

BERNARD CASSEN

ATTAC AGAINST THE TREATY

‘**T**HE REJECTION OF the constitutional treaty in the Dutch and French referenda has put in question the fundamental structures of the European Union. They will need to be razed to the ground in order to build a democratic, social Europe, truly independent of the United States, that will maintain relations of solidarity with the rest of the world and with the generations to come.’ This was the burden of the 5 June 2005 declaration, ‘For the Democratic Refoundation of Europe’, by the Administrative Council of ATTAC.¹

ATTAC was justly charged by the French media with spearheading the No campaign against the EU constitutional treaty, which turned France into a vast popular-education forum during the spring of 2005. Thousands of citizens followed a crash course on the history of the EU, the workings of its institutions, the content of preceding treaties, especially that of Nice, and the prospects opened by the ‘constitution’. The two hundred-odd local ATTAC committees played a decisive role, both in analysing the terms of the constitutional treaty, explaining its content and the issues at stake, and mobilizing support on the ground. The campaign itself brought a new dynamic into play, unifying activists from anti-globalization movements, trade unions, grass-roots associations, political groups and thousands of unaffiliated citizens. This coming together produced its own *elan* which was central to the final result.

The collective appropriation of the treaty also had the effect of ‘naturalizing’ the European question, long considered beyond the scope of national politics. For the first time, the link has been made between neoliberal

policies formulated at EU level and those pursued ‘at home’. There are very few fields now, especially in the twelve countries that make up the Eurozone, in which national legislation retains any degree of independence. On the whole, domestic policy is no more than the application in a national context of decisions taken either by the twenty-five member governments, or by autonomous bodies such as the European Commission or the Court of Justice of the EU. The notion that ‘Europe’ is something external is fast losing ground.

A handle on Europe

Why has it taken so long for the peoples of Europe to break the silence over mechanisms of rule that make such a mockery of democracy? Three reasons suggest themselves. First, the political processes involved derive from a different logic to that of national decision-making, confounding normal reference points. Legislation, for example, is largely the task of the Commission, which has a monopoly on initiating bills; the European parliament can only participate in law-making in those areas where it has been granted powers of co-decision; and a considerable amount of the legislative process falls exclusively upon the Council, that is, upon member governments. It is no easy matter to distinguish the legislative from the executive in such a jumble of genres. Secondly, for those who run the governments and media in most of our countries, the notion of Europe is sacrosanct. Any serious critique of its anti-democratic character is said to give ammunition to the Euro-sceptics. There is some truth in this: a comparison between the institutions of any member state and those of the EU can only reflect badly upon the latter; the EU famously fails to meet its own membership criteria on democratization. In fact—and this is the third reason for the silence—our rulers are eminently comfortable with the EU arrangements, in which the combined national executives constitute the legislature. The dream of every government to lay down the law without interference from elected representatives becomes reality at European level.

The classification of EU business as foreign affairs is an additional boon for European rulers since it ensures that its agreements are governed by diplomatic procedure. Heads of state or prime ministers retain the

¹ For the full text of the Declaration: www.france.attac.org. The Association pour la Taxe Tobin pour l'aide aux Citoyens was founded in 1998, in response to an appeal that first appeared in *Le Monde diplomatique*. See Cassen, ‘On the Attack’, NLR 19, Jan–Feb 2003.

discretionary power to sign EU treaties, even though these are usually more concerned with regulating the daily lives of the national populations than relations with other states. Thus the free-market provisions of Maastricht or the Single European Act have the same legal status as the Treaty of Versailles. Parliamentary ratification normally presents no problem, if the government holds a majority. But referenda are more unpredictable. Neither Chirac nor Jospin were prepared to risk putting the treaties of Amsterdam and Nice to the sovereign judgement of the people, after the Maastricht Treaty only scraped through the 1992 referendum in France by 50.5 per cent. How long will it be until Europeans are next allowed to cast a vote on an EU agreement?

The effect of successive EU treaties since 1986 has been to accelerate the homogenization of social and economic policies throughout the member states. Theoretically there were two possible approaches: an upward harmonization of norms, which could have extended social gains, or their levelling down by market forces. The second course was chosen. The outcome was facilitated by the anti-democratic nature of the EU structures—the Commission's monopoly over proposing legislation and the Council's power of decision over it; that is, governments acting free of any effective parliamentary controls. With the zeal of the converted, Europe's centre-left parties have protected themselves against any social-democratic temptation by signing up to the Single European Act and the successive treaties, from Maastricht on, that have enshrined neoliberalism as the EU's guiding principle, and the Court of Justice as its watchdog.

These mechanisms have been particularly successful in generalizing neoliberal policies because they can build on the ideological convergence between the executive in Brussels and the national governments. For the Commission, European unification should take place first and foremost through economic integration, through the market, and thus through the primacy of 'free and undistorted' competition over all other considerations. Since the early 1980s European governments have adopted the same approach, but through a sleight of hand they have managed to pass off the policies as 'Europe's', despite the fact that 'Europe' is constituted by themselves. On pensions, education, health or public services, national governments present themselves as compelled to implement policies which they had already drafted and adopted at EU level.

The Yes campaign of the French Socialists made much of the supposedly democratic procedures under which the ‘constitution’ was elaborated. Their trump card was that the 105 members of the Convention on the Future of Europe² would be hearing from the representatives of Civil Society—in this instance, some trade-union officials and leaders of citizens’ associations. It was clear from the start that the recommendations of the Convention would not be binding on the ministers of the Twenty Five. Had they deliberately set out to create the impression of a consultative fig leaf, EU leaders could hardly have done better. The analogy with the 1787 Philadelphia Convention, as several American commentators have pointed out, was risible.

To call the outcome of these labours a ‘constitution’ in the generally accepted sense is an abuse of the term. The election of a constituent assembly is the first step of any democratic constitutive process. Furthermore, a constitution ordinarily stipulates the framework within which variable, indeed contradictory, policies may be implemented. But Part III of the text, setting out EU policies, ruled out any alternative to the neo-liberal programme, even if it were to be called for by a majority of the citizens of the member states. Its status as a treaty ensured that, once ratified, any amendment would again require the unanimity of the twenty-five signatories.

Part III was not made public until two months after the other parts of the constitutional treaty were unveiled at the Thessaloniki European Council meeting in June 2003, although it contained 322 of the final text’s 448 articles. Yet in its definition of EU principles and policy guidelines, Part III stood as an ideological manifesto. ‘Free and undistorted competition’ is enshrined as the prime instrument for the allocation of resources. All other policies were to be subordinated to this principle. This applies to public services as well, now demoted in community jargon to ‘services of general economic interest’. Article III-156 flatly forbids any restrictions upon ‘the movement of capital and on payments between member states and between member states and third countries’. Any EU country wishing to introduce a levy on speculators’ profits along the lines of the Tobin tax would find it blocked on ‘constitutional’ grounds.

² The 105 comprised 15 representatives of the heads of state of the current member nations, 30 delegates from national parliaments, 16 members of the European Parliament, 2 members of the Commission, and 39 non-voting delegates from candidate countries.

The treaty also set in stone the role of the European Central Bank and the Stability Pact in budgetary and monetary policies. In contrast with the US Federal Reserve, which is also charged with stimulating growth, the ECB's sole mission is defined as price stability. Its independence is underscored: no authority may criticize or even influence the ECB; no majority can control it.

As for the claim that this marked an advance towards a 'strong Europe': the treaty consecrated NATO as a constitutive part of European identity, despite the fact that it includes two non-European powers (the US and Canada) and leaves out several members of the EU (Austria, Cyprus, Finland, Ireland, Malta, Sweden), while three of its European members are not part of the Union (Iceland, Norway, Turkey). A common EU security and defence policy must be compatible (Article 1–41) with NATO guidelines. Its implementation, based on European Council unanimity, would be 'consistent with commitments under the North Atlantic Treaty Organisation', which remains 'the foundation of their collective defence'. In other words Washington, via NATO, retains a veto on European security and defence. In this field 'Europe is NATO', as Donald Rumsfeld put it.

The Socialist Yes

For the Socialist Party leadership, committed to neoliberalism by stealth, the mass political debate around the constitutional treaty proved a disaster. Hollande, Strauss-Kahn, Lang and others of the *oui de gauche* could only gesture towards the generalities of Parts I and II—liberty, democracy, rule of law, tolerance, justice, solidarity—while the right-wing Yes was pointing to the concrete, legally binding elements of Part III: the privatization of services, the prohibition of state aid and budget deficits, freedom of capital movements, and so forth. The anti-neoliberal No campaign—which mobilized a majority of Socialist and Green voters, as well as the Communist Party, far left, and ATTAC—was subjected to an unprecedented onslaught from the media. Neoliberal broadcasters and the press developed a whole bestiary of insults. No voters were 'black sheep', 'trained monkeys', 'snakes'.

Such tactics could not conceal the fact that the centre-left Yes campaign was forced onto the defensive, compelled either to retreat from 'treaty-in-hand' debates, or to fight back, against the grain, on terrains imposed

by the treaty's critics: social justice, public services, democracy and independence from Washington. Most of the bodies that campaigned for a Yes (the trade unions, for example) had been careful to avoid preliminary consultation of their rank and file, preferring to take the decision at the top where there would be no nasty surprises. The exception was the Socialist Party, which consulted its membership in December 2004, amidst a media bludgeoning for a Yes. The gap between Socialist voters and the 130,000 party activists, many of them on administration payrolls, tells its own story. If the final outcome of the referenda struck a blow for democracy, the vote also testifies to the profound crisis of political—and of mediatic—representation.

French No campaigners were conscious of the vanguard role they were playing for Europe as a whole. Outside France and the Netherlands there has been little chance for public debate on the issues raised by the 'constitution'. In general, Europe's ruling parties—Socialists, Liberals, Christian Democrats or Greens—entered into a holy alliance to conceal its neoliberal character, and took the safer route of parliamentary ratification. In some countries—Germany is a case in point—there are indications that this was in defiance of national opinion. ATTAC demanded that a genuine national debate around the constitutional treaty be held in every EU member state, with a popular referendum in every country whose laws allowed it, and the rest undertaking to amend their constitutions so as to introduce the possibility.

Refounding Europe

The unprecedented turnout in the 2005 French and Dutch referenda shows that the citizens of Europe are no longer willing to accept their destinies being decided by EU political mechanisms over which they have no real purchase. Well aware that the neoliberal policies implemented at national level and those adopted by the Commission and European Council over the past two decades are one and the same, they wanted to block their advance. The majority of those who have borne the brunt of those policies, in the form of mass unemployment, poverty and insecurity, understood the historic character of the vote on May 29th and June 1st. The same goes for the young, two-thirds of whom voted No. Despite the arsenal deployed to defend it, the ideology of neoliberalism has been rejected at the polls.

In its 5 June 2005 Declaration, the Administrative Council of ATTAC proposed that the local committees should collate their own diaries of the No campaign, as counter-testimony to the media's misrepresentation. Accounts of actions of every kind, leaflets, posters, exhibitions, round-tables, meetings, rallies, interventions, will be assembled for future publication. The Council declared that 'A new hope has been born, reaching far beyond the bounds of France. The primary task of all those who contributed to the triumph of the democratic, anti-neoliberal and pro-European No is to live up to its challenge—that of the democratic refoundation of Europe.'

The first step should be to demand that the European Commission withdraw its proposed directives on services, working hours, state aid to businesses and the 'railway package'. Second, there should be a significant increase in the European budget, so that structural funds may be used to raise the ten new EU member states to the average level of the rest as fast as possible. Levelling upwards is the only way to achieve the necessary fiscal and social harmonizations, rather than by using market pressures for a race to the bottom. Finally, strategies and perspectives for the future campaign, in particular on the EU institutions, will be debated at the Convention of European ATTAC groups in December 2005, and at the European Social Forum in Athens in April 2006.