

CURRENT HISTORY

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A Too Perfect Union? Why Europe Said “No”

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The people of France and the Netherlands have spoken. As a result of their referendums this spring, the European Union constitution is dead, as is Turkish membership in the EU, and progress in areas from services deregulation to Balkan enlargement will now be much more difficult. Yet for the chattering classes the outcome was an opportunity to repolish long-held positions. In the face of implacable opposition to Turkish membership, *The Economist* blithely interpreted the rejection of a proposed EU constitution as evidence that Europe has gone too far, too fast—except, of course, on enlargement. Oxford’s Timothy Garton Ash, a perennial optimist about the reconciliation of Britain’s transatlantic and European vocations, espied another promising moment for Blairite diplomacy. The court philosopher of continental social democracy, Jürgen Habermas, called on European leaders (read: his former student, German Foreign Minister Joschka Fischer) to recapture the “idealism of 1968” by leading a leftist movement against neoliberal US hegemony. With quintessentially French misanthropy, Serge July of *Libération* accused French politicians of opportunism and French voters of racism. Across the Atlantic, *Weekly Standard* editor Bill Kristol, undeterred by the massive protest vote against European economic reform, called for rejection of the welfare state, open borders to immigration, and an embrace of America.

It is time to view Europe as it really is. Far from demonstrating that the European Union is in decline or disarray, the constitutional crisis demon-

strates its essential stability and legitimacy. The central error of the European constitutional framers was one of style and symbolism rather than substance. The constitution contained a set of modest reforms, very much in line with European popular preferences. Yet European leaders upset the emerging pragmatic settlement by dressing up the reforms as a grand scheme for constitutional revision and popular democratization of the EU.

Looking back in 50 years, historians will not see this year’s referendums as the end of the EU—or as the beginning of the end. The union remains the most successful experiment in political institution building since World War II. Historians will see instead the last gasp of idealistic European federalism born in the mid-1940s, symbolized by the phrase “ever closer union” and aimed at establishing a United States of Europe. It is time to recognize that the EU can neither aspire to replace nation states nor seek democratic legitimacy in the same way nations do. The current EU constitutional settlement, which has defined a stable balance between Brussels and national capitals and democratic legitimacy through indirect accountability and extensive checks and balances, is here to stay. To see why this is so, we must understand the nature of the current constitutional compromise, the reasons European leaders called it into question, and the deeper lessons this teaches us about the limits of European integration.

JUST SAY NO

Voting patterns in the referendums were a reflection of three related motivations that have dominated every EU election in history. First is ideological extremism. The center supported Europe while the extreme right and left, which now account for

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almost one-third of the French and Dutch electorates, voted “no.” Second is protest voting against unpopular governments. Third, and most important, is a reaction against the insecurity felt by poorer Europeans. Whereas business, the educated elite, and wealthier Europeans favored the constitution, those fearful of unemployment, labor market reform, globalization, privatization, and the consolidation of the welfare state opposed it. Today these concerns dovetail with the perceived economic and cultural threat posed by Muslim immigration.

This type of disaffection is the primary political problem for European governments today, since it is directed both against poor economic performance and against reform measures designed to improve it. As *Newsweek’s* Fareed Zakaria has observed, the tragedy is that “Europe needs more of what’s producing populist paranoia: economic reform to survive in an era of economic competition, young immigrants to sustain its social market, and a more strategic relationship with the Muslim world, which would be dramatically enhanced by Turkish membership in the EU.”

Forgotten in the electoral chaos this spring was the document itself. The constitution is, after all, a conservative text containing incremental improvements that consolidate EU developments of the past 20 years. The “no” campaigns conceded the desirability of the modest reforms from the start—including appointment of a foreign minister, formulation of a stronger anti-crime policy, and streamlining of voting procedures. Such changes are popular, not least in France, which proposed most of them. One is forced to conclude that the constitution became controversial not because its content was objectionable, but because the content was so innocuous that citizens saw a chance to cast an inexpensive protest vote.

What were they protesting against? Here, too, the referendums cannot be viewed as plebiscites directed at the EU’s policies. Although the EU is associated, through its advisory “Lisbon process,” with labor market and welfare reform, these matters remain firmly within the competence of the member states. The EU’s activities as a whole, while they include oversight of state subsidies and trade policy, may just as reasonably be seen as part of a European effort to manage globalization rather than promote it. Opponents made occasional mention of EU policies not contained in the constitution, such as the recent enlargement to 25 members, the introduction of the euro, the deregulation of electricity, and Turkish accession. Yet only the last of these seems to have swayed many voters, and they seem

to have been unaware that free migration has been ruled out even before negotiations begin.

So what lesson should the EU take away? The relative lack of direct criticism of the constitution, the lack of fundamental objections to EU policies, and, above all, the stunning lack of positive proposals for reform are striking evidence of the underlying stability of the EU system. The 16 years since the fall of the Berlin Wall have been, after all, the most successful period in EU history. The single market, the euro, and a nascent European foreign and defense policy came into being. EU enlargement was carried out with surprisingly little disruption in existing member states, and proved the most cost-effective Western instrument for advancing global democracy and security. In sum, notwithstanding the rejection of the proposed charter, the EU appears to have quietly reached a stable constitutional settlement.

FIXING THE UNBROKEN

What is this settlement? The EU is now preeminent in trade, agriculture, fishing, eurozone monetary policy, and some business regulation, and helps to coordinate cooperation in foreign policy. Contrary to statistics one often reads, this amounts to only about 20 percent of European regulation and legislation. Most areas of greatest public concern—taxes, health, pensions, education, crime, infrastructure, defense, and immigration—remain firmly national. With a tax base one-fiftieth the size of the member states’, an administration smaller than that of a small city, no police force or army, and a narrow legal mandate, the EU will never encompass these fiscally and administratively demanding tasks.

There is no new *grand projet*, akin to the single market of the 1980s or the single currency of the 1990s, to justify change. In 18 months of deliberation, the constitutional convention devoted only two days to the expansion of EU competencies. European health, pension, fiscal, and education policies have little support, while a US-style military buildup exceeds Europe’s means and insults its “civilian power” ideals. There was always less to the constitution than both its proponents and its detractors proclaimed.

Many believe that a European defense independent of the United States poses an imminent threat to US interests. Of course, it is true that if the United States were again to attempt an operation on the scale of Iraq with so little substantive justification or multilateral legitimation, European nations would be uniformly opposed. (Even the British government has already declared that it does not see any useful military options for regime change in Iran.)

But another Iraq is an unlikely possibility, given the evident costs of that imbroglio; the United States is militarily incapable of repeating this adventure at the current time. More important is the fact that the United States and the EU have agreed on every other major use of force since the 1989 Gulf War. More than 100,000 European troops are currently stationed out of their home countries, most involved in operations that involve the United States.

The ambition to form a European Union military or diplomatic superpower with a principal mission of opposing American "hyperpower" is little more than—and always was little more than—idle talk. Only the combination of ignorance and bias regarding the EU that is so uniquely concentrated among self-reinforcing groups of US neoconservatives and British Euroskeptics could construe the EU as a military or geopolitical threat. As recently as a year ago, many conservatives pleaded with the Bush administration to oppose the EU constitution, encourage British withdrawal, and insist on the unconditional predominance of NATO. With the recent European trips by Secretary of State Condoleezza Rice and President George W.

Bush, these demands for an aggressive policy toward Europe have been definitively rebuffed.

Consider also European social policy, of which we heard so much in the referendum campaigns. What concrete EU policies should this imply? Blocking sensible efforts to reform the welfare state for long-term sustainability is shortsighted. While many studies show that a division of labor between the new and old members of the EU will generate growth, there is little evidence of a regulatory or fiscal "race to the bottom" driven by the EU, and plenty of room remains for social policy at the national level. The neoliberal "Anglo-Saxon" threat is a myth. Britain is building up its welfare state faster than any of its partners, based partly on a Scandinavian model. Indeed, with continental liberalization and British social democratization, Europe's social systems are converging—through the pressure of national politics, not as the result of some EU social policy pipe dream.

A similar constitutional compromise has emerged with regard to institutions. Although Anglo-American Euroskeptics have sought to resurrect the bogeyman of a Brussels superstate headed by the European Commission, treaty changes since 1970 have consistently moved Europe in the oppo-

site direction. They have increased the power of the council of ministers (favored by France and Britain, particularly for matters outside the economic core) and the directly elected European parliament (favored by Germany) at the expense of the technocratic commission.

The proposed constitution sought to marginally improve the EU's efficiency and transparency while retaining its basic structure. All of this is the sensible stuff policy wonks love and publics generally support. The constitution called for expanding the role of the directly elected European parliament in EU legislation (termed "co-decision" in Brussels-speak), giving national parliaments an advisory and gate-keeping role, abolishing the rotating presidency, adjusting voting weights to represent large countries more fairly, and centralizing foreign policy coordination in a foreign minister. The proposal was a multinational constitutional compromise that attended to the interests of large and small countries, left and right parties, and Europhile and Euroskeptical tendencies.

The reforms enjoyed broad support among member states, and none met a serious challenge in the refer-

endum debates. The biggest change—creation of a European foreign minister empowered to recommend, though not impose, a more coordinated foreign policy—enjoys 70 percent approval across Europe. And recognizing the EU as it is, the constitution struck the classic idealist phrase "ever closer union" from the Treaty of Rome, and substituted the more balanced "unity in diversity."

UNDONE BY IDEALISM

So it was not the substance of the emerging constitutional settlement that triggered opposition. The objectionable aspect was its form: an idealistic constitution. Since the 1970s, lawyers have regarded the 1957 Treaty of Rome as a de facto constitution. The new document was an unnecessary public relations exercise based on the seemingly intuitive, but in fact peculiar, notion that democratization and the European ideal could legitimate the EU. In the wake of the Nice and Amsterdam treaties, which consolidated the union, Euro-enthusiast scholars, politicians, and commentators have argued that the EU is unpopular primarily because it is secretive, complex, unaccountable, and distant from the public—in sum, because it suffers from a "democratic deficit." Fischer, the German foreign minister, gave

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the idea of constitutional legitimation a big push with his celebrated lecture on the ultimate goal of integration at Humboldt University in 2000. But like the other European leaders who jumped on his bandwagon, Fischer, while ostensibly transcending a narrow, national discourse, was in fact framing the argument in a familiar domestic manner: in his case 1968-style German anti-nationalism.

The idea was to legitimate the EU not through trade, economic growth, and useful regulation, as had been the case for 50 years, but by politicizing and democratizing it. This was to be done through a constitutional convention. Enthused by the prospect of a reenactment of Philadelphia 1787, millions of web-savvy Europeans were supposed to deliberate the meaning of Europe. More pragmatic voices hoped to combat cynicism by simplifying the treaty and delineating EU prerogatives. To justify the need for change, reformers also seized on the perception that the EU would require a radical overhaul to avoid gridlock with 25 rather than 15 members—a fear that now seems unjustified, both because the new states are proving constructive and because the EU is not moving as far or fast as it once did.

Of course, the constitutional deliberation did not mobilize Europeans. Few citizens were even aware of the 200 *conventionnels'* deliberations. When testimony from civil society was requested, professors turned up. When a youth conference was called, would-be Eurocrats attended. When those who did attend came to consider democracy, they found that the arrangement Europe currently has is appropriate to a diverse polity in which member states insist on checks and balances at every level. There was little popular or elite support for democratic reform beyond the modest increases in scrutiny by national and European parliaments the constitution contains.

This is as it should be, for there is no “democratic deficit” in the EU—or not much of one. Once we set aside ideal notions of democracy and look to real-world standards, we see that the EU is as transparent, responsive, accountable, and honest as its member states. The relative lack of centralized financial or administrative discretion all but eliminates corruption. The EU's areas of autonomous authority—trade policy, constitutional adjudication, and central banking—are the same as those in most

democracies, where these functions are politically insulated for sound reasons.

The notion of imposing democratic control through multiple checks and balances, rather than through elections to a single sovereign parliament, is more American than European—but it is no less legitimate for that. Everyone gets a say in a system in which a European directive needs approval from a technocratic commission, a supermajority of democratic national governments, and a directly elected parliament, and must then be implemented by national regulators. Studies show that EU legislation is both consensual and relatively responsive to shifts in partisan and popular opinion.

Enthusiasts for democracy fail to grasp its limits. Engaging European citizens will not necessarily create rational (let alone supportive) debate, because those with intense preferences about the EU tend

to be its opponents. Average citizens and political parties keep but a few issues—usually those involving heavy taxing and spending—in mind at any one time, and thus respond only to

highly salient ideals and issues. The pull of Europe remains weak, while the bread and butter policies citizens care about most, including the welfare and identity issues that dominated the referendum debates, remain almost exclusively in national hands. The failure of European elections to generate high turnouts or focus on EU issues over the years suggests that citizens fail to participate in EU politics not because they are blocked from doing so, but because they have insufficient incentive.

Some democratic enthusiasts propose jump-starting EU democracy by incorporating hot-button issues like social policy and immigration, despite the lack of popular support for doing so. This is, in essence, Habermas's vision. Yet anyone except a philosopher like Habermas can see that this is the sort of extreme cure that will kill the patient. There is little that could lead the European public to decisively reject an institution as deeply embedded as the EU, but transferring controversial issues like social policy to it without justification might just do it.

More sober voices propose to empower national parliaments, which the constitution sought to do in a modest way. Yet this reveals a final fallacy of the democratizers. There is little reason to believe that turning policy over to a legislature makes it more

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legitimate. In Western democracies, popularity is inversely correlated with direct electoral accountability. The most popular institutions are the courts, the police, and the military. Parliaments are generally disliked. Whatever the source of Europe's declining popularity—a general decline in political trust, unfamiliarity with institutions, xenophobia, discontent with economic performance—it has little to do with Europe's democratic mandate.

Forcing an unstructured debate about an institution that handles matters like telecommunications standardization, the composition of the Bosnia stabilization force, and the privatization of electricity production inexorably drove debate to the lowest common denominator. When pro-European political elites found themselves defending a constitution with modest content, they felt they had no alternative but to oversell it using inflated notions of what the EU does and rhetoric drawn from 1950s European idealism. Small wonder they were outgunned by grumpy populists with stronger symbols rooted in class, nation, and race (and even more inflated views of what the EU does). Publics became confused and alarmed by the scare tactics of both sides. The referendums came to inhabit a strange twilight zone of symbolic politics, in which claims about the EU bore little relationship to reality, and support and opposition for a status quo constitution became a potent symbol for the myriad hopes and fears of modern electorates.

A UNION THAT WORKS

In the wake of this debacle, European politicians must find a constructive path forward. They should start with a collective *mea culpa*. The document itself must be renounced. Then, over the next few years, the EU should return to its successful tradition of quiet and pragmatic reform. Europeans consistently support incremental advances in the union's foreign, internal security, and economic policies along the lines set forth in the constitution.

Turkish membership is off the agenda, as it probably would have been even without the referendums, which revealed a considerable degree of popular concern and some virulent opposition to Turkish membership. To quell it, France committed itself to another referendum, should the question arise—a procedure also required by some other EU national constitutions. It is clear that a high-profile move toward Turkey at this point would bolster popular fear of and opposition to the EU—which are otherwise likely to wither away. Negotiations with Turkey should and will be pursued, so as to main-

tain the momentum of reform in that country. It should be obvious, however, that no further movement on accession is likely for some time. The best outcome would be for talks to continue quietly for a decade or two while Europeans attend to more pressing and practical plans for Balkan enlargement. Politicians need to concede this, and concede it loud and clear, not least in order to preserve continued EU enlargement in the Balkans.

A halfway arrangement acceptable to both EU and Turkish publics remains a realistic goal over the next 20 years, and may be better for Turkey than the limited type of EU membership that is currently on offer. This arrangement might provide for even freer trade, substantial regulatory convergence, and close cooperation on foreign and internal security policies, perhaps culminating in a privileged associate status. No other European policy could contribute as much to global peace and security.

Above all, European politicians need to acknowledge explicitly the existence of a stable European constitutional settlement. The unique genius of the EU is that it locks in policy coordination while respecting the powerful rhetoric and symbols that still attach to national identity. Publics will be reassured if it is portrayed as stable and successful. There is no shameful compromise with grand principles here. On the contrary, it is a highly appealing constitutional order that preserves national democratic politics for the issues most salient to citizens while delegating to more indirect democratic forms those issues that are of less concern—or on which there is an administrative, technical, or legal consensus.

The EU's distinctive system of multilevel governance is the only new form of state organization to emerge and prosper since the rise of the welfare state at the turn of the twentieth century. Now it is a mature constitutional order, one that no longer needs to move forward to legitimate its past and present successes. Left behind must be the European centralizers and democratizers for whom "ever closer union" remains an end in itself. They will insist that the answer to failed democracy is more democracy and the answer to a failed constitution is another constitution. But Europe has moved beyond them. Disowning this well-meaning, even admirable, band of idealists may seem harsh, but it is both necessary and just. On this basis, Europeans can develop a new discourse of national interest, pragmatic cooperation, and constitutional stability—a discourse that sees Europe as it is. The constitution is dead, long live the constitution! ■