhagen European Council in 1993.

In addition to these core norms, it is also possible to suggest four 'minor' norms within the constitution and practices of the EU, although these are far more contested. The first minor norm is the notion of *social solidarity* found throughout the *acquis communautaire et politique* of the EU, but in particular the preambles of the TEC and TEU, the objectives of art. 2 (TEU) and art. 2 (TEC), and the central focus of both the EC's social policy and the Economic and Social Committee. The second minor norm is *anti-discrimination* found in art. 13 and Title XI of the TEC, as well as the protection of minorities found in the Copenhagen criteria. The third minor norm is that of *sustainable development* enshrined in art. 2 (TEU), art. 2 (TEC) and the all-encompassing art. 6 (TEC). The fourth minor norm is the most recent and has yet to find any formal expression in treaty form, but is implicit in the Copenhagen crite-

<sup>1</sup> See Christiansen's 'normative foundations' (1997); Weiler's 'foundational ideals' (1999); and Laffan's 'normative pillar' (2001).



ria. This norm is the principle of *good governance* as found in Romano Prodi's inaugural speech to the European Parliament (Prodi, 2000), as well as Commission papers on 'EU election assistance and observation' (COM(2000) 191 final) and the 'White Paper on European governance' (COM(2001) 428 final).

These norms clearly have a historical context to them: *peace* and *liberty* were thus defining features of west European politics in the immediate post-war period. The norms of *democracy*, *rule of law* and *human rights* grew later when it was important to distinguish democratic western Europe from communist eastern Europe. These then became defining features of transition from communist rule in the immediate post-cold war period as the Copenhagen criteria demonstrate. The norm of the aspiration to *social solidarity* became an important counter-measure to the drive for liberalization in the Single European Act and economic and monetary union. The desire for *anti-discrimination* measures also arose from progressive social legislation and the concerns regarding racism and persecution of minorities in the early 1990s. The norm of *sustainable development* became important following the Rio Earth summit when it was included in the Treaty of Amsterdam. Finally the norm of *good governance* is becoming vital in the aftermath of the resignation of the Commission in 1999, the concern for double standards in pursuing the EU's

Table 2: The EU's normative basis

<i>Founding Principles</i>	<i>Tasks and Objectives</i>	<i>Stable Institutions</i>	<i>Fundamental Rights</i>
Liberty	Social solidarity	Guarantee of democracy	Dignity
Democracy	Anti-discrimination	Rule of law	Freedoms
Respect for human rights and fundamental freedoms	Sustainable development	Human rights	Equality Solidarity
Rule of law		Protection of minorities	Citizenship Justice
Treaty base – set out in art. 6 of the TEU	Treaty base – set out in arts. 2 of TEC and TEU, arts. 6 and 13 of TEC	Copenhagen criteria – set out in the conclusions of the June 1993 European Council	Charter of Fundamental Rights of the European Union

Source: Manners (2002).

demands for democratic reforms in the central and eastern European countries, and the recognition of the role of governance in successful aid programmes.

The reinforcement and expansion of the norms identified here allows the EU to present and legitimate itself as being more than the sum of its parts. In the post-cold war era, it is no longer enough for the EU to present itself as 'merely' a form of economic government for the management of global economics, as the increasing resistance by its citizens to economic liberalization suggests. This desire for greater legitimacy through the fundamental norms that the EU represents has most recently found an expression in the charter of fundamental rights of the European Union adopted at the Nice European Council in December 2000. The charter restates and re-emphasizes the core and minor norms, except *good governance*, with the aim of ensuring that basic political and social rights become more widely known to the EU citizenship, although 'the charter does not establish any new power or task' (art. 49) and will not form part of the EC/EU treaty base in the immediate future.

## V. How are EU Norms Diffused?

Accepting the normative basis of the EU does not make it a normative power, so we need to ask how EU norms are diffused. I suggest that the EU's normative power stems from six factors, drawn from Whitehead (1996), Manners and Whitman (1998), and Kinnvall (1995), shaping norm diffusion in international relations.

*Contagion*: diffusion of norms results from the unintentional diffusion of ideas from the EU to other political actors (Whitehead, 1996, p. 6). Examples of this are to be found in Coombes' discussion of how the EU leads by 'virtuous example' in exporting its experiment in regional integration (Coombes, 1998, pp. 237–8). Such regional replication can clearly be seen in the attempts at integration currently taking place in Mercosur. *Informational* diffusion is the result of the range of strategic communications, such as new policy initiatives by the EU, and declaratory communications, such as initiatives from the presidency of the EU or the president of the Commission. *Procedural* diffusion involves the institutionalization of a relationship between the EU and a third party, such as an inter-regional co-operation agreement, membership of an international organization or enlargement of the EU itself. Examples of these three procedural factors might be the inter-regional dialogue with the Southern African Development Community since 1994, the membership of the EU in the World Trade Organization, or the current enlargement negotiations taking place with the accession countries of central and eastern Europe and the Mediterranean.

*Transference*: diffusion takes place when the EU exchanges goods, trade, aid or technical assistance with third parties through largely substantive or financial means. Such transference may be the result of the exportation of community norms and standards (Cremona, 1998, pp. 86–90) or the ‘carrot and stickism’ of financial rewards and economic sanctions. Examples of transference diffusion can be seen in the impact of the Phare and Tacis programmes to the countries to the east of Europe, as well as the European development fund to the Cotonou states. Both procedural and transference diffusion are now facilitated by the conditionality which is required in all EC agreements with third countries (Smith, 1998; Cremona, 1998, pp. 81–6). *Overt diffusion* occurs as a result of the physical presence of the EU in third states and international organizations. Examples of overt diffusion include the role of Commission delegations and embassies of Member States, or it may involve the presence of the troika of foreign ministers, the president of the Commission, or even monitoring missions like that deployed in the former Yugoslavia. The final factor shaping norm diffusion is the *cultural filter* which affects the impact of international norms and political learning in third states and organizations leading to learning, adaptation or rejection of norms (Kinnvall, 1995, pp. 61–71). The cultural filter is based on the interplay between the construction of knowledge and the creation of social and political identity by the subjects of norm diffusion. Examples of the cultural filter at work include the diffusion of democratic norms in China, human rights diffusion in Turkey, or environmental norms in Britain.

These six factors contribute to the way in which the EU norms are diffused, but in order to get a sense of the extent to which these factors work it is worth looking at one of the norms the EU seeks to ‘normalize’ in international relations – the abolition of the death penalty.

## **VI. The International Pursuit of the Abolition of the Death Penalty**

Although art. 3 of the 1948 universal declaration of human rights, and art. 2 of the 1950 European convention for the protection of human rights and fundamental freedoms (ECHR), both affirmed the right of everybody to life, it was to take over 30 years before European states were to attempt to enshrine this right in international law through the 1983 protocol no. 6 to the ECHR on the abolition of the death penalty. Only six years later the UN was attempting to follow this lead through the 1989 second optional protocol (OPT2) to the international covenant on civil and political rights (CCPR), aimed at the abolition of the death penalty. By the time protocol no. 6 entered into force in 1985 (with five ratifications), only nine of the current 15 members of the EU

had abolished the death penalty for all crimes, and 25 of the 43 current members of the Council of Europe (CoE) still had the death penalty on their statutes (CoE, 2001; Amnesty International, 2001a). The story of the abolition of the death penalty is therefore a relatively short and recent one, concerning itself with how the idea that the death penalty was not a sovereign issue of criminal justice, but an international issue of human rights, became the norm.

There are three factors which led the EU to work towards the international abolition of the death penalty, all of which are rooted firmly in the human rights discourses of the late 1980s and early 1990s. Firstly, the role of the CoE was vital in ensuring that from the mid-1980s onwards the abolition of the death penalty had become a significant norm in western Europe. However, it is important to remember that prior to 1990 only six of the 12 EC states had abolished the death penalty and only eight had ratified protocol no. 6 of the ECHR. Thus the norm was symbolically important, but had not been substantiated in law by half of the EC. The second factor was the end of the cold war which was to provide the impetus for a rethinking of what it meant to be a democratic, liberal European state. This rethink involved both western and eastern European states in a reinforcement of the principles of the ECHR as prerequisite membership conditions for joining the first of western Europe's three clubs (the others being Nato and the EU). In June 1996 the CoE made immediate moratoria and ratification of protocol no. 6 explicit requisites for membership, as well as calling for those Member States who retained the death penalty but did not use it to abolish it in law (CoE, 1996). The election of the new Labour government in 1997 led to the 1998 abolition of the death penalty and the 1999 ratification of protocol no. 6 by the final EU state, the UK. Thus between 1989 and 2000 the six outstanding EU states and ten of the applicant states abolished the death penalty and ratified protocol no. 6 (see appendix 1: Death Penalty Record).

The third factor was the crisis of confidence in the EU which characterized the period 1992 to 1997 and provided an opportunity for EU institutions and Member States to reflect on how best to revitalize the Union in order to recover from the 'post-Maastricht blues'. One route was to try to strengthen the EU's commitment to human rights through the EC acceding to the ECHR, but in March 1996 this path was blocked by a European Court of Justice ruling that the Community was not competent to 'adopt rules or conclude international agreements on human rights' (Commission, 1996). In June 1997 the insertion of new 'founding principles' in art. 6, together with corresponding references to applicant states (art. 49) and sanctions for failing to respect these principles (art. 7), demonstrate the extent to which the Treaty of Amsterdam marked a move towards greater importance for these principles in the EU. Specifically, the declaration in the final act on the abolition of the

death penalty spelt out that this was one principle on which all Member States were in agreement:

The Conference notes that the death penalty, the abolition of which is provided for in the above mentioned protocol [protocol no. 6] signed in Strasbourg on 28 April 1983 and which entered into force on 1 March 1985, is no longer applied in any of the Member States of the Union, a large majority of which have signed and ratified the Protocol in question. (Declaration to the final act, Treaty of Amsterdam)

Thus, following Amsterdam, the EU was in a stronger position to pursue the abolition of the death penalty as a broader international policy initiative. This coincided with momentum-building within the European Parliament (EP) for greater respect for human rights, including a European declaration on fundamental rights and the abolition of the death penalty by Member States (Commission, 1997a). In June 1997 the EP adopted a resolution on the abolition of the death penalty aimed at all European states and called on them to ratify OPT2. In addition the Parliament suggested the EU should table a resolution at the UN General Assembly on the universal moratorium on executions (Commission, 1997b). By the end of 1997 it was clear that the EU had changed direction on the question of human rights, providing a treaty basis for the first time and taking a route away from the ECHR and towards the independent pursuit of a universal moratorium. This change was summed up in the declaration annexed to the presidency's conclusions following the Luxembourg European Council summit in December 1997 regarding the forthcoming celebrations to mark the 50th anniversary of the universal declaration of human rights during 1998 (Commission, 1997c).

For the European Union 1998 was 'human rights year', marked by three important developments on the abolition of the death penalty which were to place the issue at the forefront of its pursuit of international norms. The first was the June 1998 guidelines for EU policy towards third countries on the death penalty issued by the Council of Ministers which set out the objectives and means of intervention in third countries (Council of EU, 1998b). These guidelines set the tone for an expansion of tasks including initiatives from the presidency, involvement in individual cases,<sup>2</sup> human rights reporting on the death penalty, and the general pursuit of an abolitionist international norm.<sup>3</sup> The second development grew out of the operational guidelines when the presidency began issuing *démarches*, starting with the Austrian presidency

<sup>2</sup> The EU has committed itself to raising individual cases where the death penalty is imposed contrary to the minimum standards set out in OPT2.

<sup>3</sup> EU interventions are to include: encouraging states to ratify and comply with international human rights instruments; raising the issue in multilateral forums; encouraging international organizations to act; encouraging bilateral and multilateral co-operation and collaboration with civil society.

writing to George W. Bush regarding the case of *Stan Faulder v. Texas* in December 1998. This pattern of addressing directly the parties involved followed one already established by the Parliament, in particular the EP delegation on relations with the US Congress. The final development was the decision by the Council to begin presenting an EU annual report on human rights which would systematically report and assess human rights in the EU and EU action on human rights in international affairs (Council of EU, 2001a). After the 'human rights year', the EU's abolitionist policy became more overt through the extensive use of declaratory measures and the inclusion of references in its human rights communications. Following the Austrian presidency's single intervention in 1998, Germany made two declarations, Portugal seven, France six, Sweden eight, and Belgium six interventions (Commission, 2001).

Although it is difficult to assess the full impact of the EU's normative power on this subject, it is possible to make two broad observations on its exercise of power. Firstly the EU is clearly trying to reorder the language of international society through its engagement with the 'super-executioners', China and the USA.<sup>4</sup> With both these states the EU is using informational and overt means to raise the issue of the death penalty through presidential and parliamentary statements, initiatives and dialogue (Patten, 2000a), as well as through the use of the delegation offices (e.g. Washington). What is self-evident about this engagement is the extent to which the EU is clearly not going to change the minds of the governments concerned, but rather contributes towards raising the issue to the international level. Secondly, the EU has sought to raise the issue on a bilateral and multilateral basis as a means of shaping the dialogue between other states. During the presidencies of Finland and Portugal (July 1999–July 2000) the EU raised the issue of the death penalty on a bilateral basis with over 20 countries (Patten, 2000c). The EU has also raised the issue multilaterally in the UN through a presidency memorandum and speech by the Finnish Foreign Minister, Tarja Halonen, to the 54th UN general assembly in September 1999; and the introduction of a 'resolution on the death penalty' to the 55th, 56th, and 57th sessions of the UN commission on human rights (CHR) in 1999, 2000 and 2001. Finally, I would suggest that there have been a number of cases where the EU has played an important, if not crucial, role in bringing about abolition in four different types of situation.

<sup>4</sup> There are just five 'super-executioners'. Amnesty International report that 88 per cent of the world's 1,457 known executions in 2000 were carried out in just four countries – China, Iran, Saudi Arabia and the USA. The fifth country is Iraq where numbers are reported to be in the 'hundreds', but the exact figures are unknown (Amnesty, 2001b).

The first situation is the cases of Cyprus and Poland, both members of the CoE and applicant states to the EU, but both of whom ratified protocol no. 6 of the ECHR only in 2000 (Cyprus in January and Poland in October). In the case of Cyprus it is difficult to argue that the abolition was a response to joining the CoE in 1961, or a response to signing the CCPR in 1969. In Poland the case is less clear cut as it joined the CoE only in November 1991, and signed the CCPR in March 1977, but this raises the question of why it ratified protocol no. 6 only in October 2000, eight years after its near neighbours the Czech Republic, Slovakia and Hungary. I would argue in both these cases (and Malta) that abolition of the death penalty was due to procedural diffusion introduced in EU pre-accession negotiations from 1998 onwards, rather than joining the CoE over ten years earlier (Commission, 2000).

The second situation is the cases of Albania and Ukraine, both members of the CoE but neither applicant states to the EU. These states have also ceased using the death penalty for ordinary crimes and ratified protocol no. 6 in 2000 (Ukraine in April and Albania in September). In the case of the Ukraine, the CoE managed to get President Kuchma to issue a moratorium on executions when joining in November 1995, but it still conducted 167 executions in 1996, second only to China (Checkel, 2000). It was only after the EU declaration and guidelines setting out the importance of abolition in June 1998, and the EU common strategy on Ukraine adopted in December 1999 restating this objective, that the Ukraine finally abolished the death penalty legally in December 1999 (Council of EU, 2000a, d). Similarly, Albania also committed itself to abolishing the death penalty when joining the CoE in July 1995, but did not do so despite repeated warnings from the CoE and a visit from the Human Rights Watch Committee for the Prevention of Torture (HRW, 2000). Again, it was only after pressure was brought to bear by the EU as part of the stability pact for south eastern Europe in June 1999, and the threat of removing support for legal reforms, that the Albanian government finally removed the death penalty for ordinary crimes from the statutes (although retaining it for exceptional crimes) in October 2000. In both these cases I would argue that direct EU pressure led to action on the death penalty in 2000, rather than joining the CoE five years earlier – ‘the aspiration to be accepted as part of the European political community has a decisive influence on the decision of many states ... to get rid of the death penalty, including Albania [and] Ukraine’ (Hood, 2001, p. 338).

The third situation is that of the cases of Azerbaijan and Turkmenistan where the death penalty was abolished in 1998 and 1999 respectively. Neither of these states was a member of the CoE or the EU at the time of abolition, although Azerbaijan joined the CoE in January 2001. It is not possible to argue that EU action led directly to these abolitions, but in both cases the EU

norm played a role in shaping the activities of the governments. The parliament of Azerbaijan adopted a law abolishing the death penalty in February 1998, a move that was formally welcomed by the EU. However, on accession to OPT2 of the CCPR with reservations in January 1999, the governments of France, Germany, Finland, Sweden and the Netherlands all formally registered their objections to the reservations (Council of EU, 1998a; UNHCR, 2001). A contrasting recognition of abolition was received by the Turkmenistan government following its abolition of the death penalty and accession to OPT2 in January 2000 (Council of EU, 2000b). Although neither of these actions provides proof of direct EU involvement, I would suggest that EU norms passed by contagion, informational and transference means through the technical assistance for CIS (Tacis) programme contact and participation in the partnership and co-operation agreements (PCAs). Azerbaijan's PCA entered into force in July 1999 and Turkmenistan signed, but did not ratify its PCA in May 1998.

The fourth situation is that of Turkey and Russia, both of which present the CoE and the EU with extremely difficult challenges on the question of human rights and the death penalty. I would argue that although neither has ratified the protocol no. 2 to the ECHR, or acceded to OPT2 of the CCPR, the CoE and the EU have played an important external role in bringing pressure to bear on these two countries. The first process of overt norm diffusion has been through a joint CoE–EU public awareness campaign established in 1999 at a cost of €670,000 over two years to provide information for the general public, legal experts and parliamentarians in Albania, Turkey, Russia and the Ukraine (Patten, 2000c). The second process has been procedural norm diffusion in the accession process for Turkey and the informational norm diffusion for Russia in the common strategy. Since the 1998 process of accession talks began with the 12 associated countries, Turkey has been made constantly aware that its human rights standards present the largest barrier to entry, particularly for the EP. The EU presidency, and also the EP, were exceptionally active in suggesting that the death sentence on PKK leader Abdullah Öcalan be suspended and that the PKK give up its armed struggle (Council of EU, 1999, p. 41). The October 2001 constitutional reforms as part of the Turkish national programme to adopt the Community *acquis*, including the abolition of the death penalty for civil offences, clearly demonstrate the normative power of the EU. In the case of Russia the EU's common strategy adopted in June 1999 explicitly states that 'the European Union shall focus on the following areas of action in implementing this Common Strategy: ... by enhancing programmes to promote the abolition of the death penalty' (Commission, 1999). However, although Russia continued to execute until 1999 and then ceased in



2000, President Putin's July 2001 statement in favour of abolition of the death penalty marks an important change in position (Council of EU, 2001b).

These four different situations all lead us to ask, who are the agents of change in this case study? Contrary to conventional expectations, the main force for EU policy comes from transnational and supranational organizations reflecting a combination of norms from civil society and European political elite. One of the leading experts on capital punishment identifies 'the growth of an international human rights movement' as being the primary force in the abolitionist movement (Hood, 2001, p. 337). In particular the role of Amnesty International since 1977, and the Community of Sant'Egidio since 1998, have played a crucial role in encouraging the EP, the Commission and the Council through Member States, to make abolition an EU policy (Jacot, 1999; Krause, 2000). The EP's role since its first resolution on the death penalty in 1992 has given a voice to these expressions of transnational civil society, in particular through the work of MEPs Hadar Cars, Olivier Dupuis and Emma Bonino. The Commission, led by External Relations Commissioner Chris Patten, has also worked to encourage abolition through its political and economic relations with third countries. Finally, a number of Member States, in particular France and Italy but since the 1997–98 election of social democrats, also Britain and Germany, have been keen to spread the abolitionist norm beyond the EU. It is clearly inaccurate to argue that the pursuit of abolitionist norms in international relations is for the benefit of a domestic audience, or to serve national interests, as the Council recognizes that in some Member States 'the political decision towards abolition was not taken with the support of the majority of public opinion' (Council of EU, 2000c). Indeed I would argue that the vast majority of EU citizens are completely unaware of its campaign to abolish the death penalty, which wholly undermines a domestic audience argument. US critics of the EU's death penalty stance have been keen to argue that the abolitionist movement is so strong in Europe precisely because it is 'less democratic' (Marshall, 2000). It may be the case that the EU seeks to be in the 'abolitionist vanguard' in order to emphasize its distinctive international identity in contrast to 'others' – in particular the US and China. However, the significance of the EU's normative, rather than instrumental, commitment to the abolition of the death penalty has been underlined by the problems of extradition to countries with capital punishment, particularly since the events of 11 September 2001 in the US. Despite the obvious desire of many EU leaders to extradite terrorist suspects for trial in the US, the EU's normative difference renders such expediency problematic.<sup>5</sup>

The 1999 EU Annual Report on Human Rights states that 'opposition to the death penalty has become one of the most visible elements in the EU's

<sup>5</sup> 'Bringing Terrorists to Justice Poses Unprecedented Dilemma'. *Financial Times*, 22 October 2001.

human rights policy globally' (Council of EU, 1999, p. 41). This brief study of the EU's 'most visible' policy helps illustrate the way in which the EU represents a normative power in world politics. This normative power is not inconsequential. In the past decade it has helped accelerate an abolitionist movement which has attracted 37 new converts, swelling the number of abolitionist states to 109, and reducing the number of retentionist states to 86 (Amnesty International, 2001a).

### **Conclusion: A Contradiction in Terms?**

In this article I have argued that because of its particular historical evolution, its hybrid polity, and its constitutional configuration, the EU has a normatively *different* basis for its relations with the world. I have then examined *what* this normative basis is, and why it is a crucial constitutive feature of the EU as a hybrid polity having a distinctive international identity. I considered the question of *how* EU norms are diffused in world politics, with a focus on both the substantive and symbolic transmission of norms. Finally, I examined closely the case of the EU's pursuit of the international abolition of the death penalty. In the case study I drew attention to the role of transnational and supranational actors in shaping the EU's policy, a policy which was legalized through the Amsterdam declaration, the charter on fundamental rights, and the 1998 'Guidelines for EU policy on the death penalty'. The case study demonstrated the way in which EU abolitionist policy is diffused through *procedural* membership conditions, *informational* common strategies, and the *overt* role of EU delegations.

The concept of normative power is an attempt to suggest that not only is the EU constructed on a normative basis, but importantly that this predisposes it to act in a normative way in world politics. It is built on the crucial, and usually overlooked observation that the most important factor shaping the international role of the EU is not what it does or what it says, but what it is. Thus my presentation of the EU as a normative power has an ontological quality to it – that the EU can be *conceptualized* as a changer of norms in the international system; a positivist quality to it – that the EU *acts* to change norms in the international system; and a normative quality to it – that the EU *should* act to extend its norms into the international system.

Although the EU's international pursuit of the abolition of the death penalty is just one case study, albeit a very interesting one, it does serve to illustrate a number of features of the EU increasingly exercising normative power as it seeks to redefine international norms in its own image. These features include the willingness to impinge on state sovereignty (such as writing to prison governors rather than heads of government); interventions in support

of individuals (such as those under the age of 18 at the time of the crime); the absence of obvious material gain from its interventions (the extent to which they have costly consequences for important economic relations); and the fact that the EU often faces international opposition from the strangest partners – such as the ‘unusual suspects’ of the US, China, Iran, Iraq and Saudi Arabia in the case of the death penalty. This last observation is an important one because it allows us to dismiss the accusation that the EU’s ‘norms’ are really cultural imperialism in disguise – the EU often finds itself at odds with other developed OECD states, such as the US and Japan, as in the case of the abolition of the death penalty.

I have attempted to argue that the notion of the EU representing a normative power in world politics is not a contradiction in terms. In fact I have suggested quite the opposite – that in addition to civilian or military conceptions, the EU should be considered a normative power. The idea of the ‘pooling of sovereignty’, the importance of a transnational European Parliament, the requirements of democratic conditionality, and the pursuit of human rights such as the abolition of the death penalty, are not just ‘interesting’ features – they are constitutive norms of a polity which is different to existing states and international relations. Thus the different existence, the different norms, and the different policies which the EU pursues are really part of redefining what *can* be ‘normal’ in international relations. Rather than being a contradiction in terms, the ability to define what passes for ‘normal’ in world politics is, ultimately, the greatest power of all.

### Appendix 1: Death Penalty Record

<i>State</i>	<i>Abolition</i>	<i>Protocol No. 6</i>	<i>OPT2 Ratified</i>	<i>Executions in 2000</i>
Germany	1949	1989	1992	0
Austria	1968	1985	1993	0
Finland	1972	1990	1991	0
Sweden	1972	1985	1990	0
Portugal	1976	1986	1990	0
Denmark	1978	1985	1994	0
Luxembourg	1979	1985	1992	0
France	1981	1986	–	0
Netherlands	1982	1986	1991	0
Cyprus	1983 <sup>a</sup>	2000	1999	0
Romania	1989	1994	1991	0
Slovenia	1989	1994	1994	0
Czech Republic <sup>b</sup>	1990	1993	–	0

Slovak Republic <sup>b</sup>	1990	1993	1999	0
Hungary	1990	1992	1994	0
Ireland	1990	1994	1993	0
Croatia	1991	1997	1995	0
Greece	1994	1998	1997	0
Italy	1994	1989	1995	0
Moldova	1995	1997	–	0
Spain	1995	1985	1991	0
Belgium	1996	1999	1998	0
Poland	1997	2000	2000	0
Bosnia-Herz.	1997 <sup>a</sup>		2001	0
Bulgaria	1998	1999	1999	0
Estonia	1998	1998	–	0
Lithuania	1998	1999	2000	0
UK	1998	1999	1999	0
Latvia	1999 <sup>a</sup>	1999	–	0
Ukraine	1999	2000	–	0
Malta	2000	1991	1994	0
Albania	2000 <sup>a</sup>	2000	–	0
Turkey	AiP <sup>c</sup>	–	–	0
Russia	retained	1997 <sup>d</sup>	–	✗
India	retained		–	✗
South Korea	retained			✗
Japan	retained		–	✓
Iran	retained		–	75 +
USA	retained		–	85
Saudi Arabia	retained		–	123 +
China	retained		–	1,000 +

*Notes:* <sup>a</sup> Abolished for ordinary crimes only, but retained for exceptional crimes such as crimes under military law

<sup>b</sup> Czech and Slovak Republics separated in 1993.

<sup>c</sup> AiP abolitionist in practice (retained but not used).

<sup>d</sup> Russia has signed but not ratified protocol no. 6.

✗ = retained but not used. ✓ = retained and used (numbers unknown).

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