

## Chapter Sixteen: On embedding the upward cascade

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The next two chapters will explore what can be done to reform the two unions which have been the subject of this book. The first will consider the European Union, picking up the argument made in the last chapter that a permanent forum in which a Citizens Assembly can develop new initiatives of its own would be a more effective expression of grassroots involvement than one-off or occasional events like a ‘forum’ or ‘convention’ for the future of Europe.

The difficulty in determining a different approach lies in knowing what Youngs’ ‘upward cascade’ means. There is much talk of Citizens’ Assemblies, of consultations with the people through conventions and conferences, but the right to participate is not the right to decide. There is a lot of talk about being able to ‘mainstream substantive new policy ideas’, but ‘mainstreaming’ requires institutional support. Citizens’ Assemblies will do little as a voice to be heard unless they become part of the decision-making process.

To be fair to Youngs, this is something he himself recognizes in *Europe Reset* and elsewhere. He writes as follows:

In some sense, participation across Europe can sometimes feel curiously depoliticized. Citizens’ initiatives individualize citizen engagement—they are predicated on citizens participating as individuals. This risks deflecting attention away from the ways citizens still need collective organizations, like parties, unions, and associations. Without these, democracy is left devoid of its necessary collective transmission belts between the individual and the state.<sup>11</sup>

The phrase ‘collective transmission belts’ expresses very well the need to channel the cascade upwards. To some extent the explosion of citizens’ groups,

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1 See Chapter Four of Youngs’ *Europe Reset*, ‘Europe as a Citizens’ Project’, pp. 83–105.

lobby organisations, NGOs and social media groups is in danger of producing noise without substance. Doubtless this is a difficult point to make, in that it sounds like saying the anti-elitist groundswell of support needs some elitist management! 'All power to the soviets' threatens to turn into the vanguard of the proletariat and a new democratic centralism. But channelling does not have to mean controlling.

What it does mean is that 'citizens' participation mechanisms' have to be more than question and answer dialogues or one-off conferences. There are plenty of suggestions about how European citizens could have an impact on EU decisions – influencing the annual work programme of the Commission, shaping the EU budget and so on. But none of this is likely to be effective if it simply boils down to a vague promise to 'listen to the people' when making decisions on spending or deciding priorities. A 'permanent participatory mechanism' means that however impressive the citizens' involvement sounds, *it has to be an ongoing part of the EU structure.*

A resolution from the European Parliament on 'Citizens' Dialogues and Citizens' Participation in EU decision-making', published in June 2021, spoke of a 'transnational European citizens agora, which could be concluded on Europe Day'.<sup>2</sup> The use of an ancient Greek word for a public meeting-place conjured up ideas of citizens filling up the open spaces with ideas and proposals. But this is more likely to be spray than flow. 'Participatory mechanisms' have to be a permanent part of EU decision-making, or else they amount to little more than display.

Piecemeal measures are relatively easy to take. They could be presented in terms of citizens (perhaps randomly chosen) and members of parliament working together on specific issues in a single forum or deciding on a particular budget line (or tapping into 'pilot projects' where small amounts of money for pet projects are agreed). But a 'permanent participatory mechanism' would mean more than this. It would mean that citizens themselves have a 'right of initiative' in determining what issues are to be discussed. The whole structural mechanism under which the EU institutions operate would have to be radically changed. It is this that could make promoting citizens' participation effective if it is taken seriously.

The focus has to be on the Commission, since this is the body with the right of initiative at present. Even when it deliberately seeks to invite outsiders' input, for instance through its European Citizens' Initiative, it tends to be 'insid-

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2 [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0345\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0345_EN.html)

ers' (well-known NGOs, often part-funded by the EU) who organise the petitions (a million signatures from several different member-states within a year is a demanding ask, after all). Those outsiders who have heard of it don't think of it as a vehicle for real change. When one initiative found the requisite million votes (and the vast majority fail to do so) to challenge one of the Juncker Commission's ten priorities, the planned trade deal with the USA (TTIP – or the Transatlantic Trade and Investment Partnership), the Commission simply refused to accept it.<sup>3</sup>

To manage an effective upward cascade, the 'permanent participatory mechanism' can only be introduced through major institutional reform. Introducing it would certainly represent an attempt to deal with some of the 'democratic deficit' often spoken about in the context of the European Union and the way it emerged more from a decision by its leaders than through popular pressure. It would also be appropriate to the British Union or even a future Union of the Isles. However, 'cascading upwards' is not always an easy thing to arrange or even very popular. The next section will try to consider this further.

## Permanent participatory mechanisms

The European Union conducted a 'Conference on the Future of Europe', which it described as a 'citizens-focused, bottom-up exercise' for Europeans to have their say on what they expect from the European Union.<sup>4</sup> Mindful of problems with an earlier Convention on the Future of Europe some two decades ago, which prepared the ill-fated Treaty on a Constitution for Europe that was rejected in national referenda, this time there was meant to be a much greater opportunity for citizens to become directly involved. The aim was that citizens should be able to shape the agenda and not simply respond to pre-packaged recommendations. The Commission produced a preliminary analysis of proposals stemming from the conference in June 2022,<sup>5</sup> and more proposals were

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3 See Cambien, Kochenov and Muir, editors, *European Citizenship under Stress*, Chapter 15 'The European Citizens' Initiative in Times of Brexit' by Natassa Athanasiadou, pp. 387–410.

4 See [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-pusher-european-democracy/conference-future-europe\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-pusher-european-democracy/conference-future-europe_en)

5 [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_3750](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3750)

to be outlined in the President's State of the Union address in September 2022, though events in the East meant that Ukraine took centre stage.<sup>6</sup>

Yet this process too had the character of a 'one-off'. Moreover, as with European Citizens' Initiatives, there is uncertainty concerning how far the proposals coming from the Conference will be taken seriously. It remains the case that people are being asked to give their views without any commitment being made to follow up on what they say. Indeed, twelve member states made clear that the conference should create no legal obligations and should not interfere with 'the established legal processes'.<sup>7</sup>

The best way of ensuring that citizens should be able to shape the agenda and not simply respond to pre-packaged recommendations would be to provide for a Citizens' Assembly that could work with members of the Commission in framing legislation. In this way the surfeit of 'dialogues', 'conventions' and 'conferences on the future of Europe' would be replaced by a powerful body which is able to overlook whatever the Commission proposes and is able to make proposals itself. The 'movers and shakers' to whom Monnet went in his day in order to introduce new policies would be unable to move and shake without the consent of the people.

The Economic and Social Committee and the Committee of the Regions are a permanent feature of the EU institutional structure and have to be consulted in many areas where the Commission proposes new legislation, though their powers fall short of co-decision. They are in a similar position to the European Parliament in the earlier years of its existence, when it was merely consulted by the European Council and had no power of co-decision as a legislative authority. It might be possible to link the Citizens' Assemblies with these two bodies that are designed to reflect the interests of the different regions, localities and social groupings in society.

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6 For the text of the address, see [https://ec.europa.eu/commission/presscorner/detail/en/speech\\_22\\_5493](https://ec.europa.eu/commission/presscorner/detail/en/speech_22_5493).

7 Interestingly, the Commission declared that from mid-December 2022 to the end of April 2023, three Citizens' Panels – each with around 150 participants – would have the opportunity to develop concrete recommendations on some of the key initiatives of the 2023 Commission Work Programme. This is the annual work programme which is decided by the Commission – essentially the topics it intends to focus on in the coming year as part of its agenda-setting role within the EU. But as I go on to suggest, input from citizens has to have more bite if it is to be effective. For the Citizens' Panels, see [https://citizens.ec.europa.eu/index\\_en](https://citizens.ec.europa.eu/index_en)

The power of co-decision in proposing new legislation is the only effective way of managing Youngs' cascade upwards. It must be a permanent mechanism, a reverse flow rather than mere spray. The Citizens' Assembly would have the power to propose legislation, as would the Commission, and since each would have the power to veto the proposals of the other, both Commission officials and citizens' representatives would have to work together in framing legislation. But like the Commission itself, the Citizens' Assembly could not decide what happened to its proposals, even if they were not vetoed by the Commission. Passing them into legislation would remain the business of the Parliament and the Council, who each have the power of co-decision when it comes to passing legislation. A Citizens' Assembly would be a means of introducing the power of co-decision into the right of initiative, while leaving elected bodies to pass legislation.

Ursula von der Leyen promised the following in her candidate's speech when agreeing to be put forward as President of the Commission:

I want citizens to have their say at a Conference on the Future of Europe... bring together citizens, including a significant role for young people, civil society, and European institutions as equal partners...<sup>8</sup>

'Having their say' is not enough; being 'equal partners' is more appropriate, and it can only work by taking permanent form in the EU structure. The idea of citizens' assemblies, designed perhaps to 'tame' elected politicians, is perfectly suited for 'taming' appointed officials. The descendants of Monnet's 'Commissariat' need to work hand in hand with the people themselves in order to propose new legislation.

The Commission receives reports from groups of experts. There is always an issue about the nature of the expert advice which is being given. No one who studies the history of the EU institutions fails to encounter a lot of arguments about lobbyists (or 'interest groups'). Do they really represent a full range of opinion? How effective is the Transparency Register? Some of the NGOs, including some 'radical' ones, that give their advice to the Commission are also part-funded by it – is that not a problem? The Commission, whatever some of the media have suggested, is a small body of perhaps 30,000 officials, about

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8 It was repeated in her joint declaration launching the Conference on the Future of Europe with the other EU presidents. See [https://futureu.europa.eu/uploads/decidim/attachment/file/6/EN\\_-\\_JOINT\\_DECLARATION\\_ON\\_THE\\_CONFERENCE\\_ON\\_THE\\_FUTURE\\_OF\\_EUROPE.pdf](https://futureu.europa.eu/uploads/decidim/attachment/file/6/EN_-_JOINT_DECLARATION_ON_THE_CONFERENCE_ON_THE_FUTURE_OF_EUROPE.pdf)

the same number as those who manage a large city. They could not manage the administration of substantial parts of the affairs of 27 states without relying on outside information.

Yet what is noticeable about the Citizens' Assemblies that have met in the UK or in Ireland, for instance, is that they have received submissions from similar groups of experts – indeed very often, as the example of the Climate Change Citizens' Assembly in Ireland shows, from members of the Commission themselves. It would not be difficult for them to receive, analyse and form their own opinions about the same sets of experts that report to Commission officials. It may be that some of the briefings which officials receive come from sources whose objectivity might be questioned. It may be that the expert groups who advise the Commission, often on an annual basis, may have a clear economic interest in the areas they are giving advice on, even if it is less overt than that of the lobbyists. But this is not the only point. When the problem of lobbying is debated, the focus is usually upon widening the range of groups who are asked to give advice. But it may be that one should also widen the groups to whom the reports are made. The Citizens' Assemblies could be brought together with Commission officials to consider reports from experts.

Like the officials, they will need expert briefings in order to avoid being taken in by the lobbyists who beat their way to their door. But there is no reason to suppose that the ordinary citizen is any less capable than those who have been successful in civil service examinations in understanding how to exercise independence of judgment. If the lobbyists really have Brussels in their clutches, as the title of a recent book by Peter Teffer<sup>9</sup> suggests, a cross-section of citizens will be as effective as any other grouping in releasing their grip.

## Radical blinkers

This chapter has proposed to give 'deliberative mini-publics' a permanent place in the institutional mechanism of the European Union. This might help to remove the blinkers from many who claim to stand in a tradition of radical thought in the Anglo-Saxon world, but whose attitude towards the European Union is one of sustained hostility.

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9 Teffer, Peter *Het lijkt Washington wel: hoe lobbyisten Brussel in hun greep hebben*. See also his article in *EU Observer* 9<sup>th</sup> May 2020.

One can see this clearly from the publications of Verso books, with its claims to be the leading publisher of 'radical' books on both sides of the Atlantic. In his recent work published by Verso, Roberto Mangabeira Unger discusses the world crises we are all familiar with and suggests fairly obviously that international cooperation is needed but claims that we must foster that cooperation in a world in which sovereign states remain in command. What a conservative basis on which to erect a supposedly radical analysis!<sup>10</sup> There is no sense of the opportunity provided by sovereignty-sharing to find a way past the obstacles created by the 'Westphalian' system, unlike many others who would claim to have a more practical approach to fostering international cooperation.<sup>11</sup> Part of the reason for this is the unshakeable conviction on the part of the radical Left that the EU is an elitist organisation in which the people have little or no purchase on their representatives, a theme that runs throughout Perry Anderson's densely packed indictment of one EU institution after another in *Ever-Closer Union? Europe in the West*.<sup>12</sup>

Enough has been said in this book to make clear that there are failings in the European Union where democratic accountability is concerned, failings which go back to Monnet himself. However, the only effective way in which to challenge the continuing criticism from Right and Left of the unique sovereignty-sharing system which is the foundation of the European Union's institutional structure is to place citizens clearly at the centre of that structure. And this can be done not through much-publicised one-off conferences on the future of Europe, but through placing European citizens at the heart of that institutional structure.

## Other proposals for reform of the EU

Because so many proposals for reforming the EU fail to recognise its unique character as a supranational system, they try to change it into the only model they think appropriate, that of the nation-state. It must therefore either change itself into 27 nation-states who are in a much looser relationship than applies at present under a sovereignty-sharing system, or they must become

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10 See Unger, Roberto Mangabeira *Governing the World without World Government*.

11 See Mc McClintock, John *The Uniting of Nations: An Essay on Global Governance*; Corner, Mark *The Binding of Nations: From European Union to World Union*.

12 See Anderson, Perry *Ever-Closer Union? Europe in the West*.

one nation-state with 27 different regions, the ‘superstate’ option. Proposals oscillate between the two but they both use the template of the nation-state and its workings. They share the same inability to recognise that the EU is neither a nation-state in the making nor a loose association of states agreeing to have regular discussions together.

This is not the place to go into detail about all the different reform proposals, but we can say that generally they take two forms. The less interesting ones plump for a clearly inter-governmental arrangement. Proposals for new laws would come from the Council of Ministers, which would have to secure the agreement of all member states for legislation to be put forward. The Council would make use of a revised Commission as a civil service to prepare the new laws it wished to introduce. The Parliament would essentially maintain its present role.

Unsurprisingly, this is a structure favoured by French Gaullists. It was de Gaulle, who called for a *Europe des patries*, a Europe made up of nation-states for whom sovereignty-sharing was inappropriate. Essentially, it is the institutional form appropriate to an inter-governmental body like the Council of Europe.<sup>13</sup>

More interesting are proposals that call for a federal Europe much closer in structure to that of the United States. This approach takes to heart the occasionally voiced opinion that the European Union has five presidents and should concentrate on having one. It argues that a good way to restore unity and a sense of purpose to the EU would be by directly electing one EU President, for instance as the USA or France has one elected president, and then allowing that president to co-exist with the present institutional structure.<sup>14</sup>

The Commission President would no longer emerge as the so-called ‘*Spitzenkandidat*’ in advance of European elections, as happened with Juncker, or emerge from nowhere like Ursula van der Leyen. Instead, the President of the Commission would be directly elected. Clearly having the powerful post of President of the Commission subject to election rather than horse-trading

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13 See Duff, *Britain and the Puzzle of European Union*, pp. 22–23. Duff points out that in vetoing UK accession de Gaulle ‘deprived himself of a natural ally in his war against federalism’ (p. 22).

14 Bogdanor’s recent *Britain and Europe in a Troubled World* is careful to emphasise that following Brexit there will not only be a problem for Britain without Europe but also for Europe without Britain. See Chapter 4 of Bogdanor’s book, ‘Never Closer Union: Europe Without Britain,’ pp. 115–145.

between national leaders behind the scenes has advantages. However, it would change the nature of the Commission itself. Instead of being an independent body proposing legislation much in the manner of Monnet's *Commissariat du plan*, the Commission would be subject to the EU President who would take on an executive role. The commissioners would be recast as a kind of cabinet around the President of the Commission on the U.S. model.

In one way an American president appears to have a great deal of power and much more authority, for instance, than a British Prime Minister. A prime minister is constrained by a cabinet. If an important member of a cabinet resigns it can effectively force a Prime Minister from office, as Geoffrey Howe arguably did when he resigned from the cabinet in 1990 and precipitated the end of Margaret Thatcher as Prime Minister. An American president has a cabinet, but he or she can replace them without difficulty. Sometimes a president will appoint someone to be secretary of state who is from another party – as Kennedy did when he made Dean Rusk Defence Secretary. They keep their power for as long as the president wants them there. For this reason, when someone argues in the UK that the Prime Minister is assuming too much power and ignoring his or her cabinet colleagues, the response is often that they are becoming 'presidential.'

However, although this is an accurate description of the executive authority of the president, it fails to take into account their lack of control over the legislature. The American system is based upon a separation of powers. Congress, the Senate and the Supreme Court all have an important role to play, and that includes having the power to reject proposals from the president. In the UK, a Prime Minister has to carry the cabinet, but once that is done there is rarely a problem in having a bill put before parliament passed and turned into law. The upper house, the House of Lords, only has a delaying power. The lower house, the House of Commons, usually has a majority of MPs from the Prime Minister's own party, though coalition governments are not unknown (most recently the Liberal Democrat-Conservative coalition of 2010–2015). In the United States, Congress and the Senate may well have a majority from the main opposition party – in fact it is unusual for an American President to have both Congress and the Senate containing a majority from their own party.

Often in American history a President has found himself (there has yet to be a woman President) unable to get agreement from Congress or the Senate for what he has wanted to do. After the First World War, Woodrow Wilson was unable to secure ratification by the Senate of the Versailles Treaty, thereby ensuring that the United States never joined the League of Nations, forerunner of the

United Nations. Franklin Roosevelt was unable to bring the United States into the Second World War until the bombing of Pearl Harbour in December 1941, despite his support for Britain.<sup>15</sup> Domestic policy has also been severely constrained, as it has been recently over President Biden's spending plans (those of Barack Obama after the financial crisis encountered similar resistance). It is Congress, not the President, that has the right to declare war.

The separation of powers also gives a key role to the Supreme Court. It is the Supreme Court which determines whether a particular decision should rightly be made at the federal level or at the state level. It is the Supreme Court that decides when a president has exceeded his powers, as when President Nixon was required to hand over the tapes which eventually led to his impeachment over Watergate. It was the Supreme Court that determined that President Clinton was not allowed to veto parts of a bill rather than the whole bill (the so-called line-item veto) claiming that for the President to be able to amend or repeal parts of statutes passed by Congress was unacceptable.<sup>16</sup> A bill had to be approved or rejected by a president in its entirety.

The point is not to assess the rights and wrongs of this particular decision but simply to show that although presidential powers might look overwhelming when seen in terms of the president's executive authority, that authority is constrained by the other institutions in the USA – Congress, the Senate and the Supreme Court.

Insofar as both involve a separation of powers and firm control over the executive, the institutional arrangements in the United States bear some resemblance to those in the European Union. The European Union also relies on a 'Supreme Court', the European Court of Justice, to make decisions on whether the European institutions are acting in conformity with European Law. The Commission is often called the 'executive' of the European Union. It is more constrained than an ordinary executive since it can only propose legislation in certain policy areas. Nevertheless, like any US President, it knows that its proposals must win the approval of both the other key institutions, in this case the

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15 Professors Vernon Bogdanor and Christina Rodriguez gave an interesting lecture on the British and American constitutions at Gresham College, London in 2008. It is possible to access the transcript at <https://www.gresham.ac.uk/watch-now/british-and-american-constitutions>

16 See the report of the National Constitution Center. Its blog is entitled 'Looking Back: The Supreme Court decision that ended Nixon's Presidency.' In other words it was the Court which had the ultimate say. <https://constitutioncenter.org/blog/anniversary-of-untied-states-v-nixon>

Council of Ministers and the European Parliament, which under the ordinary legislative procedure must both agree to pass its proposals if they are to become European Law.

There is certainly much about the structure of the European Union and its separation of powers that does bear comparison with the United States, even though it is a Union of twenty-seven nation-states rather than one. Indeed, this should not be surprising. In both cases there was the pressure of an outside power forcing unity upon distinct groupings that were often at loggerheads with one another, the thirteen colonies breaking away from Britain in one case, Western Europe under the threat of communism and the Soviet Union (and now the Russian Federation) on the other. In both cases a difficult but necessary unity provided the basis for further expansion, despite setbacks such as the civil war in America. There are certainly crucial differences, of which the fact that the USA is a single nation-state is fundamental. But there is a shared recognition that external threats made compromise and new forms of association unavoidable. In its own way the growth of the USA was a 'peace project', to cite Bogdanor's phrase, like the European Union. The New World, finding migrants from Europe often settling in particular states, was determined to prevent the differences evident in the old world from reproducing themselves on the other side of the Atlantic. America's involvement in promoting peace in Europe after World War II, forcing cooperation between previous combatants through the Marshall Plan, was vital to European recovery. But America had itself received millions of Europeans in the previous century and had managed to accommodate them without finding itself host to their conflicts. The power of the American constitution as the birth certificate of a new country and even a new order has to be seen in this context.

But does this resemblance between the two mean that the institutional set-up of the EU could be recast in order to become more like that of the USA? It is difficult to see how this could happen in the case of twenty-seven different nation-states. Would the Council of Ministers accept such a diminution of its role if the EU President were to have equivalent powers to an American President? Would President Macron or Chancellor Scholz really accept having the sort of authority in the European Union that even a powerful senator has in the USA?

The same problem arises with another option which would try to recast the role of the European parliament so that it became more like a national parliament. To do that it would have to have parties vying with one another before elections, identifying themselves with manifestos and then implementing

them when in power. The victors would need to form a government to implement the manifesto after each election. How would that be done? Once again, the Commission's role would essentially be that of a civil service, implementing the policies of the government chosen by the elected European Parliament rather than the policies of an elected President.

Meanwhile the Council of Ministers would have a role similar to that of *Bundesrat* in Germany, in which the different *Länder* are represented and where special emphasis is put upon regional interests (in the case of the EU it would be the interests of the different member states). In the UK many propose this as a role which the House of Lords could have in a new British Constitution.<sup>17</sup> However, as with the idea of an elected President, it is doubtful whether there is a sufficient degree of unity among the twenty-seven different states for such a system to be workable. Would the Council of Ministers really accept a reformed House of Lords role in this new constitution, protecting the interests of individual member states and perhaps with a power of veto over one or two pieces of legislation thrown at them? Lord Macron sounds as unlikely as Senator Macron.

The radical options oscillate between, on the one hand, treating the EU as a single federal state with a lot of autonomy for its internal regions, like the USA, and on the other hand a treaty arrangement in which states reach an agreement but lack an effective means of enforcing it. A single elected leader or a single European government formed out of parliamentary elections suggest one nation-state; on the other hand, an all-powerful Council of Ministers would end up acting only on the basis of unanimity without any binding European law.

None of these proposals recognises the way in which the EU is a unique system which is constantly being 'reduced' to a single nation-state in the making, or else to 27 nation-states in some sort of loose but non-binding confederation. It is neither of these things. But it is precisely the role of the Commission as a neutral body that represents the key to maintaining the EU's unique character. Turn the Commission into a civil service carrying out the wishes of an elected

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17 Not least the Labour Party in its recent document which calls for the replacement of the House of Lords with 'a democratic chamber that is permanently closer to the British people because it is more representative of the nations and regions of the United Kingdom.' (p. 9) See <https://labour.org.uk/wp-content/uploads/2022/12/Commission-on-the-UKs-Future.pdf>

President or Parliament, or the decisions of an all-powerful Council of Ministers, and you are essentially returning to the form of governance that applies to the nation-state.

It is the independent character of the Commission, as a neutral body that can propose but not pass laws, which is crucial to the EU structure. But how can that be maintained without it being seen as an elitist grouping of unelected officials, living comfortably and behaving unaccountably, as it is seen by both Right and Left in the UK? The argument of this book is that it can only be done by introducing a much more important role for ‘deliberative mini-publics’ in the formulation of legislation, integrating a citizens’ assembly into the institutional structure of the EU rather than making it an optional extra when EU leaders decide that they need to seek the views of EU citizens. That is the proposal being made here. It would maintain the structure of a supranational organisation but overcome the democratic deficit through the power of the citizens’ assembly to initiate new legislation and exercise veto power over the proposals of Commission officials. It would seek to deal with the democratic deficit without undermining the unique structure of the European Union.

## Conclusion

Andrew Duff, in his *Britain and the Puzzle of European Union*, points out that a number of important reforms have been carried through in the last couple of years as a response to the pandemic crisis.<sup>18</sup> He cites the Recovery and Resilience Facility of 672.5 billion euros which was agreed in February 2021, as a new phase in the development of EU fiscal policy. He also mentions a decision taken in 2020 to create fresh sources of revenue for the EU budget in the form of new taxes. The Russian invasion of Ukraine is bound to create movement towards a common energy policy and more military collaboration. He also has a number of useful suggestions for improving the role of the EU institutions, particularly the Parliament of which he was once an MEP. However, the point of this chapter was not to explore specific proposals for reform but to try to elucidate how the unique nature of the EU might be preserved in the context of making necessary reforms.

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18 Duff, Andrew *Britain and the Puzzle of European Union* Chapter 10 ‘The State of Europe.’ See pp. 136–137 for the discussion of fiscal policy.

In *The EU: An Introduction*, I suggested that measures to reform the EU rarely show much understanding of its unique character. In his book *Roller-Coaster* Ian Kershaw suggests that the Europe most Europeans identify with is...

...neither the “Europe of the fatherlands” favoured by Charles de Gaulle (and others) nor the supranational entity that was associated with Jacques Delors; rather, it stands as a unique entity somewhere between.<sup>19</sup>

Yet ‘somewhere between’ will not do. What makes the history of Europe unique in the years after World War Two is precisely the supranational entity associated with Monnet and Schuman (Delors came later). The ‘unique entity’ created out of a mass of warring (and still warring) European states is precisely the sovereignty-sharing relationship between nation-states envisaged by the founders of a supranational system. There is no halfway house somewhere between this and de Gaulle’s *‘L’Europe des Patries.’* De Gaulle’s idea is simply a continuation of the old inter-governmental system reaching back to the Treaty of Westphalia in 1648 and beyond.

It is remarkable how few of those who write about the European Union understand that we are dealing neither with the traditional forms of cooperation between nation-states nor with the attempt to create one large superstate – a USE to be a powerful bloc on the other side of the Atlantic to match the USA. We return to the point of the EU’s uniqueness. It is not an inter-governmental union, because its members have agreed to share sovereignty. Nor is it a federal union in which a single nation-state gives a great deal of autonomy to its constituent parts, as in the case of Belgium. It could perhaps be called ‘confederal’, depending on how the word was defined. In practice, however, it needs to be recognised that its distinctive character must be reflected in its distinctive institutions. Having one person elected to the presidency of 27 states does not reflect that distinctive character. Asking whether one could imagine President Macron – or any French President – as the leading senator considering legislative proposals from the elected president of the EU may not appear to be a very ‘systematic’ approach to assessing constitutional proposals, but it surely does point to the likely reception such proposals would receive.

It is for this reason that the book does not propose the sort of radical overhaul to deal with the EU’s ‘democratic deficit’ that would essentially change it into something that fits the nation-state template but not its own unique character. It has proposed instead that the most appropriate institutional reform

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19 Kershaw, Ian *Roller-Coaster: Europe 1950–2017*, p. 545.

for the European Union would be one in which ‘deliberative mini-publics’ or citizens’ assemblies became a permanent part of the institutional structure of the EU rather than an additional option for consultations on specific issues. This would not be an unimportant change, since so much of the criticism of the EU, from both sides of the political spectrum, stresses its ‘democratic deficit’ and in particular the fact that the Commission comprises unelected officials who in most policy areas have an exclusive right of initiative. If this is indeed the ghost of Monnet’s *Commissariat du plan*, it needs to have representatives of the people with an equal power to propose new legislation and veto that of officials.

This is a proposed reform that would not upset the unique nature of the European Union as a sovereignty-sharing body, whereas other proposals would compromise that uniqueness. They would either send the EU in the direction of becoming an inter-governmental talking shop, in the manner of the Council of Europe, or else in the direction of becoming a single nation-state writ large, with the member states reduced to regions of a European ‘superstate’. It cannot be stated too often that these two apparently very different approaches in fact amount to the same thing, a belief in the inviolability of the nation-state unaffected by any binding legal framework such as European Law. Gaullists and some of the federalists want the same thing – the rule of the untrammelled nation-state, with the only difference being that some of the federalists want to create a very big nation-state out of the different members of the European Union. They argue that the EU has helped to curb the excesses of nationalism, but then they talk of the EU as if it ought to become another nation-state writ large. Thus, they manage to bury the very uniqueness of the Union which they are trying to defend.

The de Clercq report which was examined in the last chapter provides an example of this. Like many other attempts to popularise the EU, it seems on the one hand to say that the nation-state is the source of all conflict and then on the other hand that it wants to turn the 27 members of the EU into a big nation-state. The icons that are supposed to mediate the enchantment of the EU to the people – the famous flag, once described as a clock-face without any hands, the anthems, the passports, the trophies and public holidays (‘Europe Day’, May 9th, is the date of the Schuman Declaration in 1950) – are essentially the trappings of nationhood. A ‘rebranding exercise’ designed to sell Europe as something different from those national groupings which had spent much of the previous century at war with one another ends up presenting Europe as a bigger version of what was supposed to be causing all the problems. Quite

apart from the fact that selling the EU as a commodity is not a way of making it democratically accountable, many of those tasked with selling it don't understand what is unique about the product they are selling.

Hence while the idea of having a power of co-decision (jointly exercised by the Commission and the Citizens' Assembly) in the proposing as well as the passing of European legislation might appear less radical than proposals seeking something more like the American presidential system or the inter-governmental arrangements of the Council of Europe, it is arguably more consistent with the unique character of the European Union as a sovereignty-sharing body. It is this unique character of a sovereignty-sharing body that must be maintained in any proposals for reform.

What, however, about that other union, the one which might hold together the United Kingdom in future years? What sort of structure might that have? The next chapter will consider this.