

After the French and Dutch rejection of the EU Constitution

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Dangerous times for the European Union

The rejection of the European constitutional project by the French and Dutch electorates has dramatized the on going crisis of not only the EU, but of European politics in general and its economic health. The reality is that the life of the European integration process is a paradox. For many cycles in its existence it has been hostage to what was called “euroesclerosis”. This disease was overcome by the Maastricht Treaty that transformed the old European Community into the European Union, the euro as common currency, and the spectacular enlargement to encompass 25 countries. But the old “euroskepticism” has been latent since and hovers over Europe as a formidable menace.

Curiously, in spite of the fact that the EU process seems to be slow and frustrating, each inter-American experiment in regional integration (and also in other regions, such as the African Union) refers in one way or another (institutions, mobility of production factors, development funds) to the European Union. The EU, paradoxically, may now die of success. Why? Because it terrifies precisely those people who think the European experiment has gone too far. And, contradictorily, it leaves unsatisfied other sectors that consider the current European path as too prone to be business-friendly and hard on social protection. Ironically, the EU has not only met its mandate (to stop the European wars and reduce imbalances), but it has surpassed it.

The enemy within

The moment is serious. But this time the alarm is not centered on the poisonous darts coming from Washington. Red flags do not come from a U.S. administration jealous of the EU’s potentially autonomous foreign policy. Concern is not limited to some shortsighted circles that parallel the new Airbus to the Soviet Sputnik in the 50s. This time, the cancer is internal.

Once the original EU aim has been accomplished (make war unthinkable and erase racism and ultranationalism), this new scourge is intimately linked to European distrust of itself and a sentiment of not belonging to a common project. Significantly, Europeans (especially the ones who do not quite adapt themselves to the idea of being in Europe) keep making the same mistakes.

The delicate moment in which the EU is immersed may lead to one of the most dangerous crises of its dense half-century of history. The culprits are three crucial states. One is predictable: the ever reticent United Kingdom. The second, amazingly, is the irreplaceable founder, without which the EU did not make sense: France. Thirdly, to ice the cake, the threat of a Dutch special treat (veto) menacing on June 1 has been finally and fatally confirmed.

This drama began to unfold on May 5 when British voters reelected Blair without even bothering to think about the European Union. This was a wise decision, taking into

account that later on the British leadership will face a double challenge: during the second semester of 2005 the UK will take its six-month term presiding over the EU. In 2006 the British will have to meet the deadline for the British referendum on the European Constitution, if it ever is held. In any event, a long cycle will end, from a beginning when the Labour Party opposed membership in the EC and the Tories were in favor of a project that they considered simply commercial. Now British opinion is divided between the right and center opposed to a federal EU and a left that has been recycled and is now confused, but still very British and little European.

The conservative pressure in Britain to reduce the EU to only a free trade scheme, far from the federalist goal, is well and alive. Blair will have to convince the Brits to be really in Europe. But, what Europe? In any event, when predictably in 2006 Britain does not ratify the Constitution, it will not be the end of the EU. But the moment will have arrived for London to make a choice. Out of the euro, rejecting the Constitution, opposing a European autonomous foreign policy: with three strikes, you are out -- elegantly. However, with no Constitution, and the EU autonomous foreign policy in doubt, the British may finally fit in a "light" EU. Still, what EU?

The irreplaceable France

A different problem and a disaster is presented by the French rejection of the Constitution. France is the irreplaceable member. It is the patrie of Schuman and Monnet, who crafted the deal to share coal and steel with Germany to seal the necessary reconciliation, of Jacques Delors, the most decisive president of the Commission in history, and of Valéry Giscard d'Estaing, who presided over the Convention that approved the Constitution. Only Germany has more borders with other European countries than France. The rejection made by the French hexagon will surely produce a cascade of collateral damage. It will be a bad example for the new members, disappoint Germany, produce an erosion of the euro, and will execute a death blow to the common foreign and security policy of the EU. The alternative of the survival of the economic and trade pacts will not suffice, lacking political commitment.

Amazingly, this disaster has been caused by a novel French coalition formed by a xenophobic right and a divided left (each one asking for a different type of Europe), badly controlled by the erratic presidential leadership of Jacques Chirac, who will be heavily pressured to resign, beyond the simple replacement of his Primer Minister. Charles de Gaulle would have preferred this time a French grandeur subject to a strong EU. Now France may be left without either one.

Is there any life beyond the EU Constitution?

The European Constitution is dead; long live the European Union. Of course, there is still a future for the EU. Among other reasons, the EU enjoys a solid legacy, and its present lasts as long as the current stage of ratification of the Constitution. The EU was neither founded nor died this past Sunday with the French referendum and with the Dutch decision this Wednesday. In addition, France and the Netherlands do not have a monopoly on the European integration trademark. This is the most ambitious and

successful experiment in state cooperation in the history of mankind, deserving respect and hope. Careful analysis has to be addressed at different levels: legal, political, and sociological.

In the first place, the EU is, since birth, a community of law. As such, it has to follow the current juridical framework that demands to complete the process of ratification through referendums or parliamentary approval in each and all of the EU member states. The freezing of the on going process, denying the right of a dozen countries to express themselves, is a brazen act of arrogance that only some British leaders or populist opportunists are capable of designing. The constitutional project, already approved by all the democratically elected governments, is crystal clear: the process of ratification will only end in October 2006, when all the citizens or their representatives have had the chance to express themselves.

To do otherwise (considering the French or Dutch votes as a general plebiscite) is comparable to accepting, in an Orwellian manner, that some citizens are more equal than others, voting in Marseille or Rotterdam on behalf of the people in Warsaw or Prague. This juridical detail cannot be avoided at any cost, unless one elects to violate the current law and opts for a variance of a coup d'état, masqueraded as a decision of the European Council, the only body capable of slamming on the brakes on the rest of the referendums or parliamentary ratifications.

In any event, as a community of law, the EU still can function through the Nice Treaty and previous regulations. In fact, many of the previous aspects would still be applicable, even with an approved Constitution, until 2009, and even beyond. In sum, there is still life after the death of the EU Constitution.

In the second place, the political earthquake caused by the French refusal, and the additional negative outcome of the Dutch process, has important consequences with notable legal repercussions. It also impacts the process of European integration in general, but especially for the redefinition of the nature of the EU itself.

In isolation, the moderate negative vote of the Netherlands, a small country (but the most important of its class, and a founding member of the EU), would have remedial treatment and a possible exceptional justification. However, the bluntness of the negative message (62%), and the high participation (70%) deserves closer attention. Combined, the result in both countries is alarming coming from founders of the EU.

In isolation, the French slap to the Constitution is very difficult to accept. It is also possible to claim that almost 55% of 70% of the electorate that went to the polls does not have the right to stop the process. In cold numbers, around 15 million French (and barely a few million Dutch) can enjoy the luxury of overturning the decision of more than 220 million Europeans who have already approved the text. In essence, this French/Dutch minority will hold hostage more than 400 million Europeans. It is absurd and unfair, but that is the law.

An assessment

It is now too late, but in an EU that is on its way to reduce the number of decisions subject to unanimity it is contradictory that today electoral decisions cannot be made through a European-wide (not based on states) jurisdiction. Globally considered, the Europeans would easily approve the Constitution.

This assessment is closely linked with the debate on the nature of the EU. It is a debate between the deepening of a supranational mission and the widening based on free trade under the logic of an inter-governmentally structured organization.

On a sociological level, the defeat of the French government is the consequence of a boutade: the problem with democracy is the people. Citizens have not read the Constitution, are not interested in it, and they are not prepared to understand it. So? Let's be sincere: the general electorate of any country do not read op-ed pieces or philosophical treatises. The majority of citizens has not read the constitutions of their own countries, their penal, commercial, and tax codes. People have to consult with attorneys, accountants, and bankers to decipher them. This is what the countries where the EU constitution was or is going to be ratified in parliament actually did.

Why, then, did the current process (more especially in France than the Dutch case) has to be different? Because rather irresponsible politicians, in some emblematic cases, such as the French (calls for Chirac to resign beyond the naming of Villepin as Prime Minister will not cease) played with fire, follow a demagogic path, and left a decision different than the original intention in the hands of the electorate as if going to normal presidential or congressional elections.

The result was that the process of ratifying the Constitution was considered as plebiscite, for or against the incumbent government. It was never an evaluation of the cumbersome text. It is the same endemic problem encountered by the elections for the European Parliament, held as support or punishment for national parties.

A glimpse to the future

For the moment, legally speaking, one has to wait to end the process in November 2006. If then, at least 20 (80% of the 25 members) countries have ratified the Constitution, the European Council (by Declaration 30 annexed to the treaty) will decide what alternatives there are. Among them, besides the continuing implementation of the existing treaties, is the rescue of certain aspects of the project (stable presidency, simplified voting system, a Minister of Foreign Affairs, autonomous defense), and the option of "reinforced cooperation" (as exemplified by the euro) among some countries that serve as an engine for future deeper integration. Above all, what is recommended now is calm. But even this is going to be difficult. The shock is deep, the anger is high, and the disappointment is of historical dimensions.

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