

Reaction for *Notre Europe* to Andrew Moravcsik's article: « What can We learn from the Collapse of the European Constitutional Project? »

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Andrew Moravcsik's faithful readers will find here the qualities that earned his work its reputation: a tight argumentation systematically structured, and polemic in the noblest sense of the word. They will also rekindle their acquaintance with several of the theses the author has set forth in his best known earlier publications: The European Union is not a federal State in the making, the status quo is sturdier and more rational than it may appear at first, and democratic deficit is a myth. Moravcsik both condenses and extends these theses, after the Schumpeterian method he favours: pick out a conviction achieving quasi-axiomatic status in the literature, and pull it apart calling on the authority of contemporary social sciences' most robust resources.

To dispute such an argumentation is no mean task: the rigour of the demonstration does not allow much room for objections. I think nevertheless that four points need qualifying.

The argument asserting that citizens are not interested in European questions because they do not rate very high among what they consider « salient issues » is too perfunctory. Although it is true that EU competences are concentrated in spheres which do not appear among the citizens' priorities whereas the most sensitive political questions fall essentially to national governments, the breakdown is, in the event, more complex. Taxation and social legislation are indeed almost exclusively national competences but this has not stopped a large section of national opinions to perceive the EU as an organisation which, by setting social and tax regimes against each other, influences national conventions. That the European effect were not as great in everyday life as it is in political declarations does not alter the fact that it is well

and truly there and that it constitutes a “social fact” the analyst cannot discard. Politicisation always rests, to a greater or lesser degree, on a mistaken perception of the issues at stake: by generating misguided outlooks, the EU generates politicisation, be it negative. Moreover, the European legislative calendar has shown over the last few months that European legislation can attract a significant political mobilisation – far beyond the relevant microcosms – if they touch on entrenched national practices (see the controversies over the Bolkestein directive, but also regarding the liberalisation of postal or port services, or the working week...).

It is an incontrovertible fact that participation does not automatically flow from institutional opportunities. Current research in social sciences actually shows that civic response is triggered by the combined effect of a) the citizens sense of their own civic capability; b) the clarity of the issues; c) the feeling that decisions can be influenced (see for instance *Democracy, Representation and Accountability*, by A. Przeworski, S. Stokes and B. Manin, CUP, 1999). In this light, institutions matter, in that they have made an issue transparent (thus encouraging opinion polarisation), and when they establish a simple causal link between voting and political decision (by making the vote settle the choice of a clearly identified executive instrument), institutional opportunities have an undeniable effect on political participation. Rather than deny the effect of this variable, it would make sense to examine in detail the conditions under which the invitation to participate could be followed by such effects in the European context.

There is no doubt that the political import of the project of constitutionalisation of the treaties was overestimated in some quarters. Neither the simplification and constitutional framing of the texts, nor the open process of the Convention could, *per se*, generate a surge of civic mobilisation. Constitutional debates, when they take place, happen after the event, when the text exists. This being as it may, it is excessive to consider that the constitutionalisation of the treaties can have no direct impact. In the mid- and long term – on a scale of one or two generations – a more legible text, stating more plainly than the current treaties which competences are exercised in the framework of the Union, by which institutions and according to which procedures, may clear some misunderstandings and be a learning process. Moreover, an inspired preamble, a bill of rights, participation devices such as citizens' initiative, may have a symbolic impact and help build up popular mobilisations. In so far as its adversaries like its partisans turn to the Constitution as a reference in their debates, not only in academia, but also in Court's jurisprudence and in positions proposed by the institutions and the way they are echoed in the media, it may constitute a vector of political socialisation – as happens for instance in the United States. Seen in that light, constitutional ambition keeps a degree of relevance: without expecting it immediately to generate mass mobilisation, it is safe to wager that it will form an element of clarification for collective representation. Moravcsik is no less right in reminding us that neither participation nor understanding imply increased legitimisation: if need were, the French and Dutch referendum campaigns in the spring of 2005 have shown that an intense mobilisation may weaken a regime's legitimacy.

Neither can we deny that the status quo is sturdier and more conform to citizens' expectation than is often said. This does not impel us to jump with Moravcsik to the conclusion that “The

existing European constitutional settlement is more attractive, positively and normatively, than any feasible alternative". If it is fair to think with Edmund Burke that the most legitimate institutions are those which have withstood the test of time (nay, with Hegel that what is real is rational), it can also be maintained that the current context is conducive to developments, which are both desirable and feasible. A simplified treaty taking on board the TCE dispositions regarding the FPCS and the JIA, integrating the Charter and bringing in the required institutional modifications – a bare bones treaty, so to speak, on the lines of the Single European Act – is not out of reach, and would broadly meet the expectations expressed by a vast majority of the citizenry. Is not one of the great advances of social sciences, at least since Max Weber, to have found, between conservatism and angelism, a place for cautious reformism, capable of identifying where are today's points of no return, but also where normative expectations can be met?