

For discussion

Note: a draft constitution was presented to the European Parliament in Strassburg in late October 2002.

Our Constitution for Europe

The citizens of Europe are entitled to expect two things that their governments have so far denied them. The first is a vigorous debate, starting from first principles and with the widest possible participation, about what the future of the European Union should be. The second is an intelligible account, capable of commanding popular agreement, of the rules by which the future of the Union will be shaped. The right way to meet both needs is to discuss and then frame a written constitution for the EU.

There is already some talk of this, but of a half-hearted nature. A 10 vacuous "charter of fundamental rights" is due to be discussed again at a summit of European heads of government in Nice in December, and the notion of a new constitution may attract some comment. But, so far, there is little enthusiasm for the idea. All the discussion, debate and consultation of citizens that would be required

15 would be an awful nuisance. Yet that is the best reason for urging such discussion to take place. Fear of further, unconstrained but also undefined development of the EU lies behind a lot of European citizens' suspicion of the Union. So, in an effort to stimulate debate, we have written our own rough draft for what a good new constitution for Europe 20 might look like.

A new, democratic beginning

Governments have defended their approach to steering the EU – "we decide everything; one day you'll thank us" – as strong leadership. Thus, 25 all governments bar Denmark's resisted the idea of putting membership of something as important a monetary union to a referendum. The euro's unimpressive start makes it easier to imagine how great the cost of shallow support, or no support, for an initiative of this kind might be. In a free country, the institutions of the state have

30 their foundations in the consent of the people. If the foundations are shallow, the institutions are at the risk of toppling.

But is framing a constitution the right way to prevent this? Certainly, it carries risk of its own. A bad constitution would be worse than none- possibly becoming, at one extreme, a burden that made government in 35 Europe unwieldy and good government next to impossible, or, at the other, an engine of undesired and unintended political integration.

Also, it would be entirely in character of Europe's governments to adopt a written constitution for the Union, good or bad, without drawing the wider public into debate about it, without seeking even their formal

40 endorsement. So here is a stipulation: any new constitution for the EU should be adopted only if passed in every case. That would encourage governments to explain their thinking. And before they could do that, they would need to work out what they actually thought – which would be useful.

45 The Union needs to stabilize the terms on which its constituent parts relate to each other. This is not the same as wishing to freeze it in its present form. What needs to be fixed is not the shape or scale of the Union above ground, but its constitutional underpinnings. First and foremost this means renouncing the guiding concept of "ever closer

50 union", an idea enshrined in the Union's pseudo-constitution. Ever closer union, taken seriously, is a commitment to permanent constitutional revolution – and Europe's leaders do take it seriously. Earlier agreements oblige them to seek further integration, they often point out. End of discussion. It is too late now, they say, to start asking 55 where or whether integration should stop.

Actually, it is not too late – except in the sense that the answer is already long overdue. Europe's leaders are right about what the existing treaties say. Therefore, plainly, those agreements must be changed. A constitution does not need, and should not try, to rule out institutional

60 development; but to commit the Union to never-ending political integration for its own sake, regardless of citizen's preferences, is indefensible.

More than merely expunging the idea of ever-closer union, however, our constitution seeks to make it more likely that, if further

65 institutional reform is undertaken, it is in response to citizens' demands, not in spite of citizen's misgivings. Governments may regard constitutions as instruments by which they rule; a better perspective is to regard them as constraints placed on governments by citizens. In that liberal spirit, our constitution makes it somewhat harder for governments 70 to pursue further political integration. But is this right? If democratically elected governments wish to pursue deeper integration, why should the constitution aim to inhibit, rather than facilitate? For three main reasons.

One is that Europe's governments have amply demonstrated an aversion 75 to democratic accountability: evidently, this virtue needs supplementary assistance. Second, Europe's existing institutions were designed, or have evolved, in ways intended to spur a programme of radical political and economic change- that is, to make the EU a single economic space. This enormously difficult job is done. It is a fine

80 achievement. But now the rules need to be tilted in a new direction that no longer favors radical reform over stability.

The third reason is the most important. Unless checked, deep economic integration creates a natural, but not necessarily desirable, momentum towards deep political integration. In the single market,

85 governments and officials find it annoying to have a patchwork of different policies spread across the Union. In the name of "efficiency", they favour uniformity, coherence, co-ordination and so on. But pressed too far, this

improved efficiency comes at great cost. It drives political decision-making further away from the citizen; and it stifles

90 experimentation, discovery and competition.

Europe's most exciting opportunity in the years ahead is to let competition among policies flourish inside the single economic space that is created- a possibility largely denied to the United States, with its overwhelmingly mighty federal government. Europe should seize the

95 chance: out of this untidy rivalry could come great things.

Given all this, our constitution aims to make the status quo more difficult to overthrow, and to strengthen the role of national parliaments and Europe's citizens in deciding Europe's future. The main innovation, apart from trimming the size of the European Parliament and demoting 100 the European Commission, would be the creation of a small second chamber of representatives, the Council of Nations, with members drawn from national parliaments. Its task would be a crucial one: constitutional oversight.

It is foolish to expect too much of constitutions. They can be 105 changed, for one thing, and they are only one of many influences on political change. America reveres its constitution, yet the men who wrote it would surely be astounded by the strength of today's federal government and the comparative weakness of the states. Still, efforts to devise a constitution for the European Union would encourage a

110 searching examination of ideas and purposes, which would be splendid. And any good constitution makes it harder for governments to ignore their citizens. Europe needs that badly.

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