

DEBATE



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THE EUROPEAN CONSTITUTION

Is the constitution inherently undemocratic, or will it make the EU more accountable to European voters? Is greater coordination at the European level essential for promoting environmental safeguards, or will it merely serve the interests of big business? Marc Glendening and Richard Corbett discuss



DEAR RICHARD,

As a spotty Young Liberal in a tank top I campaigned for a yes vote the last time we had a referendum about Europe. It would have been difficult to predict then that the EEC would become transformed into a union with, among other things, its own police force, an embryonic common foreign policy and army and officials immune from prosecution. The whole illiberal direction of the EU needs to be re-evaluated, and this means the EU constitution must be blocked. We Europeans require a more modern vision.

The EU constitution continues the process of concentrating yet more powers in Brussels. In 60 new areas the national veto will be abolished, enabling more laws to be imposed on diverse national electorates without any democratic mandate.

The main problem is that there is a disjuncture between, on the one hand, this process of centralisation, and, on the other, the fact that most Europeans do not yet perceive themselves to be part of a single political community.

Take the example of the new directives that will drive off the market various alternative health remedies. Nobody, other than big companies, wants this legislation.

Take also article III-147 of the constitution that would give Brussels the right to enforce the 'liberalisation' of specific areas of economic activity. It may or may not be a good idea to break up state monopolies, but shouldn't this be determined locally and democratically?

The constitution continues the work of building a Brussels-based central authority. This will stretch from Ireland to the Baltic, Scandinavia to (probably) the Turkey/Iraq border.

Without getting a democratic mandate first, this is a very dangerous thing to do in an era when the gap between the political class and the rest of us has never been bigger.

Best wishes,
Marc Glendening

DEAR MARC,

It is curious that you feel comfortable making such a barrage of criticisms against the new EU constitutional treaty, particularly as so many of them are unfounded. It's crucial that the decisions we take at European level are the right ones, especially when so many of today's problems, including environmental issues, go beyond our own national borders.

These decisions need to be as transparent, democratic and effective as possible. So how could any environmentalist disapprove of a new rulebook which improves the EU in precisely those respects? It's a shame that I'll have to start our debate by rebutting some myths, but I hope we can move on to looking at the significant improvements that the new constitution brings.

You start with the old chestnut of the British people being told in the 1970s that they were only joining an economic community. In fact, the government white paper that set out our reasons for applying clearly stated: 'Europe is now faced with the opportunity of a great move forward in political unity... We can – and indeed we must – play our full part in it.'

You also suggest that the EU has its own 'police force' and 'army'. Surely you know it has neither. There is no more a single EU army than there is a single UN army. And Europol is no more an EU police force than Interpol is a UN one: they are both just mechanisms for cooperating and exchanging information between national police forces.

You claim that the constitution concentrates more powers in Brussels, but you conveniently avoid saying who 'Brussels' is. In fact, EU legislation is not adopted by the European Commission, but by democratically accountable representatives of the member states meeting in the European Council (and with extra scrutiny provided by the European Parliament). 'Brussels' is simply where we meet our neighbouring countries to adopt common policies on those subjects with which we have agreed it is advantageous so to act. The new treaty will enable us to continue to do that in our enlarged union of 25 countries.

Best wishes,
Richard Corbett

**DEAR RICHARD,**

Which of my concerns about the constitution's centralising implications are 'unfounded' or 'myths'? Even the government concedes that the national veto will go in 60 new areas. If article III-147 isn't in the document why are so many trade unionists objecting to it? If there is no EU police force, why does article III-276 give Brussels the capacity to extend that phantom force's capacity to engage in 'investigative and operational action'? Civil libertarians, like independent EU monitoring group Statewatch, are deeply concerned about this body enjoying immunity from prosecution. And many greens are concerned to see that the Euratom treaty is retained in the constitution.

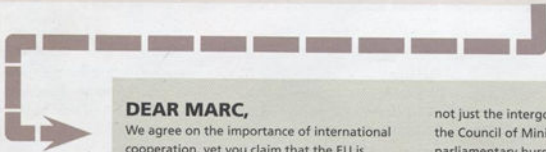
You are absolutely right though when you remind me that 'political unity' has always been the long-term goal of the European project. As Valéry Giscard d'Estaing, the man who drafted the treaty, puts it: 'Our constitution cannot be reduced to a mere treaty for cooperation between governments. Anyone who has not yet grasped this fact deserves to wear the dunce's cap... Our continent has seen successive attempts at unifying it: Ceasar, Charlemagne and Napoleon, among others. We, for our part, seek to unify it by the pen. Will the pen succeed where the sword... failed?'

The concrete reality of what can happen when you centralise power with the EU was brought home to many environmentalists when the unelected European Commission last year decided to approve the importation of GM maize. The Welsh Assembly wants to be a GM-Free zone, yet that desire counts for nothing when policy is determined in Brussels.

The common fisheries and agricultural policies have also been environmentally very detrimental. Of course, international cooperation is important, but it doesn't necessarily follow that handing over more responsibility to the EU is the best way to proceed.

Another problem is that big financial interests have much greater lobbying power when decision-making is concentrated and taken further away from ordinary voters. It's imperfect, but the reality is that intergovernmentalism is the only realistic way for international cooperation to take place with democratic accountability. I don't believe the European Parliament is and of itself a good guarantee of our democratic rights.

Best wishes,
Marc

**DEAR MARC,**

We agree on the importance of international cooperation, yet you claim that the EU is 'centralised'. On the contrary, the constitution's fundamental principle is that we should only make EU-level agreements when we all agree that individual action would be ineffective. This is called the 'principle of subsidiarity' and it is set out right at the beginning of the treaty. Decisions are taken as close to the citizen as possible, and only when necessary.

But make no mistake about it, there are some areas in which our only chance is to adopt Europe-wide rules. The environment is a good example. Pollution doesn't respect national boundaries. Acting alone would be next to useless; acting together with our neighbours is far more effective. That's why we pass most of our environmental law at EU level.

The EU's political direction is agreed by heads of national governments, and its laws are agreed by our own elected ministers. But what makes the EU unique is that it doesn't stop there. All proposals must pass two hurdles:

not just the intergovernmental hurdle in the Council of Ministers, but also the parliamentary hurdle in the European Parliament. And the new constitution also strengthens the powers of national parliaments to scrutinise new EU proposals, providing yet another safeguard. In short, it makes the EU subject to more parliamentary scrutiny than any other international organisation in the world.

As for qualified majority voting (QMV), Eurosceptics have made a lot of noise about this without actually looking at the facts. The veto is a double-edged sword: if we have one, then so does every other country. This is something that has consistently worked against Britain in the past. The new constitution drastically improves our situation, as there will be more QMV only in those areas where Britain wanted more, and we retain the veto everywhere else (tax, foreign policy, defence and so on).

Best wishes,
Richard

DEAR RICHARD,

'A rich and prime example of gobbledegook,' was how a former president of the European Court of Justice described 'subsidiarity' when it was introduced with the Maastricht Treaty. He predicted that, since the court and the commission would ultimately decide the level at which decisions should be taken, it would not result in decentralisation. How many law-making powers have been repatriated back to member-state parliaments since its introduction? Has the number of new directives and regulations gone up or down?

Subsidiarity is prime, updated 1984-style 'newspeak' or 'double-think' designed to convey the impression of decentralisation when the reality is further concentration. You claim that the constitution 'strengthens the powers of national parliaments to scrutinise new EU proposals'. Gisela Stuart, the Labour MP who sat on the convention that oversaw the drafting of this document, says that the inclusion of measures to promote that end is a 'token gesture' because protocol II-7 states that the EU can 'maintain' a proposed new law regardless of what member parliaments want.

You say that in some areas 'our only chance is to adopt Euro-wide rules'. But how do we know

how the EU is going to actually use the powers transferred to it? If the constitution is passed we have not the slightest idea how, for example, article III-315(4), which potentially would open the door to international trade in 'social, education and health services', would be interpreted.

European policies are the outcome of a complex decision-making procedure involving a bundle of bodies in Brussels composed of changing configurations of individuals determined by numerous, ongoing political events taking place in 25 different countries. There is very little connection between voting in European parliamentary elections and the overall political direction of the EU taken as a totality.

For all the imperfections of national democracy, at least when we vote for parties in general elections we know the potential implications in terms of the governments and policies that may emerge. Then, a few years later we can hold them to account for what they have done. Ordinary Europeans cannot, in reality, hold the key decision-makers in Brussels to account in the same way.

Marc

DEAR MARC,

However much you may admire the Common Fisheries Policy, I think you've launched too many red herrings in your last letter. On 'concentration of powers', the EU can only act on subjects laid down by member states in the treaties. Even then, the degree and intensity of EU action is determined by the member states themselves through their representatives in the Council of Ministers, not by the commission. Action can only be taken if a very large majority (or, for sensitive matters, everyone) agrees. The European Court of Justice only becomes involved if divergent interpretations of agreed texts are referred to it. Judges are appointed by member states, not by the commission.

Is national parliamentary scrutiny a 'token gesture'? No. It's an opportunity for the elected representatives of the EU's individual member states to decide what positions their ministers will take in the council. This already happens in Sweden, Finland and Denmark. The new constitution brings in yet another safeguard, allowing national parliaments to object directly when they feel a proposal goes beyond the EU's remit. Ministers would never

adopt a proposal which their own parliaments have rejected.

You are misleading people when you claim that article III-315(4) 'opens the door to international trade in social, education and health services'. On the contrary, this article specifies that no agreement in these sectors can be made without the unanimous consent of every member state. This is a limiting provision, not a permissive one.

Of course, national democracy is easier than international democracy. But we need both. You prefer Europe-level decisions to be decided by 'intergovernmentalism', which equates to long, secretive, bureaucratic negotiations. I prefer the more open and democratic system offered by the new EU constitution: bringing in checks and balances, requiring ministers to meet in public when adopting legislation, adding parliamentary scrutiny, allowing citizens to challenge EU decisions in the courts, guaranteeing access to documents, prohibiting discrimination... The list goes on.

Best wishes,
Richard

DEAR RICHARD,

Talking of the Common Fisheries Policy, the readers will decide for themselves which one of us is trawling the depths of political disingenuousness. Fishery policy aside, my opposition to the constitution is based ultimately on a belief that, generally speaking, small is beautiful. The more that power is aggregated, the worse organisations tend to become. Elites become more remote and less accountable to those of us lower down the political food chain.

Protocol seven of the constitution bears testimony to this when it confirms that officials shall be 'immune from legal proceedings in respect of acts performed by them in their official capacity'. Yet, when courageous individuals such as *Stern* magazine's Hans-Martin Tillack reveal the scale of fraud taking place in Brussels, the European Commission's 'anti-fraud office' (another Orwellian touch) instructs the Belgian police to force them to reveal their sources. No wonder Labour MP Alan Simpson has described the EU system of government taking shape as 'neo-feudalism'.

The European political class is becoming dangerously disconnected from the peoples they are meant to serve. For example, article III-347 of the constitution commits (elected) national governments not to influence the (unelected) members of the commission in the performance of their tasks. Britain is over-centralised as it is, and I don't see how extending the law-making powers of the EU is going to help re-connect already alienated voters to the political process in this, or other, European countries. Once an EU law is passed it takes precedence over the legislation of the member states and so becomes effectively off-limits for democratic debate among national electorates.

We need to respect the political diversity of our continent, not impose more laws collectively upon the EU's 25 member nations through centrally taken decisions as if those countries were a single, unified entity. Blocking the constitution would hopefully result in a reappraisal of the outdated direction in which we are all heading at the moment.

Best wishes, Marc

DEAR MARC,

There is much on which we agree. When it comes to government, small is indeed beautiful. As we've already discussed, the constitution explicitly insists that all decisions must be taken as locally as possible, to keep politics as close to the citizen as we possibly can. Yet nobody can deny that, in a few key areas, we need to act together with our neighbours so we can achieve our objectives. These areas include environmental policy, common rules for the common market, and – if we're serious about conservation – fisheries too. After all, fish aren't renowned for their respect of national borders.

So the challenge is how to make these decisions, which are necessarily high-level, more inclusive and accessible than they already are. The constitution is designed to achieve exactly that. New clauses require the EU to maintain an 'open, transparent and regular dialogue with representative associations and civil society', and to respect fundamental citizens' rights in all its actions. Meanwhile, the EU's executive, the European Commission, has fewer staff than Leeds City Council in my own constituency, and the number of commissioners is reduced in the new treaty.

Disconnection between politicians and citizens is a potential problem at every level: it's not unique to the EU. But this new constitution is about widening debate, not closing it off. It was drafted not by some distant political elite, but by hundreds of representatives from across Europe, backbench MPs and MEPs from all shades of the political spectrum, and numerous civil society organisations. They met in public and published their proceedings, always consulting and inviting feedback. The whole process couldn't have been more inclusive.

In Europe, there is much that we share, but there are also many differences among us. Diversity is written into the constitution as one of the fundamental values that underpins the entire European Union. Indeed, the constitution protects not just our political differences, but our cultural, linguistic and religious ones too. Article VIII defines the motto of the EU as 'united in diversity': a motto which, I believe, neatly summarises the union's entire *raison d'être*.

For this reason, above all others, the new constitution merits our support.

Best wishes,
Richard