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The Constitution of Europe

COMMENT



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is billed merely as a "Treaty establishing a Constitution for Europe," agreed to by "High Contracting Parties" — that is, national governments. It is to be ratified by national parliaments, in some cases through referenda, and it can be amended only by further Inter-Governmental Conferences, not by the European Parliament, let alone by the (non-existent) "people of Europe."

The Treaty is especially ambiguous where it uses the language of constitutions. The so-called "Charter of Fundamental Rights," for example, appears to protect civil liberties. In fact, it applies solely to acts by European Union institutions. "The provisions of this Charter are addressed to the Institutions, bodies and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law" (Art. II-51). Wherever specific rights are guaranteed, the following clause is added: "in accordance with the national laws governing the exercise of these rights."

Similarly, in its description of the EU's institutions, the Treaty essentially summarises existing law. Some new provisions — such as the weighting of national votes in the Councils of the Union — have been, and will continue to be, widely discussed. Provisions like those setting up a Commission of 25 — and perhaps soon 30 — members will probably be changed before long, because they are simply not viable. In any case, it is certain that the current text of the Treaty will not survive more than two centuries (as has the United States' Constitution), or even two decades.

So why are so many intelligent politicians making such a fuss? Europe, one must realise, is as much about symbolic acts as it is about tangible realities. This is why it has the curious quality that sometimes you see it and sometimes you don't. British Prime Minister Tony Blair had said for a long time that the Treaty was a mere tidying-up exercise and therefore not to be taken too seriously. Then the symbolic debate overwhelmed him and he changed tack entirely.

Indeed, to almost everyone's surprise, he now promises a referendum on the Treaty and says that this will decide once and for all whether Britain is in or out of the Union. A similar debate is taking place in Sweden. Elsewhere, notably in Germany and France, such sweeping claims have been made for the so-called Constitution that the few who actually look at the draft must wonder why its 125, mostly dense if not opaque, pages of text should save Europe.

Charles Grant, the head of Britain's Centre for European Reform, has speculated on what would happen "if Britain votes No". If it was just Britain, he argues, there would indeed be pressure for the country to vote again (as Denmark did in 1992 and Ireland in 2001), or to remove the country from the Union to some sort of associate status. If several others, and not just "small countries," also vote No, there will be a tendency (according to Grant), especially in France and Germany, "to move ahead with a core Europe."

But what, one must ask, would this "core Europe" do? In particular, how would the governments of any "core Europe" deal with the fact that, as the European elections in early

June have shown, their own peoples are far from enthusiastic about the Union?

All this suggests conclusions that give pause for thought. It appears that in the absence of substantive policy projects the European Union has turned inward, producing a document that claims to be far more than it actually is. Where people have a say, they will express considerable doubts, as they did in the recent European elections. Indeed, the older and more embedded democracy is in European countries, the more sceptical are their citizens towards the claims of the constitutional treaty. Thus, the gap between visions of Europe and the reality of the EU is growing.

What is to be done if one believes in the real Europe and its common purposes? The first requirement is to reduce the temperature of the debate about the Treaty. Unsustainable claims should not be made for it. The enlarged Europe can survive without it.

The second requirement is to give more prominence to the real Europe. The single market is far from complete. There are major unresolved issues in the "near-abroad" of the enlarged Union, in Eastern Europe, and in the Balkans. In short, the order of the day should be less abstract worry about Europe's identity and more practical action to define it in deeds, not symbols. —DT-PS

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THE STRANGE DOCUMENT THAT emerged from extended meetings of the Inter-Governmental Conference of member states of the European Union is technically not a constitution. Nowhere, for example, does it say "We, the people of Europe..." Instead, the document