The Unmaking of a Constitution: Lessons from the European Referenda

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The reference to a so-called "European Constitution" rendered recourse to referenda practically inevitable. Because it suggests a radical departure from the past, the term would inevitably affect how the constitutional treaty would be ratified. In a number of countries, the modifications of European treaties must in any case be submitted to a popular vote. In France, the idea of a referendum advanced by a number of personalities such as the president of the European Convention, Valéry Giscard d'Estaing, received the approval of leaders of all political groups consulted by the President of the Republic. Jacques Chirac underscored that it was "logical" to consult the people on the future of European institutions. In a period in which distrust in the political class is considerable, opposition to popular consultation risked accusations of elitist arrogance, which no political leader could get away with easily.

Even in those states with no tradition of referenda, such as Great Britain, Luxembourg, or the Netherlands, the issue was judged sufficiently important to involve the people. In the Netherlands, it was parliament that imposed a popular vote on an initially reticent government. In all, nine countries decided to resort to ratification by referendum. What was to follow is now known: after the first referendum in Spain, which saw a weak participation rate – 42.3 percent of registered voters, fewer than at the European elections of 2004 – the constitutional project would undergo in only a few days two "resounding failures." The difference between the 'no' and the 'yes' reached almost 10 percent in France and more than 23 percent in the Netherlands, where almost two-thirds of the voters voted against the treaty. In the days that followed, the British government announced its decision to "suspend" the organization of the consultation planned … for 2006! Two weeks later, confronted by the strong progress of the 'no' in the polls in those countries in which referenda were envisioned, the European Council, unable to come to unanimous conclusions, allowed each state to freely decide the steps to be taken. Predictably, all the countries concerned, with the exception of Luxembourg, announced that they were "abandoning" the vote.

The failure of this referendum campaign is indicative of the current state of development of a European political system. It is a harbinger of several messages that the Europeans must analyze.

1. Sanction-votes…But for Whom?

Political scientists use the notion "second-order elections" to describe the specific nature of European elections.[1] Since the first European parliamentary election by universal suffrage in 1979, European elections are atypical. While national elections are usually the occasion for a power struggle, this is not the case on the European level: national parties and candidates do battle prompted primarily by domestic concerns, and European questions hold only a secondary place. The voters follow suit, and usually decide in function of national considerations, with often painful consequences for the majority in power. Like midterm elections in the United States, European elections are the occasion for sanction votes against unpopular governments. The phenomenon is all the more pronounced if the government has been in power for a while. During the European elections in 2004, for example, the majorities in power in no less than 19 countries out of 25 were disavowed by their voters.

As a whole, the referenda of 2005 played out according to a similar scenario.

The decision to submit the constitutional treaty to the people, like the choice of the moment, was often influenced by domestic political considerations. By resorting to a referendum, Zapatero intended to get Spaniards' approval for the change of alliance he had carried out at the European level by moving closer to the Franco-German duo. Counting on a positive vote, he deftly chose to open the cycle of referenda in the hope that a frank and massive 'yes' would consolidate his credit with his European partners. Inversely, knowing that he was faced with a fundamentally skeptical public opinion, Tony Blair intended to dramatize the referendum issue by organizing it as late as possible. A negative vote coming after the green light of the other member states would naturally have the allure of a no to Europe, Blair would have indicated in announcing his decision. In France, it is probable that Jacques Chirac, following the precedents Francois Mitterrand in 1992 and Georges Pompidou in 1972, saw a referendum on Europe as a good occasion to divide the political opposition.

The results are equally consistent with the model of 'second-order elections.' In Spain, the government of Mr. Zapatero, still basking in the glow of his surprise victory in March 2004, comfortably achieved success (77 percent), thanks essentially to the mobilization of the voters from his party, the PSOE.[2] However, both in France and the Netherlands, governments that were breaking unpopularity records were severely sanctioned by voters. Only the 'yes' victory in Luxembourg, where the Prime Minister Jean-Claude Juncker has been in power for ten years, can be seen as an exception to the rule. But there had been the shockwave caused by the earthquakes of May 29 and June 2: Mr. Juncker managed to dramatize the vote and took risks by putting into play his mandate, which gained him the support of 57 percent of the voters.

In France, the 'no' had never reached such a level in a referendum. Exit polls indicate that a majority of the partisans of the 'no' declared they had voted in

consideration of national problems more than European issues. The analysis of the partisan composition of the voters of the 'yes' and the 'no' confirm the strength of the sanction vote. In the Maastricht referendum, a large majority of Socialist voters approved the treaty submitted to them by Francois Mitterrand. In 2005 only 48 percent of them supported the constitutional treaty project, a slap in the face to the direction of their party which had chosen to support the 'yes.' The 'no' was also the majority among supporters from other political groups from the leftwing opposition, with scores ranging from 59 percent for the Greens to 91 percent for the Communist Party. It attained 82 percent among partisans of the Front National. In contrast, while in 1992 a majority of rightwing voters had marked their hostility to the socialist government at the time by voting 'no' to the Maastricht Treaty, this time the supporters of the parliamentary majority massively supported the constitutional treaty project.[3] In other words, the 'no' is clearly from the left: 54.5 percent of its partisans declared themselves close to the parliamentary left or the extreme-left as opposed to 36.5 percent close to the right (of which 19.5 percent were close to the Front National).[4]

The sanction-vote effect is naturally favorable to populist and protest groups which generally find support for their opposition to the government. The 'no' to the constitution smelt of "anti-system," all the more pronounced in that the elites - political, media and intellectual - were largely favorable to the 'yes.' Unsurprisingly, in France, the 'no' registered its best scores in those departments where the Radical Left and Radical Right are best entrenched.[5] On the other hand, the referendum proved to be structurally destabilizing for the pro-European opposition parties, torn between a sense of duty that pushed them to support the treaty project and the will to express their identity by opposing the government. French Socialists and the social democrats of the Dutch PvdA paid for this uncomfortable situation. In both cases, party leaders who had declared themselves in favor of the 'yes' were disavowed by their voters.[6]

Finally, the political construction of Europe seems to have played a major role only for the proponents of the 'yes.' In France, 50 percent of them – compared to only 4 percent among the 'no' voters – declared themselves motivated by assuring Europe's position in the world, and 38 percent (as opposed to 17 percent) by the role of their country in Europe.[7] Even though the gap is less clear-cut in the Netherlands, voters' opinions vis-à-vis the European Union and the constitution seem to have played a more important role in the 'yes' camp.[8]

Analyzed in this way, the results appear almost reassuring, like anything that is familiar. Moreover the 'no' camp did not necessarily seek to be anti-European. In France an important role was played by socialist leaders like Laurent Fabius, who declared themselves in favor of a "pro-European no." A clear majority of the French (57 percent) who voted 'no' even claimed to be "favorable to the pursuit of the European construction."[9] Two-thirds of them consider as well that a constitution is essential to this process.[10] With a bit of optimism, one could conclude that the same text, presented at another moment by other governments, would

have more of a chance of succeeding, as Valéry Giscard d'Estaing suggested shortly after the vote.[11] However, this analysis is short-sighted: the debate and the vote revealed perceptions of Europe that could announce other troubles if they remain without response. Even if we accept the idea that the sanction was essentially national, it needs to be understood why Europe was used as a scapegoat.

2. Europe Frightens

In recent years, European integration, associated for a long time with the hope of a better future, has become the source of worries for a growing number of citizens. At the time of the French referendum, 52 percent of those questioned and more than three-quarters of the proponents of the 'no' declared themselves worried by or hostile to Europe. For the past ten years, the number of people worried regularly exceeded the number of those who declared themselves confident.[12]

This feeling is easily explained. In a world subject to rapid and radical mutations, the feelings of insecurity tend to grow and diversify. Public authorities are expected to ensure citizens' security. Current insecurity feelings are due to a number of elements. Economic and social factors encompass those uncertainties that weigh on employment (unemployment, precariousness, new forms of work); on retirement, threatened by the demographic evolutions; even on health systems. Identity factors appear equally important: a number of mutations that affect European societies challenge the points of reference which have structured social life for a number of generations. The transformations of the working classes, immigration, the weakening of traditional integration structures such as schools, churches, political parties and unions, all have contributed to the creation of a universe in which identity landmarks are more difficult to find.

In this context, anxiety, fuelled by the xenophobic discourse of certain movements, naturally becomes strong. Now, Europe is perceived primarily as a big market, in which the ambitions in the matter of security do not necessarily equal the public's expectations. The formation of a European space seems all the more so threat in that this space tends to expand without precise limits. The free circulation of persons benefits not only students but also immigrants; and the exposure to competition, if it is certainly a source of increased wealth for some, can also lead to corporate closures. Furthermore, Europe imposes on national governments constraints that can reduce their abilities to act. The elimination of border controls and the budgetary austerity imposed by the stability pact limit states' possibilities to assure their traditional functions as security providers, and the EU has not really taken over from them. The dangers that can result from this gap are evident. The impression - justified, or not - that the expectations of the population in this respect are not adequately taken into account has clearly played a role in the "anti-system" votes that have been registered in the past few years in a number of European countries. The European referenda have breathed new life into them.

The advocates of the 'no' were able to profit from this situation, by playing on the fears of large segments of the population. During the French campaign, the institutional reforms, which constituted the principal reason behind the constitutional project, were completely obscured by the main theme of the campaign: the "liberal" (free market) nature of European construction. Liberalism was perceived as the quintessential threat. Rather than thinking about the articulation between the market and social policy, the leaders of the 'no' deliberately sought to oppose these two notions: "Europe will be liberal or social" declared Laurent Fabius in an interview to the communist daily *L'Humanité*.[13] The message was heard. The dissatisfaction with the economic and social situation appears largely at the top of the motivations of the supporters of the 'no' (52 percent). Forty percent judged the constitution too favorable to the market economy.[14] Identity factors seem to have equally played a key role in the motivations of the 'no.' Coupled with the fears engendered by the economic situation there appeared a feeling of "social demotion" among the less educated segments of the population.[15] The fear of the "Other" whether he be a wage-earner from the eastern countries or a Turkish immigrant, was a powerful lever in the campaign against the treaty. Its efficiency is beyond doubt: 67 percent of voters for whom there are too many foreigners in France voted against the constitutional treaty, while opposition to the membership of Turkey in the European Union constituted a deciding factor for 35 percent of supporters of the 'no.'[16] In the Netherlands, the question of national sovereignty and the problems linked to immigration held a major position in the campaign.[17]

3. A Social Fracture

The feeling of insecurity has accentuated a social stratification of the vote that past studies of European opinion had brought to light. In France, thanks to the strong mobilization of popular classes, the 'no' acquires a large majority amongst the working classes of the population: 79 percent of blue-collar workers, 67 percent of employees. The 'no' boasts a minority only amongst students (46 percent) and retirees (44 percent). Thanks to a progression of 19 points since the vote on the Maastricht treaty, it has become a majority amongst the middle classes (53 percent). The same observation holds for the repartition by revenue: the 'yes' prevails only in those households where monthly salaries exceed 3000 Euros.[18] This divide can be found in other European countries: in the Netherlands, if the 'no' prevails in all categories, it is by 78 percent, or 16 points above average, for blue-collar workers. Even in the rich Grand Duchy of Luxembourg, it got a clear majority (66 percent) in the same category. There is thus a homogenous social profile of the 'no' in Europe: it dominates amongst the 18–24 year olds, blue-collar workers and those people with the lowest levels of education.[19]

These findings can, in part, be explained by conjunctural factors. Traditionally, public opinion's support for integration is sensitive to the economic situation. It

weakens when the unemployment curve rises or in periods of slow economic growth.[20] The worse this gets, the more fears grow, fuelling in some countries a temptation to turn in on themselves. In these conditions, how can one be surprised that the left was seduced by the no?

But, the outline of a deeper social fracture is visible. On the one hand, social groups of educated individuals open to multiculturalism, for whom opening up to Europe and the world constitutes the occasion to broaden their personal and professional horizons, and who look to the future with confidence. On the other hand, those who see their way of life threatened by economic mutations, the rise of precariousness, the reduction of public services, and who are confronted on a daily basis with the presence of an imperfectly integrated immigrant population. They have lost all confidence in traditional political parties; they are pessimistic as to their future and that of their children.[21] One of the keys to the French vote, and the principal difference with that on the Maastricht Treaty, is due to the shift of an important segment of the middle classes, well represented among the voters of the Socialist Party, from the first to the second category, that of fear and thus of the 'no.' If this situation were to last and to be generalized, it would endanger the pro-European coalition, cutting across partisan cleavages, that exists in a number of countries.

4. Appropriating Europe

On at least one point, the advocates of the 'yes' and the 'no' would agree: the intensity of the debate revealed a real will to appropriate the European issue. France, which was accused of being apathetic and disabused by politics, witnessed a campaign of an intensity rarely attained in the past. Europe, which had long ceased to enflame the masses, became once again the subject of passionate debates in which the participants often faced off with lengthy quotes from the constitutional treaty. Discussion forums multiplied on the web, as well as individual blogs, seeking to share personal readings and questions on the project. They were often unfavorable to the constitutional project. [22]

The will to master the issue was firstly intellectual: the objective was to understand a complex text and to grasp its significance for the general evolution of the European project. The challenge is considerable. Firstly, because the workings of the European institutional mechanics remain misunderstood: in all of the countries in which a referendum was organized, a lack of information figured systematically in the top causes of abstention. In the Netherlands, it was even the first justification put forth by the supporters of the 'no' to explain their choice.[23] The campaign also showed that public opinion has difficulties making sense of European integration in a context marked by the end of the Cold War, globalization, the emergence of new international actors, the transformation of the European economy, etc. How can a political system that is not a state, though it possess a number of the attributes of a state, and whose territorial limits

remain uncertain (since it seems to have a vocation to enlarge endlessly), be understood? This "crisis of minds"[24] made more than one publisher happy, because of the explosion in the sales of books dedicated to the constitutional project, but it is doubtful that this suffices to appease the Europeans' thirst for knowledge.

The campaign and the vote also revealed citizens' clear will to influence the political future of Europe. Polls have illustrated for a long time that the European Union – "Brussels" – is often perceived as a distant entity, insensitive to the concerns of common mortals, sometimes even arrogant. A majority of Europeans estimate that their voice doesn't matter much.[25] The demands for a larger role for the citizens figured in the arguments of both camps. It was natural that this aspiration be translated into a higher participation in the vote: in France, it attained 69.4 percent of registered voters, almost at the level of that of the Maastricht referendum (69.7 percent). In the Netherlands, where in the absence of a referendum tradition there was no precise mark, the parties of the majority indicated that the government would be bound by the result only if the participation rate exceeded 30 percent; in the end it reached 62.8 percent. In the two countries, the proponents of 'no' managed to seize on the trend, and present the rejection of the constitution as a unique opportunity for citizens to make their voices heard.

This desire to weigh on the course of events is noteworthy. Over the past few years, a revisionist wave has developed in the analysis of European integration, questioning the traditional readings of the "democratic deficit."[26] In a union of states, it is said, is it not normal that political choices be legitimized above all by the will of governments, themselves democratically legitimized by the suffrage of their citizens? And shouldn't the weak turnover registered in the European elections be seen as the indication of a lack of interest in Europe? These criticisms, which often are based on very thorough analyses of the European reality, usually end up in a plea for the status quo, the current system being perceived as best adapted to the current situation of the European construction.

The spring 2005 referenda have, however, shown that when they are called upon on precise issues (which is not the case at the moment of European elections), European citizens give clear evidence of their will to weigh in on the choices that are made. Both supporters and adversaries of the constitutional treaty agreed that the weight of the citizens should be reinforced; their main disagreement was on the best way to reach that goal. In sum, no one was satisfied with the status quo. That is an important point. In the future, when the history of this period is written, perhaps it will be seen as an important turning point. In nation-states, the political community began to take shape the day the citizens became worried about the consequences on the local level (the only one which counted in the past) of the choices that were made on the national level. Perhaps the recognition of the direct links that unite national politics and European politics, witnessed during the debates on the referendum, mark an important step in the constitution of a European political space. In order for the latter to emerge

completely, however, a considerable difficulty must be overcome: how can a real transnational dialogue be organized in a union of heterogeneous states?

5. The Difficult Emergence of a European Public Sphere

The works of the German philosopher Jürgen Habermas insisted on the necessity of the construction of a transnational space for deliberation if we are to take the idea of democracy at the European level seriously.[27] One cannot in fact speak of democratic deliberation if the participants of the debate do not pay attention to the viewpoints that are expressed in other parts of the Union. Yet, the practical obstacles are considerable. The average knowledge of other member countries remains limited – whether it is of their history, their culture, their way of life, or their political preferences. National media often pay only superficial attention, often to confirm old prejudices (the British are the vassals of America, the French obsessed with their past grandeur, the Italians unreliable…). Finally, there are no common media and how could it be otherwise, given the absence of a common language?

The difficulty of the question is well illustrated by the way in which the debate on the ratification of the constitutional treaty was organized. After all, given that the referendum involved a constitutional text conceived to direct the whole of the European Union, it would have been logical that this debate be organized at the European level.[28] Towards the end of the European convention's work, an important number of its members, worried about avoiding the nationalization of the debate, pleaded in favor of a consultation that would be held simultaneously in all member states of the European Union. In this way, they suggested, the peoples of Europe would have the opportunity to decide together how the political system of the Union should function and to compare their viewpoints. The national governments did not see it this way: for them, being the product of an inter-state agreement, the constitutional project could only be approved *individually* by each country. A pan-European consultation could have marked a symbolic step toward the constitution of a European political body, a result to which most of them were hostile.

The campaigns that followed showed that the legal reading of the European situation made by the governments reflected rather well the social reality of the moment. The arguments remained largely national, despite the occasional interventions from political leaders of other countries, more frequent in France than elsewhere. The leaders of the French socialist party, who drew argument from the general support of European socialists and the European confederation of Trade Unions for the treaty project, rapidly saw that the argument remained without echo, when it wasn't purely and simply returned by the 'no' camp on the theme: "the French people are mature enough to decide for themselves." The themes of the campaign significantly varied from one country to another: the neoliberal nature of the treaty and the fear of industrial delocalization for the French; for the

Dutch the contribution to the community budget and the refusal to dilute national identity in a melting pot. In themselves, these divergences are hardly surprising: they only reflect basic differences in the situation and the preferences of each country, moreover, this kind of territorialization of issues is far from unheard of in countries with a unitary structure. On the other hand, the preoccupations and the arguments involved in other countries received very little attention. How many French heard about the reasons that pushed the Spanish to vote yes, or the worries of the Dutch?

The debate on a social Europe, which constituted one of the highlights of the French campaign, demonstrated how difficult it can be to take into account others' perceptions of reality. Many a discussion – among others about the so-called Bolkestien directive – started from the idea that it was indispensable to protect the French social model against any threat of dilution that could result from a "race to the bottom" in terms of social protection, especially following enlargement. The remedy invoked held in one slogan "A Social Europe," that is to say, for the most part, an alignment of the social standards of all countries on those of France. This reading of the problem obscured nevertheless an essential aspect: even those partners the most concerned with social justice would hesitate to qualify France as a social model. When one considers the unemployment figures, the employment of the over-55 year-olds and the solidity of the retirement system, France often lags behind. In these conditions, countries like Denmark or Sweden would obviously refuse to align themselves on the French model, not because they are obsessed with a liberal logic but because they would wish to protect their own Welfare State. If a "social Europe" sees the day, it is unlikely too take the form of a complete harmonization. The fact that this aspect of the question did not emerge during the campaign illustrates one of the great problems of France in European debates: the difficulty of representing that others may have a different point of view and its corollary the incapacity to conceive of a Europe other than as a "Great France," which equally surfaces in many litanies on a "*l'Europe-puissance*," i.e., the idea that the Europe show somehow acquire the status of a real international power.

Conversely, the French debates were largely followed in the rest of Europe. Seeing a founding state, who has not stopped playing a leading role in the European construction, and whose traditional views found an echo in the constitutional project, thanks notably to the (French) president of the convention, rise up against this project was enough to surprise France's partners. Interestingly arguments opposed to the text were those that echoed most abroad. Irony of history: while the idea of a constitution was primarily conceived to encourage the development of a common European consciousness, the project above all contributed to assuring the diffusion of feelings that were hostile to it – an "anti-constitutional patriotism" in some ways, diametrically opposed to that which Jürgen Habermas imagined, but which may have contributed to the emergence of a public space which he had hoped for.

Whatever the case may be, one thing is clear – and it is the fifth lesson that must be learned from the 2005 referenda: the juxtaposition of national campaigns does not suffice to prompt a European debate.

6. Why Referenda Are Inadequate

The phase that finished with the vote in Luxemburg in June 2005 showed to what extent the handling of an instrument like the referendum was delicate in the framework of a Union of states.

Hypothetically, the referendum assumes that the most simple of answers – yes or no – can be given to the question asked. Yet, this binary nature is singularly unsuitable to the complexity of the issues. What are the ambitions of the Europe of tomorrow? How should Europe be governed? What should the balance be between the Union and the member states, between the different European institutions? So many sensitive questions, to which eighteen months of intense debate only brought partial answers, such was the distance of the initial positions. And one would want to pass on the final compromise by some sort of magic lantern that erases all the nuances?

The referendum campaigns that this path entailed brought a series of risks.

Excessive polarization, firstly. To be sure, there was debate, which is in itself positive, and it was even of rare intensity, with the exception of Spain. But at what price? Half truths, truncated quotes, excessive simplification, and excessive dramatization: the list of vices of the discussion is long. Did it have to come to this to talk about Europe? Those, like Jacques Delors, who sought to avoid simplistic sketches, rapidly noticed that there was hardly room for nuances. It is not in this type of debate that the citizens would find answers to the question that torment them.

Second comes the risk of coalitions of opposites. Even if by magic the referendum campaigns had not been "polluted" by national political considerations, the binary nature of the question would have nonetheless united those driven by diametrically opposed motivations in a negative vote. For, as the posters of French right-wing politician Phillippe de Villiers proclaimed, with a text of 448 articles, "we all have a reason to say no": those who deplore the absence of a reference to God in the constitution and those who fear the undermining of secularism; those who criticize the weakness of social measures like those who would like to see more considerations for corporate competitiveness. Yet again, is a convergence of this type likely to clarify the debate? It clearly did not help to identify alternative solutions. And how could it be otherwise? It is difficult to imagine radical left and extreme right leaders agree on a common European project. Yet the dangerous simplicity of the referendum permitted them to win together on May 29.

Herein lies the heart of the problem. Because it unites old states, whose preferences are often heterogonous, Europe is condemned to the pursuit of consensus. One of the principal reasons for the success of the European construction, singular

experience in the history of peoples, is due to an uncommon capacity to produce compromise. The heavy EU machinery is conceived to favor the emergence of large convergences. Each institution works toward this end in its own way: the Commission thanks to the collegial nature of its decisions, the Council through the use of the qualified majority voting as a weapon of last resort; and even the Parliament, where party considerations play a larger role, knows it is essential to identify common ground between the 129 national groups represented within if it intends to weigh in relationships with the other European institutions.

All these compromises require patient negotiation between the representatives of the different interests that coexist within the European polity: national interests, sectoral interests, ideological preferences. The price of this governance by consensus is known: an opaque system, barely legible, in which it is difficult to identify with precision those responsible for a decision—and thus to censure them if necessary.

In these conditions the attraction of procedures destined to permit citizens to express their voice in a more direct fashion is understandable. This injection of participatory democracy must however not threaten the consensual essence of the system. One should therefore avoid pseudo-simplifying mechanisms in which heterogonous coalitions, that everything opposes, can imperil patiently negotiated compromises even when they are incapable of proposing an alternative.

6. The Crisis of the Fischer Method

The disenchantment of the citizens with regard to Europe is often attributed to the functionalist method followed in the past. By deliberately avoiding discussion on the political finalities of integration and in multiplying ad hoc forms of cooperation, an edifice of a great complexity was put into place on the European level, so it is said, and the citizens are not capable of making sense of the European construction. German Foreign Minister Joschka Fischer echoed this criticism. In his famous speech in Berlin, given a few days after the fiftieth anniversary of the Schuman declaration, he clearly distanced himself from what he called "the inductive communitarization according to the Monnet method."

> This gradual process of integration, with no blueprint for the final state, was conceived in the 1950s for the economic integration of a small group of countries. Succesful as it was in that scenario, this approach has proved to be of only limited use for the political integration and democratization of Europe. …Today, a crisis of the Monnet Method can no longer be overlooked, a crisis that cannot be resolved according to the method's own logic.

This is why he pleaded in favor of a reflection on what the political architecture of the Union should be at the end of the integration process.

Whatever one may think of the criticism of functionalism proposed by Fischer,[29] it is evident that his analysis had a strong impact. Widely shared at the

time, it inspired a change of course. In 1999, under the German presidency, the European Council entrusted an assembly composed of representatives of governments, of national parliaments and of member of the European parliament with the drafting of a charter of fundamental rights - "to render visible that which had been invisible", that is to say Europe's interest for fundamental liberties, in the words of Fischer. After the semi-failure of Nice, the European Council at Laeken endorsed the diagnosis of a crisis of the Monnet method. The formula of the convention was thus retained to begin reflection on the "finalities of Europe" desired by the German minister. It later gave birth to the draft constitutional treaty. The failure of this must lead us to question the validity of the "Fischer method."

The experience of the convention confirmed the difficulties faced when the agenda deals essentially with institutional questions. From the instruments that they were, the institutions have become ends in themselves. National susceptibilities awoke and the negotiation took on the attributes of a zero-sum game, rendering the search for an agreement more arduous. As the convention was unable to identify the contours of a common ambition, the debates became harder as soon as institutional questions were brought up. The artificial divide between "large" and "small" countries, largely absent in the last decades, became a central problem,[30] which explains the rather tumultuous end of the constitutional drafting process, with an agreement extracted *in extremis* despite the objections proffered by the Spanish and Polish delegates.[31]

The absence of a clear political project not only complicated the task of the negotiators, it also rendered more difficult the defense of the final compromise. The referendum debates permitted the testing of the validity of the method recommended by Fischer and the advocates of a debate on the ultimate objectives of the integration process. With known results: throughout the various referendum campaigns, the institutional questions were kept in the dark in favor of controversies on the content of existing treaties, and a question remained without an audible answer: what was the purpose that the proposed reforms were meant to serve? Seen in that light, the rejection of the constitutional project is hardly surprising; it only confirms the lessons of fifty years of integration. That lesson must be taken into account in the future. As in the past, Europe will evolve only to reach precise objectives, not on the basis of an abstract model of what a good European government should look like.

NOTES

1. The expression was first coined by K.H. Reif and H. Schmitt, "Nine Second-Order Elections. A Conceptual Framework for the Analysis of European Elections Results," *European Journal of Political Research* 8 (1980): 8.

2. "The European Constitution. Post Referendum Survey in Spain," Flash Eurobarometer 168, March 2005.

3. Data from the exit polls of the CSA, "Le vote au référendum sur le traité constitutionnel européen: explication du vote et perspectives politiques," May 29, 2005.

4. IPSOS poll, May 29, 2005.

5. Pascal Perrineau, "Le référendum français du 29 mai 2005. L'irrésistible nationalisation d'un vote européen" in P. Perrineau, ed., *Le vote européen 2004–2005* (Paris: Presses de Sciences Po, 2005), 237.

6. Ben Crum, "Competing Cues: Competition and Collusion of Party Strategies in Referendums on the EU Constitution," report presented at the meeting of the EPSnet network, Paris, June 17–18, 2005.

7. CSA poll, May 29, 2005.

8. "The European Constitution. Post-referendum in the Netherlands," Flash Eurobarometer 172, June 2005.

9. IPSOS poll, May 29.

10. "La Constitution européenne. Post-référendum en France," Flash Eurobarometer 71, June 2005, 6

11. "Réflexions sur la crise de l'opinion à l'égard du vote," *Le Monde*, June 14, 2005.

12. CSA poll, May 29, 2005.

13. May 17, 2005.

14. IPSOS, "Les motivations du vote selon la proximité syndicale," June 2, 2005, 4. Too liberal, in the French political vocabulary

15. Perrineau, "Le référendum français du 29 mai 2005," 238.

16. IPSOS, "Les motivations du vote selon la proximité syndicale," 4.

17. René Cuperus, "Why the Dutch voted No. An Anatomy of the new Euroscepticism in the old Europe," *Progressive Politics* 4, no. 2 (Summer 2005): 92–101.

18. IPSOS, "Le Non des classes actives, des classes populaires et moyennes et du peuple de gauche," May 30, 2005.

19. "La Constitution européenne. Etude Post référendum au Luxembourg," Flash Eurobarometer 173, June 2005.

20. Bruno Cautrès, "Les attitudes vis-à-vis de l'Europe," in Pierre Bréchon and Bruno Cautrès, eds., *Les enquêtes Eurobaromètre – Analyse comparée des données socio-politiques* (Paris: L'Harmattan, 1998), 112–13.

21. The radical right parties largely benefited from this: see Pascal Perrineau, ed., *Les croisés de la société fermée* (Paris: Editions de l'Aube, 2001).

22. The most famous is without a doubt that of a high school professor from Marseille, Etienne Chouard. www.etienne.chouard.free.europe.fr/europe

23. Flash Eurobarometer 172.

24. The expression is borrowed to Larry Siedentop, "A Crisis of Legitimacy," *Prospect* 112, July 2005.

25. Eurobarometer 63, July 2005.

26. See for example Andrew Moravcsik, "Reassessing Legitimacy in the European Union," *Journal of Common Market Studies* 40, no. 4 (2002): 603–24.

27. Habermas, *The Postnational Constellation: Political Essays* (Cambridge, MA: MIT Press, 2001).

28. Tommaso Padoa-Schioppa, "Non mentire sul No Francese," *Il Mulino*, July 2005.

29. See R. Dehousse, "Re-Discovering Functionalism," in C. Joerges, Y. Mény, and J. Weiler, eds., *What Kind of Constitution for What Kind of Polity? Responses to Joschka Fischer* (Florence: European University Institute, 2000), 195–202

30. Giuliano Amato, Jean-Luc Dehaene, and Valéry Giscard d'Estaing, "L'Europe de demain: la fausse querelle des 'petits' et des 'grands'," *Le Monde*, November 14, 2003. See also Paul Magnette and Kalypso Nicolaïdis, "Petits et grands Etats dans l'Union européenne: réinventer l'équilibre," *Notre Europe, Etudes et recherches*, May 2003, http://www.notre-europe.asso.fr/article.php3?id_article=216&lang=fr.

31. On these negotiations, see A. Dauvergne, *L'Europe en otage, Histoire secrète de la Convention* (Paris: Editions Saint-Simon, 2004) and P. Norman, *The Accidental Constitution: The Story of the European Convention* (Brussels: Eurocomment, 2003).

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