Governance in the European Union: Crisis Challenges in Policy and Politics

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Over the past decade, the European Union has been on a roller-coaster ride, moving from crisis to crisis with seemingly little pause for breath. The Eurozone crisis was quickly followed by the refugee crisis, then the British vote on exit from the EU, which was succeeded by growing concerns about the illiberal drift in Central and Eastern Europe, and by the push to enhance security and defense cooperation in the shadow of US pressure and/or pull-out. All this increased the need for EU governance capability at a time when the increasing volatility of national politics also deleteriously affected EU level decision-making. As populist parties on the extremes of the left and the right have not only won elections but increasingly governed either alone or in coalition, EU governance has become more difficult, with the crises harder to resolve because consensus is harder to obtain. Along with problems related to the EU's governing ability have come doubts about its governing authority and, thereby, its democratic legitimacy. The question for EU governance, therefore, is whether such politicization will have lasting negative effects, making the EU less governable and leaving its policy crises unresolved, or positive ones, enabling it to fix the policies and calm the politics while enhancing democracy.

Challenges to EU Governance

The governance of the European Union has always been difficult to understand and complicated to manage, but EU actors have nonetheless been amazingly adept over the years at deepening European integration in ever-expanding policy domains to the general satisfaction of European citizens. More recently, however, while the EU's level of complexity has only increased, its ability to produce positive results has declined.

Challenging the EU's governance capacity have been crises in key policy areas such as money (how to ensure stability and growth in the Eurozone), borders (what to do about refugees and migrants), the integrity of the EU (how to manage British exit from the EU), 'rule of law' (what to do about the 'democratic illiberalism' of Hungary and Poland), security (how to develop effective security and defense cooperation)—not to mention the complications of the trans-Atlantic relationship (not just on security but also trade). And as if this were not enough, with these policy challenges have come growing political challenges to EU governance at multiple levels. Having started out as largely apolitical and technocratic, EU governance has become increasingly politicized at the bottom, in the polarization of national politics on EU issues; from the bottom up, via political pressures on EU actors in contested areas; and at the top, in the more politically charged dynamics of interaction among EU actors. Such multi-level politicization has in turn had knock-on effects on perceptions of the EU's legitimacy, as misgivings about the EU's governing activities, whether the effectiveness of the policies, the responsiveness of the politics,

and/or the quality of the processes, have served to undermine public trust in the EU's governing authority.

And yet, for all this, the EU has proven itself amazingly resilient. Despite dire warnings by analysts that the Eurozone would blow up, that the refugee and migrant crisis would explode, that Brexit would unravel the EU, that security attacks would escalate, and that democratic illiberalism in Central and Eastern Europe would spread, the EU continues to plod along, having avoided the worst in all areas, at least for the moment.

In the Eurozone, the EU did turn the corner on the crisis, although it took two years to stabilize the economy, five to get it back on track, with some essential building blocks still missing. In the initial response to the crisis in 2010, rather than providing some form of debt forgiveness and debt mutualization (euro-bonds) accompanied by greater fiscal stimulus and/or quantitative easing (the central bank buying member-state debt), the EU decided to 'govern by rules and rule by numbers.' This entailed reinforcing the rules of the Stability and Growth Pact by mandating austerity via low inflation, low deficits, and low debt, policed by Commission oversight over member-state finances, while creating loan bailout funds with harsh conditions for repayment. Such rules-based governance dampened economic recovery while doing nothing to stop the roller coaster ride of market attacks, which pushed country after country into a bailout program, until forced to back off by the ECB in July 2012. Around this same time, the Commission began incrementally reinterpreting the rules, easing their application in the interests of growth. The Eurozone economy remained in the doldrums nevertheless, with deflation threatening, until 2015, when the ECB began quantitative easing and a new Commission began to focus on investment. But even today, the Eurozone remains vulnerable. The rules are suboptimal, with limits to deficit and debt restricting investment for growth. The institutions are incomplete, without individual deposit insurance and a significant backstop for bank failures, not to mention some form of mutual risk-sharing (e.g., euro-bonds). And economic growth continues to be under par. Moreover, the politics have deteriorated as a result, with a continuing split between Northern European 'creditors,' where mainstream parties continue to resist any 'transfer union' while populist parties called for a more restricted Eurozone, and Southern European 'debtors,' where mainstream parties ask for more solidarity while populist parties call for an end to austerity or even to the euro.

On migration, the EU also succeeded within a couple of years in ending the worst of the crisis. It dramatically reduced the chaotic, massive flow of migrants in 2015 through unsavory deals with neighboring states, at the same time that it made progress on the creation of hard security in external border controls. Yet it has failed to harmonize refugee policy, or agree to an equitable refugee distribution system, with the lack of agreement grist for the mill for populist political leaders on the extreme right who exploit the issue for electoral gain. The Hungarian Prime Minister Victor Orban in particular used it to rally support, with images of barbed wire to keep out the 'barbaric hordes' that he claimed threatened Hungarian purity and safety serving to focus attention away from the Orban government's increasingly anti-democratic institutional measures. In Southern Europe, moreover, the two countries most negatively affected by the Eurozone crisis—Greece and Italy—have in contrast borne the brunt of the crisis, as refugees wash up mainly on their shores. In Italy in particular, the 2018 election of a populist coalition government was due in part to the failure of the EU to find a common solution to the refugee

crisis (as well as the eurozone crisis). And it enabled Matteo Salvini, leader of the League, to use his position as Interior Minister during the 18 months of coalition government to consolidate his political power. His increasingly strident rhetoric and confrontational actions (such as refusing to allow refugees to disembark on Italian shores) came in inverse correlation to the numbers of refugees and migrants, whose numbers had dropped dramatically since 2015.

As for British exit from the EU, as it dragged on and on (since the 2016 vote), the EU remained united in response, with the UK arguably suffering the most as a result of the prolonged uncertainty during the saga of its on-going departure. And while the UK's politics has been highly volatile through the crisis, the Brexit drama has even encouraged parties elsewhere in Europe on the populist extremes of left and right to become less radically Euroskeptic, by renouncing earlier pledges to leave the EU. That said, British exit continues to be a threat to the EU symbolically, by challenging the very idea of European integration while raising the specter of EU disintegration, and economically, by damaging the economic prospects of both the UK and the rest of the EU, especially were there to be a crash-out from the Single Market and Customs area.

Even with regard to security, the EU has been doing more, by increasing its governance capacity within the framework of the military-industrial nexus. But this has not translated into the consolidation of member-states' military capacity as an integrated force or for a common security strategy. And finally, the EU has even begun to confront the problems of illiberalism via legislative and judicial avenues, although how effective these efforts will be remains to be seen.

As the EU has muddled through its crises, for better or worse, EU governance has changed. Most significant has been its increasing politicization in the midst of crisis management.

EU Governance and Politics 'at the bottom'

In the early years of the EU, because citizens perceived EU policies as working, or didn't pay much attention to them (whether they worked or not), EU governance benefited from the oft-cited 'permissive consensus,' which allowed EU actors to deepen integration without much public scrutiny or concern. But over the past two decades, even before its multiple crises, the EU had been becoming more and more salient an issue for national politics, with EU governing activities and sometimes even its authority more and more politically contested. Electorally, the traditional left/right divide has been increasingly cross-cut by divisions between citizens with more open, cosmopolitan and pro-EU views and those with more closed, nationalist or even nativist attitudes. At the same time, polls and surveys such as the Eurobarometer showed slowly eroding public trust in EU institutions (as well as national ones), along with declines in the EU's positive image.

Once the crises hit in quick succession, the electoral divisions accelerated exponentially, public trust in the EU dropped dramatically along with its positive image, and the traditional political landscape was upended. EU member-states experienced rapid turnover of incumbent governments—to take just the example of France, right of center Nicolas Sarkozy was a one term

President; his left of center successor, François Hollande, also lasted only one term; and he was replaced by centrist Emmanuel Macron, who ran and won against both mainstream parties. Some mainstream parties collapsed entirely. On the social-democratic left, Greece's PASOK has become a pale shadow of its former self, polling at around 6 percent, as has France's Socialist party. On the center right, Ireland's Fianna Fail, the dominant party for a century, has also been marginalized, while conservative parties in France, Italy, Spain, and Portugal struggle to have an impact. Only in Northern European countries like Germany and the Netherlands has there been relative government continuity, although even in Germany the conservative Christian Democratic Union (CDU) has been weakened, while the Social-Democrats (SPD) have fallen to historic lows, with only 16 percent of the vote in the May 2019 EP elections.

On the heels of mainstream collapse has come the rise of new (or reinvigorated) populist challenger parties. These parties have mobilized citizen discontent by claiming to represent 'the people' against self-serving elites, unaccountable experts, and unfair institutions while proposing radical agendas against the status quo. But while the Euroscepticism of the radical left has been largely economically driven, founded on their defense of the welfare state and opposition to ongoing market liberalization, the Euroscepticism of the radical right has been more about defending national sovereignty, identity, and cultural homogeneity, although increasingly conjoined with welfare chauvinism (that is, generous social benefits, but only 'for us').

Since the EU's many crises, all such parties have jumped in numbers and adherents, and have increasingly been in government. Some have been in coalition with the mainstream—in Portugal in the highly successful alliance of center left and hard left since 2015, in Austria in the short-lived conservative-hard right alliance; others in unlikely left-right populist coalitions—Greece's Syriza with the nationalist extreme right, Italy's unclassifiable Five Star with the extreme right League. Yet others have governed on their own, the cases of *Fidesz* in Hungary and Law and Justice in Poland, where they have sought to institute 'illiberal democracy' by undermining liberal democratic institutions such as the independence of judges and freedom of the press.

The causes of such politicization are many, with sources in socio-economic and socio-cultural discontents as much as political ones. Populist support has been fueled by socio-economic concerns focused on policies seen to have created growing unemployment and poverty along with rising inequalities, in particular subsequent to the Eurozone crisis, and especially in Southern Europe. Adding to these have been socio-cultural fears about the loss of social status, often mixed with worries about the changing 'faces' of the nation, which were exacerbated by the refugee and migration crisis. But there have also been purely political sources of discontent, reflected in peoples' sense of a loss of control as a result of deepening European integration, in particular with regard to issues related to money and borders. In the Eurozone, governments at risk of breaching the rules (mainly France and Southern Europe) found themselves torn between keeping their electoral promises to promote growth and protect the welfare state on the one hand and honoring their supranational commitments to maintain austerity budgets and concomitantly cut social benefits on the other. As for the referendum on Britain's exit from the EU, the rallying cry of 'Take back control' was arguably the clearest expression of political dissatisfaction with the EU. It focused in particular on the EU Single Market's freedom of movement, blamed for Central and Eastern Europeans flooding the UK's low-skilled jobs market.

Taken as a whole, such politicization at the bottom suggests a revision of my characterization of the EU in my 2006 book, *Democracy in Europe*. Then, I had argued that as more and more decisions moved up to the EU level, the national level could be characterized as 'politics *without* policy.' Today, increasing politicization means that the national level is better described as 'politics *against* (EU) policy' in the most contested areas—or even 'politics *against* polity' in the most extreme cases, where citizens vote for parties opposed to staying in the EU, or even to exit the EU, as in the case of the UK. In contrast, the EU level has also changed, moving from a technocratic decision-making process characterizable as 'policy *without* politics' to 'policy *with* politics.'

EU Governance and Politics 'from the bottom up'

As national politics has become more and more volatile in recent years, it has increasingly constrained EU governance from 'the bottom up'. Decision-making on European integration has become vulnerable to pressures resulting from national level party competition, elections, and referendums. Concomitantly, EU actors, cognizant of citizens' growing awareness of the EU and the political importance of public perceptions, have increasingly sought to communicate and legitimate their actions to the wider public on an on-going basis.

In the Council, politicization can be seen in the growing influence of public opinion and electoral politics on member-state leaders' positions. Relations among member-states have become increasingly contentious and agreements harder to broker. Even if partisan politics *per se* remains largely absent in the interrelationships among member-state leaders, the politics of nationally partisan governments has infected Council decisions. In place of traditional consensus-seeking compromise, member-state leaders have increasingly held to national 'red-lines' while catering to their perceptions of citizens' preferences and media pressures. This has translated itself into threatened (or actual) vetoes of impending legislation, as in Prime Minister David Cameron's threat to veto what became known as the 'Fiscal Compact' (constitutionalizing a 'golden rule' limiting debts and deficits) unless he got special treatment for the UK's financial services industry; refusal to implement EU decisions, as when government leaders in Central and Eastern Europe rejected quotas for refugees; and delays in taking decisions, as when Chancellor Merkel dithered and dallied on agreeing to a bailout for Greece in late 2009 and early 2010 in the hopes that the country would tighten its own belt sufficiently to calm the markets while allowing her party to win the North Rhine-Westphalia elections on 9 May 2010—a gross miscalculation given her party's resounding defeat and the near explosion of the Eurozone.

In the EP, bottom-up politicization has arrived first and foremost in the form of the larger presence of populist representatives elected in the 2009 elections, with more in the 2014 elections, and still more in the 2019 elections. Even though their actual presence has had minimal impact on EP policies (so far), it has given populists a EU platform from which to speak to their national constituencies. Moreover, it has left the EP with a thinning center and the need to form ever larger 'Grand Coalitions' and to forge ever wider compromises. This has generally led the EP to increasing its attention to the politics of the public interest, such as reducing the costs of cellphone roaming charges. But even in crisis areas, where the EP has had little remit, it has nonetheless increasingly made public pronouncements on the issues, held hearings, and

commissioned reports. In the case of the Eurozone, after having let itself be stampeded into reinforcing the rules via legislative packages (the Two-Pack and the Six-Pack, which instituted oversight procedures for all member-states along with sanctions in cases of non-compliance), the EP subsequently emitted scathing critiques of the Council, the ECB, and the Commission. Day-to-day partisan politics has also been very present in the EP. This was most apparent in the center right European People's Party (EPP) shielding against censure one of its more extremist national party constituent members, the Hungarian extreme right party *Fidesz*. Only just before the 2019 EP elections was the party suspended.

Although supranational technical actors such as the Commission, the ECB, the ESM (European Stability Mechanism), and other regulatory agencies have not experienced the same degree of politicization as the EU's political actors, bottom-up politics has nonetheless exerted its influence. That influence can be seen mainly in the ways the Commission, the ECB, and the growing array of regulatory bodies have increasingly sought to appear responsive to the public on politically salient issues so as to improve citizens' views of their performance.

EU Governance and Politics 'at the top'

Politicization occurs not only at the bottom or from the bottom up, however. It is equally at the top. As integration has deepened, the relationships within and among major EU level actors— Council, Commission, European Central Bank, and European Parliament—have become more political in every way, with long-standing relations of cooperation now riven in many domains by greater contestation. Such contestation may certainly be connected to the national pressures. But they also concern political struggles for power and influence among the various EU level actors. Although such struggles have always been present to some extent, they have sharpened in the recent crises, with hard bargaining more pronounced, productive consensus more difficult to achieve. These struggles are not only about what to do but also who does it and who imposes the costs of the decision on whom.

The Council
In the Council, member-state leaders in particular have become much more legislatively active than in the past, taking on an unprecedented leadership role. Since the Maastricht Treaty in the early 1990s, member state leaders have not only decided more in the European Council; they also created *de novo* regulatory bodies and instruments outside the main EU institutions instead of delegating new powers for the Commission in view of new tasks. This involved not only keeping the Commission out of those bodies but also putting the member-states *qua* member-states *in*, for instance by ensuring the representation on the governing boards of the relevant nationally anointed representatives.   Examples of such *de novo* bodies include the European Central Bank (ECB), where the heads of eurozone central banks constitute the governing board; new financial entities such as the European Stability Mechanism (ESM), in which the Eurogroup of Finance Ministers constitutes the board; new administrative bodies such as the European External Action Service (EEAS), the EU's diplomatic corps; and a new President for the European Council.

In response to the various crises, moreover, EU governance increasingly favored processes of intergovernmental decision-making, in which the Council decides, to the detriment of co-decision,

in which the Commission and EP play an equal role with the Council. In the Eurozone crisis in particular, the member-state leaders in the European Council took charge as the only body with the authority to decide what to do and with the resources to commit to doing whatever was decided. In this context, interest-based bargaining and consensus-seeking deliberation were both in evidence, with member-states' preferences dividing largely along North/South lines. Interest-based bargaining was clearly at the forefront when Germany finally agreed to a rescue package for countries in trouble, but only in exchange for a reinforcement of the 'stability' rules of the Stability and Growth Pact, with austerity and structural reforms demanded of all member-states, and harsh conditionality programs for the countries in trouble, initially without any debt relief. Hard bargaining was arguably most pronounced in the third Greek bailout in 2015, when the confrontation in the Eurogroup of Finance Ministers between the Greek Yanis Varoufakis and the German Wolfgang Schäuble made headlines; and as the new Greek left populist Syriza government was forced to implement the harsh terms of the existing Memorandum of Understanding (MoU) without the renegotiation of the program or an end to the austerity that they had promised in their electoral campaign. Consensus-seeking deliberation was also in evidence, though, in particular once the crisis slowed in 2012. As successive Italian leaders, and supported by the French, pushed first for growth in 2012 and then flexibility in the application of the rules in 2014, German Chancellor Merkel acquiesced, first agreeing to growth 'with stability' and then flexibility 'within the stability rules.'

In the refugee crisis, however, no such compromise was reached, as Central and Eastern European countries refused to agree to any redistribution of refugees, putting up barbed wire fences instead. In the rule of law crisis, moreover, the search for consensus in the Council led mainstream member-state leaders to accommodate extreme right populist challenger governments to the detriment of EU norms and values, leading to a situation in which many of the liberal democratic safeguards have been weakened, in particular in Hungary. As for common security and defense policy, although modalities exist for groups of countries to move forward on their own (called permanent structured cooperation), and member-states have agreed to a number of different initiatives, the Council so far has done little concretely to ensure effective forward movement despite a discourse that has increasingly focused on building 'security autonomy.'

The Commission and Other Supranational Actors
But while the Council may remain 'in charge' of decision-making, in particular on the 'big issues' and in crisis moments, supranational EU actors have become more 'in control' of a number of domains. Supranational decision-making has always been key to everyday EU policy-making, with bureaucratic entrepreneurialism and institutional creep seen as explaining such technical actors' ever-increasing powers. And the Council's increased activism has done little to stop such supranational empowerment. To the contrary, the Council's deliberate decision to create *de novo* bodies so as not to increase the Commission's powers simply enabled a wider range of EU supranational actors—the ECB, the ESM, and other *de novo* bodies—to gain even greater institutional powers of enforcement than in the past. Note that it has been these self-same supranational actors who developed and proposed to intergovernmental leaders the policy initiatives they themselves were then charged to enforce—including the oversight mechanisms of the European Semester, pushed by the Commission, and Banking Union, by the ECB. Moreover, the new European agencies set up in response to the Eurozone and migration crises were established in areas where the Commission's own powers were previously weak, and served to

enhance Commission objectives while providing an additional means of rule-making, information and enforcement.

The Commission in particular has continued to increase its power and influence in the EU's many crises. In the migration crisis, it was the body that came up with the quota system that caused such dissension among Council members. In the Eurozone crisis, moreover, its enhanced oversight functions in the European Semester came with great discretionary authority. At the onset of the crisis, it turned the screws to many member-states, including France, Italy, and Spain, with a rigid application of the rules that found them in violation on deficits and debt. But as the crisis slowed, in particular between 2012 and 2015, it began reinterpreting the rules 'by stealth,' with a discourse that proclaimed a continued push for austerity and structural reform while giving repeated derogations to France and Italy, and even recalculating the numbers for Spain so that it would avoid sanction. Subsequently, with Jean-Claude Juncker as President, the new Commission continued to increase its flexibility, even creating rules for flexibility; and although Spain and Portugal were ultimately sanctioned for excessive deficits, their fines were suspended. Needless to say, while French and Southern European member-state leaders vociferously protested the early rigidity, German and Northern European leaders complained loudly about the subsequent flexibility. German Minister of Finances Wolfgang Schäuble was so outraged in 2014 that he, together with his Dutch and Finnish counterparts called for the Commission to be replaced by an independent agency to oversee member-states finances.

The ECB also increased its power and influence during the Eurozone crisis in dramatic ways. While in the early days of the crisis, it refused to take significant action to stabilize the euro and end the crisis, it incrementally moved from refusal to be a 'lender of last resort' (because the 'no-bailout clause' of the Treaties, plus its own mandate, forbade buying member-state debt), to coming increasingly closer to being one. First, ECB President Draghi promised to do 'whatever it takes' to save the euro in July 2012, which abruptly stopped market attacks, and then began quantitative easing as of 2015. Unlike the Commission, which surreptitiously reinterpreted the rules, the ECB hid its reinterpretations 'in plain view,' by constantly claiming that all its actions remained within its mandate, even as it went from a very narrow reading of that mandate to a more and more expansive one. Here, too, political contestation came from the Northern Europeans in the Council, in particular the Germans, as well as from the head of the Bundesbank, who testified in a German constitutional court case against the ECB's 2012 promise to buy Italian and Spanish member-state debt if necessary (it wasn't'), and later opposed the 2015 quantitative easing.

The 'Troika,' (made up of the IMF, the ECB, the Commission, representing the Eurogroup of finance ministers), but after 2013 called 'the Institutions' (which also included the ESM, governed by the Eurogroup of finance ministers), had arguably the most power and influence, and the least accountability. It was charged to negotiate and administer the 'MoUs' of member-states that entered 'conditionality programs,' which subjected them to harsh austerity and major structural reforms. Whereas the so-called 'normal' countries benefited from an easing of the rules, the program countries, including in order of entry Greece, Ireland, Portugal, and Cyprus, were not so lucky. Greece in particular, subject to three bailouts (in 2010, 2012, and 2015), is the worst-case example of what may happen when the rules have been reinforced rather than reinterpreted, with increasingly catastrophic economic policy results and more and more volatile politics.

The European Parliament
Finally, the European Parliament has also become an increasingly political actor in the inter-institutional dynamics 'at the top.' Although the EP is neither in charge or in control in any domain, it has nonetheless gained increasing political influence in EU decision-making. The co-decision process, after having been set aside a decade ago, as the Council sought to confront its multiple crises on its own, has come back into vogue. The EP has increasingly been brought into policy areas from which it had been previously shut out, including Eurozone and migration policy.

Importantly, politics comes in through the EP's role in co-decision processes via the 'trilogues' with Council and Commission, in which the EP has increasingly pushed its own political agenda. But even in areas where the EP has had little remit, it has successfully engaged in 'integration by stealth,' in efforts to extend its power beyond the provisions of the Lisbon Treaty. Moreover, the EP's successful election push on the *Spitzenkandidat* in 2014, in which it insisted that the leader of the majority party be named President of the Commission, constituted a 'win' for the EP over the Council, at the same time that it served to create a direct 'political' link between the EP and the Commission. And although the *Spitzenkandidat* procedure was abrogated in the 2019 selection of the Commission President, the political link between the EP and the Commission was, if anything, reinforced in efforts to mollify the EP.

Finally, even where the EP is completely left out of the decision-making process, it can still play a role, whether as the EU actor to which other EU actors go to demonstrate their accountability or through its increasingly vocal critiques of other EU actors' actions. The ECB in particular has used its mandated four yearly meetings to communicate about while legitimating its actions to the EP and thereby the more general public.

Is Politicization a Good Thing or a Bad Thing?

The EU, in short, remains in a fragile state, with an uncertain future. The Eurozone still suffers from major institutional weaknesses. The migration question remains in limbo. Little has been done in the security area. Although Britain's decision to exit the EU is no longer in doubt, a crash-out continues to threaten. Central and Eastern European countries' drift to democratic illiberalism has not as yet been addressed successfully. Moreover, member-states continue to be divided in their preferences, split in particular between North and South on Eurozone governance, between West and East (and some South) on migration.

EU governance, moreover, so long apolitical and technocratic, where disagreements were treated in private and deals remained behind closed doors, has become more politically charged. Differences are now debated in public, as EU actors seek to communicate more so as to legitimate their positions directly to the citizens while signaling their preferences to one another. Such greater EU level public deliberation and debate, however contentious, could be seen as in and of itself politically legitimizing, with greater mobilization of civil society and increasing media attention ensuring better responsiveness. For citizens, additionally, the back and forth of political contestation looks a lot more like what goes on in national democracies.

All of this ensures that the EU will not end its politicization any time soon. Our final question is therefore whether such politicization is a good thing or a bad thing. On the positive side, more public debate, deliberation, and contestation ensures greater legitimacy for EU governance as whole. On the negative, the increasing public contestation makes compromise more difficult and effective policies harder to generate, while seeming to delegitimize the EU's substantive achievements. By now, however, in particular since the Eurozone crisis, the refugee crisis, and Brexit, asking whether politicization is a good thing or a bad thing is almost beside the point. Like it or not, it is a 'thing,' and here to stay.