

Realists, sceptics and opponents: opposition to the EU's Constitutional Treaty

Simon Usherwood

1. Introduction

The basis of European integration has been the idea of consensus. From the Schumann Declaration right through the Constitutional Treaty, the integration process has been predicated on debate, compromise and finding the broadest possible consensus that allows for progress. Even if certain member states and groups have forced the pace of integration, then it has been on the understanding that they must convince many others of the correctness of their ideas. This model would appear to have served the European Union (EU, as it has become) well over the past half-century. But it is a model with a price, namely that those outside the consensus, or on its margins, tend to be excluded, to feel excluded and to become ill-disposed towards the process as a whole. This article looks at one such group, usually referred to as 'eurosceptics', but more accurately described as the anti-EU movement, understood here to include any group or individual, actively working against the development or operation of the EU.

As well as falling outside the EU's consensus, the anti-EU movement has been largely ignored by politicians, who see them as an amusing aside to the main thrust of the integration process, a group destined to historical oblivion. And this is understandable to some extent: the anti-EU movement is a mish-mash of fringe activists of every conceivable political hue, held together only by their dislike of the EU, but simultaneously pushed apart by all their other differences. Likewise, the anti-EU movement has also been under-researched by academics. While there has been quantitative work on public opinion (see Anderson and Kaltenthaler 1996; Gabel 1998; Hix 2005), this has focused on an interpretation of influences on individuals' support for - or opposition to - European integration, without discussing what that the individual then does. In recent years, there has been a surge of academic interest in party-based opposition, notably around Taggart and Szczesbiak's model of 'hard' and 'soft' euroscepticism (Taggart 1998; Taggart & Szczesbiak 2002), producing a number of attempts at typologies and system-level study of the ways in which parties have used the EU as an issue (notably Sitter 2001; Kopecky & Mudde 2002; Lees 2002). However, while useful, these studies have almost without exception failed to examine the full breadth of anti-EU groups, especially those which are outside of the party political system (Usherwood 2002 discusses this issue in detail with reference to the UK). Even works on the Convention itself have devoted little attention to the anti-EU elements within it (see Norman 2005).

Despite this, there are at least three good reasons to give them more consideration. Firstly, the European integration process since the Treaty on European Union (and particularly its ratification) has been characterised by a much increased concern for public opinion. The steady rises in public support up until the start of the 1990s, found across the member states, spent that decade falling just as steadily and just as broadly, only really stabilising over the last 4 or 5 years (Eurobarometer 2005). Thus as the Union has become more concerned about addressing the anxieties of those who feel excluded from, or opposed to, the process, so those efforts have not been very successful. Secondly, studying anti-EU elements and their critiques of the Union tells us something about the integration process itself. As a necessarily centrist project, it is not

surprising to find that it is primarily fringe groups who protest most strongly, but the variety of critiques they bring to bear highlights the compromises and inconsistencies that have developed over the years.

Thirdly, and perhaps most consequentially, it has to be recognised that we find ourselves in a period when the scope for anti-EU elements to secure significant gains is higher than it has ever been. Both France and the Netherlands (traditionally seen as strongly pro-integration states) held popular referenda on the Constitutional Treaty in 2005 that have resulted in significant 'no' majorities. With the ratification procedure in abeyance until 2006 at earliest, it may well be that there is some kind of recasting of the European order. Hence, we need to have an idea of how we got to such a state of affairs in the first place.

This paper looks at the work of the anti-EU movement over the whole of the process of producing the Constitutional Treaty, from the 1990s, when they were quick to highlight and fight any move towards constitutionalisation, through to the current ratification procedures. At each stage, the work and the impact of the movement will be considered, so as to provide a sense of the dialect between the process and the movement's attitude towards it, since the latter would appear to be more dynamic than might be initially thought. The conclusion then aims to draw out some of the lessons and suggest some future paths for the movement.

2. The Road to Laeken: Anti-Constitutionalism in the 1990s

There have always been those opposed to the process of European integration, in both its specific form and more generally. However, the idea of an anti-EU movement really only came into its own at the end of the 1980s. While important groups such as the Danish Folkebevægelsen mod EU (People's Movement Against the EU) were fighting and winning representation to the European Parliament (EP) from the end of the 1970s, they remained isolated. It was only with the fragmentation of the consensus around the single market project of the Single European Act of 1987 that the movement (and the rather misleading term 'euroscepticism') was to gain a more stable footing. Key to this firmer establishment was Margaret Thatcher's Bruges speech of 1988, which had the effect of crystallising previously disparate individuals into much more forceful groups (Usherwood 2004). Further strengthened by the push towards what was to become the Maastricht Treaty and the (not previously apparent) weakness of public support, by the mid-1990s there was a very extensive network of anti-EU groups operating in almost every state in Western Europe, operating primarily on the national level, but also cooperating with each other via transnational groupings.

Rather than provide a history of these groups, it is more useful to consider the work and interests of the movement as a whole, in light of the developments towards the Constitutional Treaty. The first observation is that groups frequently appeared to highlight issues that received very little interest elsewhere at that time. Anti-EU groups have been very active in picking up, and raising the public profile of, many seemingly technical points, such as restrictions on hunting birds, the Corpus Juris proposals on legal cooperation and the use of regions as units of analysis. This warrants several comments itself. Perhaps most importantly, it reveals a characteristic of many such groups, namely a tendency to catastrophise. What ties together these diverse points is their position as gateways into whole new fields of EU activity. In this view, hunting limits are seen as the end of distinctive national cultures and practices, Corpus Juris opens the way to a single legal system and regionalisation signals the end of national governments. This highly teleological approach results from the strong sub-current in anti-EU thought – the creation of 'a country called Europe' – which is particularly prevalent in the UK (Booker & North 1996). European integration is seen as a process with a clear end-point that will be achieved by hook or by crook. Hence, it is the duty of anti-EU groups to highlight when such developments occur, otherwise the door will have been opened and it will be too late. This leads to a second comment, concerning levels of knowledge. In order for such a watchtower role to be effective, groups have needed to possess a clear sight of what is actually happening in the EU. One of the major developments within the movement over the 1990s has been precisely such an autonomous capacity to accumulate, evaluate and disseminate information. This is seen in the creation of umbrella groups, which create webs of contacts between individuals and groups, on both national and European levels

and of specialised research driven groups, such as the European Foundation or Global Britain. In so doing, the anti-EU movement has been highly successful in optimising its resources, to its lasting benefit.

The second observation concerns the point of concentration of groups' activities during the policy cycle. This is most apparent with major policy developments - such as the Maastricht Treaty and Economic & Monetary Union - which have long cycles of discussion, negotiation and implementation. Such large projects tend to draw the attention of anti-EU groups, albeit for a wide variety of ideological and practical reasons, not least of which is a desire to remain relevant actors in the evolving (if generally weak) public debate. However, given the restraints on resources that most opposition groups face, it is necessary for them to focus their efforts where they are likely to have the greatest impact, rather than employing a scattergun approach.¹ In practical terms, this means that groups are most active in the policy-making cycle before decisions are completed. More particularly, groups appear to be interested in pushing their preferences at two clear points in the cycle. The first has already been discussed above, namely when policy ideas are first floated: here it might be expected that policy preferences are relatively open and unfixed, giving opposition groups the opportunity to create a credible alternative pole to any incipient policy development. If this occurs right at the beginning of the policy-cycle, then the second main area comes significantly later. While the anti-EU movement is more convinced than most of the reality of a European superstate, as discussed before, then there is also a very realist approach to the role of national governments and parliaments. Groups focus much of their attention and efforts on influencing national politicians, as most vividly demonstrated in 1992-3 by the wave of opposition to Maastricht. Then, opposition was not directed at the Intergovernmental Conferences (IGCs) that had preceded the final text, but rather at national ratification processes: this was the case across member states and with other treaty ratifications (Laurson and Vanhoonacker 1994). The need for unanimous ratification opens up the EU system to political actors who are less likely to be socialised into that system or less concerned about the need for its development, especially if it comes at a real (or perceived) price of a reduced role for those national actors.

Given this pattern of concentrated anti-EU activity through the 1990s, we might wish to apply it to the case of the Constitutional Treaty. We have already noted the interest of groups in highlighting any potential move towards constitutionalisation, but it has to be noted that until recently, the process that launched itself in the wake of Nice failed to generate any significant activity, either in terms of the formation of new groups or the reorientation of existing ones: for example the leading British group, the Bruges Group, did not produce any media releases on the subject of the Convention until May 2003 (Bruges Group 2003). This might appear to contradict what has just been claimed, namely that opposition groups push most where there is the best access to the decision-making process, which was surely the Convention's *raison d'être*, but as will be discussed, other considerations came into play.

3. The Convention: Good for Networking, Poor for Outcomes?

The acceptability of taking those outside the consensus of European integration into the Convention process was never completely clear. On the one hand, the very idea of the Convention was precisely to be very inclusive, in order to generate a complete rethinking of the structures and aims of the European Union. Certainly, the example of Guy Verhofstadt, Belgian PM and President of the European Council, explicitly inviting all viewpoints to be represented in the Convention before the Laeken Council had even taken place, was by no means unique (Spinant 2001). On the other hand, the actual individual decisions by the states and institutions involved to select such people caused some consternation: the Danish government's desire to include both pro- and anti-EU representatives upset some parties, while the British Conservative's choice of David Heathcoat-Amory caused some discomfort to the Labour government (McSmith 2002). In the end, all these disputes and discomforts were dealt with (all in favour of the anti-EU movement) and a number of openly hostile representatives were sent to attend the Convention.

To their credit, the individuals involved were among the first to recognise the need to work together and to develop networks. Within a couple of weeks of the Convention first convening in February 2002, Danish member of the European Parliament (MEP) Jens-Peter Bonde was organising a 'Democracy Forum' for 'eurosceptic and eurorealist members' (initially comprising 7 members

from 5 states), to allow for sharing of ideas and to improve their representation in positions of importance such as the presidium. From this contact group was to develop a relatively coherent and persistent position in favour of an alternative approach to that of most of the rest of the Convention. During the first part of 2002, the Forum members did engage with the 'listening phase', although without producing much in the way of formal contributions. That duty fell to external groups. However, looking through the archives of external contributions (Futurum undated), we find only 4 of approximately 500 documents that are from explicitly anti-EU groups, namely; The European Alliance of EU-Critical Movements (TEAM, with a short exposition on the 'threat to democracy'), the Danish JuniBevaegelsen (June Movement, which prepared an extensive position paper, entitled 'A slimmed-down and more democratic cooperation'), the British independent publishers Right Now (with a short attack on the EU) and the veteran British group, the Campaign for an Independent Britain (CIB, with a even shorter, but more coherent, dismissal of the EU and the Convention).

The obvious question that arises is why did not anti-EU groups and individuals push their ideas more strongly at this early stage, when there was more scope for framing discussions and setting agendas? Indeed, why did there seem to be little effort to generate public interest/disapproval to what might be happening? Put another way, why did the anti-EU movement produce only 4 contributions to arguably the most open treaty revision process in the entire history of post-WWII integration, when environmental groups produced approximately 80? The answer to this is not clear, but some suggestions come readily to mind. Firstly, it could be argued that the sheer novelty of the event unbalanced anti-EU groups, with the result that very few of them got anything together to submit. This might be so, but seems unlikely, given both the number of contributions from elsewhere and the length of time that such groups had available. Likewise, a second explanation – that anti-EU groups lacked the resources to produce contributions – also falls down, given the low cost of producing such documents, the volume of material that anti-EU groups publish otherwise and the volume of documents from similarly impoverished groups.

This leads to a more credible suggestion, namely that anti-EU groups did not want to 'sleep with the enemy' (or even be seen to be doing so) and accord more status to the Convention by working with it (Brand 2004). There is no direct evidence to back this up, but it is clear that one of the consistent strands of anti-EU groups' discussion of the Convention was its lack of democracy: The French Alliance pour la Souveraineté de la France (Alliance for French Sovereignty) produced a long review of the draft outline in November 2002 (Rochas 2002), with a critique on the lack of separation of powers and the attacks on sovereignty, while the the UK Independence Party (UKIP) produced a 'research article' which reads in part, 'These are the most dire of circumstances. There has never in our history, not even in 1940, been a greater threat to the continued existence of our nation' (Fellows undated). Certainly, the suspicion was that with the strong leadership of Giscard d'Estaing, the Convention was never likely to go down the path of dismantling the Union. Consequently, it was left to those involved in the Convention itself to take the case: the Democracy Forum talked about the trend towards a 'Europe of Presidents' instead a 'Europe of Democracies', and the need for popular referenda (Bonde 2003).

If the anti-EU members of the Convention found themselves largely alone in their engagement with the process, then that did not appear to dent their resolve. At the production of the draft outline in October 2002, the Forum produced an alternative proposal, entitled 'There is another way: The Europe of democracies' (Democracy Forum 2002). Grounded in a concern for democracy, the lack of popular support and the failure of the Convention to meet the Laeken tasks, the proposal wished 'to transform the EU into a Europe of Democracies (ED), which shall be a treaty association of free and self-governing European states and an open economic area'. The operative points of the proposal mixed a critique of the existing system, general suggestions together with some very specific ideas. The proposal envisaged an ED limited to creating a common market and providing some common standards, but controlled by national parliaments and governments and stripped of most supranational elements. The engagement with the official draft was minimal and unsystematic.

This lack of interaction between the Forum and the rest is borne out even more strongly by the events at the end of the Convention. While the main body finally (and not uncontroversially) managed to produce a draft treaty in May 2003, the Democratic Forum (now increased to 12

members from 9 states) once again tabled its alternative proposal, now a 'minority report', in November 2002 (Democracy Forum 2003). With only a couple of typographical changes and the removal of a preamble, the only substantive change was an additional sentence, stating that 'If the EU should have a new name it should be Europe of Democracies,' presumably in rebuttal to Giscard's various suggestions. In short, the Forum might have successfully rallied some converts to its cause, but its cause had not progressed. To their credit, they were successful in having their proposal attached to the main draft for submission to member states for the IGC (a decision that was sufficient for all the Democracy Forum members to sign the main draft text), but it is equally fair to note that thereafter it sank without a trace.

The overall impression is one that goes back to the very first point made in this article, namely that some groups fall outside the EU's consensual approach. Already at this stage it was clear that the gap which existed before the Convention between the mainstream and the anti-EU movement had not been closed, or even particularly addressed – both sides maintained their positions and the views of the other. As such, it represented business as normal, in that the anti-EU movement has always been divided between those who shun the EU, all its works and any opportunity to engage, preferring instead to work against it on the outside (who form the majority) and those who take the chances they can to exert influence from within.² Likewise, from the perspective of the mainstream consensus, the offer of participation had been extended to the anti-EU movement, who had refused to be drawn in, but at the end of the day, over 95% of the Convention members had agreed with the draft treaty, a figure that any democracy would be happy with. Certainly, one could imagine that the presidium would have been happier still if the Forum members could have come round to their point of view, but that this did not happen was neither a shock nor a problem. It most of course be remembered that as well as opponents of the EU, the Convention also contained several arch-federalists and, much more importantly, a broad centre which was not disposed to root and branch reform of the system, but rather an evolution. Seen in this light, perhaps the anti-EU movement was not so wrong to refuse to throw itself into the process in the first place, particularly when we consider that the Convention was merely a first step in a longer process.

4. The Ratification Procedure: The Finest Hour?

The immediate wake of the Convention's conclusion saw a hiatus in activity on the part of all concerned: the break before the IGC had been explicitly designed to give everyone some time and space to consider developments. For the anti-EU movement, the end of the Convention meant the end of their best opportunity to directly influence and shape the contents of the text: from here on, it was essentially only government officials who would have a say. As was seen in the previous section, it was not a great loss to no longer have the Convention, given the failure to have a meeting of minds. Moreover, it was not a great loss because the anti-EU movement (in the broadest sense) had long been preparing the ground for what came next.

It was always inevitable that any discussion of a document that styled itself a 'constitution' was going to have to deal with the question of ratification: the idea that the European system was somehow moving beyond its treaty-based origins, into the realm of something more like a social contract, would then logically require a dimension of popular acclamation. Even if the final document under consideration was technically a treaty rather than a constitution (Eleftheriadis 2004), then the import was still there. This matters, because, as we have seen over the 1990s, it was at the point of popular approval of European decisions that the chain was weakest. Denmark, France and Ireland all demonstrated that the top-down model that successfully operated for so much of the post-1945 period was no longer operable or dependable (indeed, that was part of the logic of the Laeken process in the first place). Therefore, in some ways, the Convention/Constitutional Treaty was a godsend to the anti-EU movement, because it could call the bluff of decision-makers and press for popular referenda on the outcome.

This path was present long before the Laeken process began – in the UK, those opposed to any treaty modification since the Single European Act have always pushed for a referendum, knowing that it would cause much difficulty for the government of the day. However, the argument that Parliament was sovereign had always been sufficient to fend off that pressure. Indeed, national

constitutional amendment procedures aside, the only example of a member state volunteering itself for a referendum on a treaty reform was France in 1992, and that experience was enough to warn off any one else.

What was different this time around was the strength and persistence of pressure brought to play across the Union. To take one early example, on the weekend after the Laeken Council, Daniel Hannan (2001), a British Conservative MEP, wrote:

'We have launched a parallel Convention of our own so that, in 2004, the peoples of Europe will be presented with two competing visions. Our argument is that these alternatives should then be put to simultaneous referendums in the member states. If the federalists are as popular as they claim to be, they will presumably leap at our suggestion'.

Even if that parallel Convention never did come to anything, the argument was still valid – more once, the appeal for a popular vote could be backed up by the process itself. At the same time, it meant that anti-EU groups and individuals found themselves teaming up with others whose concerns revolved around promoting democracy, but without the hostility towards the Union, such as the Union of European Federalists (Kirk 2002). While this may seem strange, given the reluctance to engage with the Convention, it is actually much more typical of the anti-EU movement's behaviour, in that it allowed them to attack the EU without becoming drawn inside.

From 2001 onwards, there was the establishment of a number of national and European campaigns to press for referenda on the Constitutional Treaty. At the European level, bodies such as the Initiatives & Referendum Institute Europe (IRI) provided information and materials and supported networks, albeit without a strong preference as to the result of the vote. On a more partisan basis, the European No Campaign (2005), set up at the start of 2005, brings together a wide range of national anti-EU activists, to push a threefold agenda: that all member states should have a referendum, that media coverage should be balanced between the 'yes' and 'no' campaigns, and that a 'no' vote should be respected and mean the Treaty would be rejected.

At the national level, No campaigns have developed in many states, especially in those countries that did not have a constitutional obligation to hold a referendum. Thus we find such groups as Vote No in the UK, the Comité Grondwet Nee (Constitution No Committee) in the Netherlands, Folkomrostning Nu (Referendum Now) in Sweden, and Non 2005 and Referendum 2005 in France. These groups have been able to build broad (and informal) alliances with other political actors, notably political parties, to exert pressure on governments to commit them to holding votes. In this, it must be recognised that even if the pan-European vote proposal never got anywhere, then the number of referenda planned far exceeded anything previously seen in the European integration process. This is something that both supporters and opponents of the Union could applaud: the former, because it offered the chance to recast the connection between the general public and elites; the latter, because it gave more opportunities to derail the process.

The process by which individual governments have come round to holding a referendum is very country-specific and does call into question how much it was due to the pressure from anti-EU elements. To take the British example, it was evident that the Labour government was very successfully resisting any attempt to hold a vote and had done so all along. Tony Blair's reversal of policy in April 2004 came as a complete surprise to most observers. The precise reasoning behind the decision remains very unclear, although it came at a time when Blair was facing widespread disquiet in his party on a number of fronts, was considering his position and wanted to give rebellious elements something that would provide immediate satisfaction, but no immediate consequences (Ahmed 2004). Likewise, French President Jacques Chirac's decision in July 2004 appeared to be conditioned by internal cleavages in his ruling UMP party, popular disapproval of his government and by the British decision, rather than any arguments about democracy (Hassoux 2004).

While it is true that the anti-EU movement remains almost entirely based around national bodies, there is still much sharing of information, not least through the transnational bodies mentioned above. However, this misses some of the point that these national movements are linked by the common experience of the ratification process. Because of the need for all member states to ratify the text, it (notionally) only takes one state to say no, to kill the treaty: obviously, there is some political scope for a second vote, but this is by no means guaranteed. Consequently, national governments have to win each and every campaign, while the anti-EU movement only has to win once.

The French and Dutch cases would seem to represent a vindication of the movement's approach to the Constitutional Treaty: the European Council on 16-17 June 2005 decided to delay further progress on ratification until 2006 and both Dutch and French governments have ruled out holding second votes on the same text. Even if ratification is restarted, and all remaining member states have to continue their national ratification procedures, then it has to be expected that several more 'noes' will appear: public support for the Constitutional Treaty was already falling across the Union even before the two referenda results were known (Eurobarometer 2005).

At the same time, it is necessary to be careful not to ascribe too much weight to the anti-EU movement in the 'noes'. Exit poll data from France indicated that No voters were motivated more by domestic issues (especially the fear of unemployment and a desire to express their discontent with the French political class) than by the particular content of the document (Le Coeur 2005). As such, it falls in line with other votes on 'European' issues (i.e. ratification referenda, European Parliament elections) in being a 'second-order' event, where it is decided primarily on the basis of national factors (Franklin et al. 1994, 1995; Marsh 1998). Consequently, we have to take care not to make a causal link between the actions of the anti-EU movement and the results. At the same time, that link does not have to exist – from the perspective of the anti-EU movement, what matters is the result, not the process.

5. Conclusions

This paper has argued that the anti-EU movement matters. Since June 2005, this has changed from being a largely academic point to a deeply political one. After the Maastricht treaty ratification debacle, politicians across the Union started to recognise the need to reconnect with publics, if the integration process was to be sustainable in the long run. However, it is arguable how closely these politicians took in this need, given the succession of half-hearted attempts at reform that occurred in the following decade and on-going nature of this debate. After the double 'no' votes in France and the Netherlands, it is not beyond the realms of possibility that the Constitutional Treaty could become an interesting historical relic, maybe even the first step towards the disintegration of the European Union as we know it today.

Of course, in practice, the EU always seems to muddle through: certainly the Union has not simply collapsed, as had been feared (or hoped for) in some quarters. But the point still remains: the anti-EU movement matters. And that in itself matters, because for all the bluster and the media and public interest, it is very hard to find any evidence that the anti-EU movement has ever really had any influence on the political system of either the Union or of its member states (see Forster 2002). Notwithstanding the power of the 'second-order' model, even if the movement were to provide only a partial explanation of any 'no' vote to this Constitutional Treaty, then that would be a development of potentially great consequence.

Indeed, even if the Treaty is passed, then it would seem that the whole process has failed to achieve the first Laeken goal of bringing 'Europe closer to its citizens'. The Convention did not succeed in generating a pan-European debate in depth about integration and the nature of the Union; likewise, the ratification campaigns so far have been characterised by national concerns, rather than ones directly relating to the text in question. This is not a surprise, but it highlights the persistent failure of the Union in the post-Maastricht era to reconnect with people. And part of that failure is due to the anti-EU movement. In the first place, the Laeken process failed, as we have seen, to bring in the anti-EU movement and give them a meaningful stake in what was happening: the movement was too small and too difficult a group to internalise. In the second place, this failure to neutralise the movement has left them able to articulate an alternative to the public (albeit one that contains very widely diverse positions and interests), one that can play on the fears and ignorance of people.

Notes

¹ Resources, in both financial and leadership terms, have tended to be concentrated in the hands of a relatively small number of people (e.g. James Goldsmith, Alan Sked, Philippe de Villiers, Jens Peter Bonde, etc.). Other sources of funding have proved irregular and unreliable for the most part, hence partly explaining the high level of coordination of anti-EU work across countries.

² The classic example of this division is found in the shifting policy of the British UK Independence Party. Initially, UKIP put up candidates for election to the European Parliament, but if elected, they would refuse to take their seats: when enough UKIP MEPs were elected, this would provoke a crisis within the EU, causing either major reform, or British withdrawal. However, after internal power struggles, the policy became one of elected UKIP MEPs taking up their seats, in order to better understand the EU, warn others of the damages, and generally exert influence.

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