



NO MEANS NO!

**ESSAYS ON THE EVE OF
THE EUROPEAN
COUNCIL MEETING**

**PART 1 BRUNO
WATERFIELD**

**PART 2 CHRISTOPHER
BICKERTON**

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FOREWORD

These essays are published on the eve of the European Council meeting that aims to find what it calls a ‘solution’ to the ‘Irish problem’ – the Irish people’s rejection of the Lisbon Treaty on 12 June 2008. The outcome of the Council meeting is uncertain: Ireland may or may not be asked to vote again. What *is* certain is that European political leaders aim to implement the substance of the Lisbon Treaty one way or another. They are adamant that their treaty deal, the result of months of private backroom discussions, will not be ‘obstructed’ by the Irish no-vote.

Politicians’ dismissive and patronising response to the Irish no-vote shines a clear light on some of the political trends that have been intensifying across Europe over the past decade or two. This political moment has exposed what European politics has become, and what are now its operating principles.

Bruno Waterfield’s essay argues that the European Union is the site for ‘a unique form of twenty-first century statecraft’, based on cooperation between national elites and the exclusion of European publics. The defining feature of European-level politics is secrecy: its emblem is the closed door, the *Limité* document. The structure of EU decision-making is designed to provide maximum privacy for elites, and maximum insulation from public pressure and scrutiny, a ‘public-free zone’. Under conditions normally reserved for high-level national diplomacy, political leaders now together devise laws on areas such as crime, immigration, and energy policy. Laws are made in chambers where no notes are taken, and there is no public reporting of events.

It is because of elites’ distancing from their publics that they have been able to create their own private sphere, their own ‘European club’. This private club, and not their own streets, becomes increasingly both their court of appeal and source of pressure and influence. This means a new kind of policymaking, says Waterfield: ‘The EU negotiates conflicts over the economy, foreign policy or security while bypassing the public, meaning that interests are transformed into mere differences between officials or diplomats.’

This is why politicians did everything they could to avoid referendums on the European Constitution/Lisbon Treaty. It is also why they fought so woefully at the few referendums they have had; and why, finally, they have ignored every single no-vote and carried on regardless. The referendum vote is the only point at which EU policymaking has been subjected to the openness of public opinion, the only point at which leaders had win to over the public rather than each other. Waterfield argues: ‘Referendums on the EU create a public contest, even if only in the limited form of “Yes” or “No”, and so disrupt and interrupt the process of political administration.’

In the second essay in this publication, Christopher Bickerton argues that the no-votes represent a rejection of the politics of *fait accompli*. The referendum was a set-up, a done

deal where voters were told there was only one answer. In their thousands people exercised their only available freedom and did the opposite of what they were told. It is this public rebellion that distinguishes the no-vote as a new kind of political phenomenon.

Politicians have often represented the no-vote as anti-European or misanthropic. In fact, Bickerton notes, for all of the diversity of the No camp, the main message coming out of the 12 June Irish vote was the collective mistrust of the government. The Irish government's own surveys show that no-voters were neither anti-European nor anti-immigration: rather, one of the main differences between the Yes and No groups was whether or not they were willing to follow the advice of the government. Bickerton writes: 'The fault line is therefore not between pro- and anti-Europeans but between those willing to take the government at its word.' The no-vote was a 'collective refusal to be patronised by the government'. Bickerton goes on to argue that a second referendum would only further expose the anti-democratic nature of the EU.

Both essays explore how the Lisbon vote has clarified the anti-democratic methods of Europe's elites - and how this is also a moment of political hope. There is a new political dividing line, argues Waterfield, 'between those who accept the political process should be based on mistrust of the people, behind the EU's closed doors, and those who do not. The EU referendum question has become constitutional in the true sense of the word: it is about the nature of politics, who participates in politics, and for whom political structures are organised.' Politics that is off-the-record, *Limité*, is not politics: it is a return to the dealings of princely courts. At the very least, European political chambers should be reported and open to public view.

A critique of the EU today needs to go beyond the tired opposition between a Brussels-based superstate and pristine national political cultures. Bickerton suggests that we should 'articulate a positive vision of Europe' that is 'internationalist in outlook'. This is a time for a pan-European political response, and an open-ended political analysis that takes into account the events unfolding before us. We hope that these essays will be a step in that direction.

Josie Appleton, convenor, Manifesto Club

ABOUT THE AUTHORS

Bruno Waterfield has been the Brussels correspondent for *The Daily Telegraph* since December 2006. He has been reporting on European affairs for nine years, first from Westminster as part of the founding editorial team on www.ePolitix.com, and then from Brussels since January 2003. He blogs at http://blogs.telegraph.co.uk/Bruno_Waterfield

Christopher Bickerton is a lecturer in the Department of Politics and International Relations, University of Oxford. He is co-convenor of the group, Sovereignty and its Discontents, and co-editor of the book, *Politics Without Sovereignty: A Critique of Contemporary International Relations*. He has written widely for newspapers and magazines, including for the *Guardian*, *Le Monde Diplomatique* and *The Nation*.

ABOUT THE MANIFESTO CLUB

The Manifesto Club is an international civil liberties campaigning group (www.manifestoclub.com). Witnessing politicians' dismissive response to the Irish Lisbon no-vote, we launched a campaign webpage, 'No, Nein, Non – messages of support to the Irish people', calling on people from all over the world to send in their views and analysis (see <http://www.manifestoclub.com/eureferendum>). We have also published the *EU Phrasebook: 27 Ways to Say, 'No Doesn't Really Mean No'*, which documents all the different ways in which European leaders have sought to avoid or neutralise no-votes (available from www.manifestoclub.com/euphrasebook).

PART 1

E-WHO? POLITICS BEHIND CLOSED DOORS

Bruno Waterfield

ANTI-REFERENDUM PACT

1 Sir Stephen Wall, 2008, *A Stranger in Europe*, Oxford University Press: Oxford, page 176

2 Ibid

3 'Referendum politics', Mark Mardell, BBC, 28 June 2007
<http://www.bbc.co.uk/blogs/thereporters/markmardell/2007/06/28/index.html>

4 Edited transcript of Prime Minister's Press Conference in Paris, 14 June 2005
<http://www.number10.gov.uk/output/Page7660.asp>

5 Open Europe, *The Lisbon Treaty and the European Constitution: A side-by-side comparison*, January 2008
<http://www.openeurope.org.uk/research/comparative.pdf>

6 'EU leaders sign landmark treaty', BBC 13 December 2007
<http://news.bbc.co.uk/2/hi/europe/7141651.stm>

7 Labour's 2005 election manifesto had promised a referendum on the EU Constitution.

8 For example, according to diplomatic sources, in September 2007, foreign ministers, including David Miliband, reported on the referendum question during an informal meeting in the Portuguese port of Viana Do Castelo, as a regular feature of preparatory talks on the Lisbon Treaty itself.

9 'Portugal yields on EU treaty referendum', Times, 10 January 2008. Like Brown, Sócrates had promised the Portuguese a referendum on the EU Constitution.
<http://www.timesonline.co.uk/tol/news/world/europe/article3162632.ece>

Five years ago in a nondescript Brussels meeting room, in the dreary Justus Lipsius building, the leaders of France, Germany and Britain took some time out of a gruelling European Union summit for a trilateral meeting. Negotiations on a text that was later to become the EU Constitution were proceeding badly under the chairmanship of Italian prime minister Silvio Berlusconi in December 2003. The talks were to be completed, under the aegis of the Irish, the following June. Jacques Chirac, at that time the French president, was keen to sign up Tony Blair, the British prime minister and Gerhard Schröder, German chancellor, to 'a pact between France, Britain and Germany under which none of the three countries would hold referendums'¹.

Chirac was worried that he had more or less promised the French people a vote on a future EU Constitution and, according to someone present in the room, 'clearly wanted to get out of any such undertaking'². But his plea for an anti-referendum pact fell on deaf ears. Schröder replied that Germany's constitution specifically ruled out referendums, and Blair retorted that he currently had no plan to hold an EU vote. Blair's u-turn on the referendum in April 2004, taken to wrong foot the opposition Conservatives³, angered Chirac and pushed France into holding its own vote. By the beginning of 2005, up to 10 of the EU's 25 countries were planning to hold referendums and the future of the EU Constitution looked uncertain.

Destiny struck on 29 May 2005 when, after a vibrant national debate, French voters turned out in large numbers to reject the EU Constitution. Two days later the Dutch followed suite and the EU Constitution was doomed.

Following emergency talks two weeks later, Blair, speaking in Paris, gave his assessment of the problem: 'After these two No votes, let's be very honest, if there was a referendum in most parts of Europe at the moment, the answer would be no'⁴. It was to be another two years, after a period of 'reflection', before the EU dusted off the old Constitution to resurrect it, virtually intact⁵, as the Lisbon Treaty⁶. This time a new generation of EU leaders – headed by Gordon Brown⁷, Angela Merkel and Nicolas Sarkozy – were to engage in an undeclared, but generally acknowledged, pact not to hold referendums on the new Treaty unless absolutely constitutionally required, meaning that only Ireland would vote⁸.

By January 2008, Brown, Sarkozy and Merkel had helped to dissuade José Sócrates, the Portuguese prime minister, from holding a referendum. Sócrates told Portuguese MPs why he was backtracking on earlier promises to hold a popular vote: 'A referendum in Portugal would jeopardise, without any reason to do so, the full legitimacy of the ratification by national parliaments that is taking place in all the other European countries.'⁹ President Sarkozy, speaking at a private meeting of senior MEPs in November

- 10 'EU polls would be lost, says Nicolas Sarkozy', Daily Telegraph, 15 November 2007
<http://www.telegraph.co.uk/news/worldnews/1569342/EU-polls-would-be-lost%2C-says-Nicolas-Sarkozy.html>
- 11 EU Treaties: Denmark (Maastricht 1992), Ireland (Nice 2001), France and Netherlands (Constitution 2005), Ireland (Lisbon 2008). Euro referendums: Sweden and Denmark (2003). EU membership: Norway (1972 and 1994).
- 12 'About the EU, Origins and Development, The Treaties', German EU Presidency, January 2007
http://www.eu2007.de/en/About_the_EU/Origins_and_Development/The_treaties.html
- 13 Robert Harmsen, 2005, 'A Dual Exceptionalism?: British and French Patterns of Euroscepticism in Wider Comparative Perspective'. Paper presented at the European Research Group, University of Oxford, May, 2005
- 14 Javier Solana, High Representative, Berlin, Stiftung Wissenschaft und Politik, 7 October 2008
http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/discours/103221.pdf
- 15 Mark Leonard (2005) *Why Europe will run the 21st Century*, Fourth Estate: London, p13

2007, made it clear that he, Brown and others had reached a clear understanding on the referendum question. 'France was just ahead of all the other countries in voting no. It would happen in all member states if they have a referendum. There is a cleavage between people and governments', he said¹⁰. 'A referendum now would bring Europe into danger. There will be no Treaty if we have a referendum in France, which would again be followed by a referendum in the UK.'

FROM NATION STATES TO MEMBER STATES

The question of referendums and referendum rejections has dogged the EU since the early 1990s, as its structures have become increasingly important to European governments¹¹. The Maastricht Treaty, which gave the European Union its name, was only narrowly approved by a referendum in France known as the 'Petit Oui'. The Danes voted No. In Britain, a Conservative government almost tore itself apart over the question of a British vote - a debate that haunts the Tories to this day.

By 1992, it was becoming clear that an EU billed as 'an ever closer union among the peoples of Europe'¹² was nothing of the sort. 'The "Petit Oui"... provided an unmistakable sign that an elite-driven process of integration relying on a popular "tacit consensus" had run its course', concluded one group of academic researchers in Belfast¹³. The EU, by the early 1990s, represented a 'union' of 'member states' - a mechanism for collaboration between European political elites. This development was based on the converging interests of Europe's governing classes, in a post-Cold War era increasingly defined by consensus politics that spanned traditional party-political divides.

In a recent speech, Javier Solana, the EU's foreign policy chief, explained that European structures were about managing and avoiding conflicts of national interest. 'The concept of "national interest" can seem outmoded and unattractive. In both public opinion and specialist circles, we tend to associate the idea with the cynical pursuit of self-interest', he said¹⁴. 'We like to think diplomats have moved beyond that kind of thinking in the twenty-first century. In the European context this feeling becomes stronger. European integration has been built on compromises. So a ruthless pursuit of national interests sits ill with the European method of consensus-building.'

Since the 1990s the EU has built highly resilient structures to manage conflicts of interests between member states – especially to contain the interests of a reunified Germany. Europe's governing classes are today conditioned in 'the European method of consensus-building', a form of decision-making that manages conflicts of EU member state interests behind closed doors, between conclaves of officials, ministers or heads of state and government.

Mark Leonard, who heads the European Council on Foreign Relations think-tank, describes the EU as an 'invisible hand', a form of statecraft or a way of doing politics that transforms nation states into member states from within. 'Europe has been able to extend itself into the lives of Europeans largely unchallenged by seeping into the existing structure of national life, leaving national institutions outwardly intact but inwardly transformed. The "Europeanisation" of national political life has largely gone on behind the scenes but its very invisibility has seen the triumph of a unique political experiment', he wrote in his 2005 book¹⁵. The EU has evolved, not as a federal super-state that crushes nations underfoot, but as an expanding set of structures and practices that have allowed Europe's political elites to conduct increasing areas of policy without reference to the public.

16 Leonard (2005) *Why Europe will run the 21st Century*, Fourth Estate: London, p24

17 A report, written by this author, provoked a fuss among the Permanent Representatives because it referred to a leaked European Commission account of 'informal' and secret Coreper negotiations on the creation of an EU diplomatic service, before the Lisbon Treaty had been ratified in the House of Commons. See 'David Miliband 'misled MPs over EU embassies'', Daily Telegraph, 30 May 2008. <http://www.telegraph.co.uk/news/2050514/David-Miliband-'misled-MPs-over-EU-embassies'.html>

For more see Bruno Waterfield, 'No must mean No for the EU', Daily Telegraph blog, 12 June, 2008 http://blogs.telegraph.co.uk/bruno_waterfield/blog/2008/06/12/no_must_mean_no_for_the_eu

See also Bruno Waterfield, 'The EU talks that aren't', Daily Telegraph blog, 3 June 2008 http://blogs.telegraph.co.uk/bruno_waterfield/blog/2008/06/03/the_eu_talks_that_arent

18 Jens Peter Bonde <http://www.bonde.com/>

19 The European Parliament, while being the EU's only directly elected institution, operates as an adjunct to the EU consensus method. It has no powers to make its own laws, or even to decide where it sits.

A PUBLIC-FREE ZONE

The EU has three main institutions where decision-making is conducted outside democratic political structures and the public realm. Here a unique form of twenty-first century statecraft has emerged, allowing expanding areas of public authority to retreat into a closed, private world of bureaucrats and diplomats. Since the 1990s, the scope of decisions taken at the EU level has expanded from single market and trade regulation to include highly sensitive justice, security and foreign policy – areas that were once the jealously guarded preserve of parliaments or seen as integral to the national or public interest in countries across Europe.

Coreper – the Committee of Permanent Representatives – is a gathering of senior national officials (with ambassadorial status) that meets at least at least five times a week in Brussels (in the different forms of Coreper 1, Coreper 2 and the PSC/Political and Security Committee). During crises, such as Russia's invasion of Georgia, or during protracted negotiations on legislation, such as climate change targets, meetings are held on a daily basis.

Coreper prepares the work for meetings of the Council of the EU, which represents governments legislating or operating at the European level. Ninety per cent of EU legislation passes through Coreper's hands¹⁶. Coreper's proceedings (especially Coreper 2 and PSC which include Council preparations, foreign policy, justice and security as some of its policy areas) are highly confidential and treated as state secrets¹⁷. Political texts discussed or originating there are usually classed as 'non-papers', which means they are not available under open information or EU 'access to documents' rules.

The Council of the EU represents national governments, and brings ministers and heads of state and government together in regular meetings that combine executive and legislative roles. The body, which has a secretariat general, has also spawned hundreds of committees and working groups, all of which operate in secret.

The most regular meetings of the Council are ministerial meetings related to pre-agreed policy areas, such agriculture or justice. While occasional sessions of Councils of Ministers are now televised, most are not and take place behind closed doors. There are no full minutes to record diverging views or interests; only a laconic account is issued, usually recording a unanimous 'yes', after the real decision was taken in Coreper.

According to Jens Peter Bonde¹⁸, a former Euro-MP and expert on the EU's decision-making process, 70 per cent of all EU legislation is 'de facto' decided in 300 secret working groups in the Council. Another 15 per cent goes to Coreper and only 15 per cent of proposals need any substantive discussion at the level of the Councils of Ministers.

Alongside these structures is an unelected executive, the European Commission, which has the sole right to propose legislation. It also polices the EU's 'Acquis Communautaire', 100,000 pages of case law and regulations. The Commission presides over the process of 'comitology', procedures that draw in committees of national 'expert' officials on day-to-day implementation of EU regulations, such as aviation security. While eclipsed by Council formations over the past decade, the Commission still plays (along with the European Parliament¹⁹) a key role in creating a bureaucratic clearinghouse of competing interests, between different corporations, industrial sectors and non-governmental organisations (NGOs).

20 See report, 'EU facing revolt over climate change target enforcement', Daily Telegraph, 16 October 2008
<http://www.telegraph.co.uk/earth/earthnews/3353430/EU-facing-revolt-over-climate-change-target-enforcement.html>.

This point is also based on private conversation with relevant EU diplomats.

21 Private conversation with various EU diplomats

22 Perry Anderson (2007), 'Depicting Europe', London Review of Books, 20 September 2007
http://www.lrb.co.uk/v29/n18/ande01_.html

Meetings of the quarterly European Council, the EU's highest plenary body, usually described in the media as 'summits' of European leaders, take place in conditions of high secrecy. There is no official record of proceedings, the summit communiqué is prepared by Coreper and signed off during the meeting. This document, known as Council Conclusions, is of great political importance as it binds heads of state and government – notwithstanding national elections that might take place between meetings.

The Council Conclusions are a compact between leaders that overrides the relationship between voters and their governments – a fact that sharply emerged in recent debates over the EU's stringent objectives to cut CO₂ emissions in the fight against climate change. The implementation of targets (agreed in March 2007) was subject to intense wrangling, as some of Europe's poorer countries said that their businesses could not bear the costs of these targets at a time of economic slump. During negotiations in October 2008, the Italian and Polish prime ministers, Silvio Berlusconi and Donald Tusk, argued that the targets were not binding because they had been agreed before elections in Italy and Poland had brought them to power. The pair was slapped down, with Britain's foreign secretary David Miliband quick to remind them that an EU deal is a deal, whatever national voters think they might have voted for²⁰.

Sessions of the European Council are designed to provide maximum privacy for heads of state and government, and to close off their decision-making from the scrutiny of their voters. During most sessions, national delegations are not in the room with their leaders and must rely on a bizarre system of officials known as 'Antici' (named after an obscure Italian Brussels diplomat) to know what is going on. As leaders talk, two EU officials take it in turns to take shorthand notes of what is said. Every 20 minutes, one of the officials reports back to a room which houses 27 'Antici' diplomats, one for each member state. There he reads back his notes and the 27 Antici make their own record. If a problem has come up, up to 40 minutes after the event, each Antici official has a red telephone with a direct line to their respective national delegations. Antici records are not published (having no formal existence) and are not covered by relevant national or EU open information legislation because they are documents classified as diplomatic negotiations²¹.

The historian Perry Anderson has observed how these institutions and practices transform the conduct of politics. In his words, 'What the trinity of Council, Coreper and Commission figures is not just an absence of democracy – it is certainly also that – but an attenuation of politics of any kind, as ordinarily understood. The effect of this axis is to short-circuit – above all at the critical Coreper level – national legislatures that are continually confronted with a mass of decisions over which they lack any oversight'²². 'The vast majority of the decisions of the Council, Commission and Coreper concern domestic issues that were traditionally debated in national legislatures. But in the conclaves at Brussels these become the object of diplomatic negotiations: that is, of the kind of treatment classically reserved for foreign or military affairs, where parliamentary controls are usually weak to non-existent, and executive discretion more or less untrammelled.'

The EU has never been about abolishing national interests, but always about managing them in a manner convenient for Europe's political classes, in a public-free zone, with consensus arrived at through bureaucratic procedures derived from the secretive world of diplomacy. By taking national interests out of the public domain they ceased to be truly 'national'; they became technical issues, rather than representative of political or economic interests. A national interest is and should be a public thing. It is declared by politicians, political leaders and interest groups seeking to mobilise citizens behind them. The EU negotiates conflicts over the economy, foreign policy or security while bypassing the public, meaning that interests are transformed into mere differences between officials or diplomats.

23 President Wilson's Fourteen Points delivered to US Congress January 8 1918. http://wwi.lib.byu.edu/index.php/President_Wilson%27s_Fourteen_Points

24 Ibid

25 'Fair trial groups attack EU prison plan', Daily Telegraph, 17 January 2008 <http://www.telegraph.co.uk/news/worldnews/1575857/Fair-trial-groups-attack-EU-prison-plan.html>

26 Frederick Toben & Chris Huhne, 'Don't extradite alleged Holocaust denier', Daily Telegraph, 4 October 2008 <http://www.telegraph.co.uk/news/newstoppers/politics/liberaldemocrats/3133966/Chris-Huhne-Dont-extradite-alleged-Holocaust-denier-Frederick-Toben.html>

A deep-rooted secrecy becomes the convention for all EU officials and diplomats. To place a record of negotiations into the public realm risks unravelling consensus between governments; it would mean the unwelcome introduction of voters' opinions and judgements into a process of private deals.

THE IDEAL OF POLITICAL OPENNESS

The revival of the culture and practices of secret diplomacy, and their extension beyond the traditional realm of international relations to the administration of citizens by their governments, is a deeply regressive development. A campaign against secret diplomacy was a defining characteristic of European and American internationalists who, as World War One closed, sought to overturn an old order based on confidential agreements to carve up Europe – deals that had fuelled a conflict in which many millions had died.

The new idealism united both Russian revolutionaries, who had published documents revealing secret negotiations between the Allies to divide the German and Austro-Hungarian Empire after the war, and Woodrow Wilson, president of the USA.

Wilson praised the Bolsheviks for upholding principles of democratic accountability during Russia's negotiations to exit the war. 'The Russian representatives have insisted, very justly, very wisely, and in the true spirit of modern democracy, that the conferences they have been holding with the Teutonic and Turkish statesmen should be held within open, not closed, doors, and all the world has been audience, as was desired', he told US Congress in January 1918²³.

For Wilson, it was self-evident (the first principle of his famous 14 points) that a new international order based on rights of self-determination, national sovereignty and the striving for democracy had to conduct itself in public. 'The only possible programme, as we see it, is this: Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always frankly and in the public view.'²⁴

The lack of accountability and the expediency of EU politics means that in many areas, including foreign policy, the EU's inter-elite bureaucratic requirements have overridden principles of internationalism, democratic rights or justice. EU decision-making is essentially value free. Consensus comes first, meaning that principles can be traded off against the expediency of making deals, or 'effectiveness'. This gives rise to a dangerous administrative relativism.

The European Arrest Warrant is a prime example. Agreed in the aftermath of the 11 September terrorist attacks on the USA, the EU legislation makes possible the quick extradition of suspected individuals by mutual recognition across Europe of criminal offences, judicial practices and police practices. Under this system, a Briton can be extradited to another EU country after being tried in absentia, a practice that would be regarded in Britain itself as a grave injustice²⁵. A warrant can even be issued for a crime that is no offence in the country where an individual is based²⁶. Mutual recognition does not say that one law is better than another law, or that one law is good and one law is bad. It recognises laws as being comparable and equal solely by the measure of convenience for politicians and police officers, rather than principles of justice.

The European 'method of consensus-building' is fundamentally at odds with openness and points of political principle: both of these open up political procedures and structure

- 27 Anderson, 'Depicting Europe', op cit.
 28 'Let Britain speak on Europe's treaty', Gideon Rachman, *Financial Times*, 15 October 2007
 29 Wall, *A Stranger in Europe*, p132
 30 European Parliament Plenary debate, 18 June 2008
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20080618+ITEM-002+DOC+XML+V0//EN&language=EN>
 31 Ibid.

to external questioning, subjecting them to public scrutiny based on independent measures of right or wrong. EU procedure stands in stark contrast to the principles of self-determination and openness established 90 years ago by President Wilson. His idealism has no place in the Brussels corridors of today.

As the European political classes have become highly reliant on the EU, national statecraft has become dependent on its unprincipled and anti-democratic practices – leaving governments ill-equipped for fighting and winning referendums. Anderson has charted the rise of a new political etiquette that has effectively dispensed with the public. 'In the disinfected universe of the EU ... any public disagreement, let alone refusal to accept a prefabricated consensus, [is] increasingly being treated as if it were an unthinkable breach of etiquette. The deadly conformism of EU summits, smugly celebrated by theorists of "consociational democracy", as if this were anything other than a cartel of self-protective elites, closes the coffin of even real diplomacy, covering it with wreaths of bureaucratic piety. Nothing is left to move the popular will, as democratic participation and political imagination are each snuffed out.'²⁷

Nothing can be more opposed to Brussels convention than the cut and thrust of referendum debates over Europe; such a public process soon escapes and becomes independent from the strictures of EU officialdom. Gideon Rachman, the *Economist's* former Brussels correspondent and now *Financial Times* columnist²⁸, hits the nail on the head: 'For the European crowd that I know well, advocating a referendum is not simply an act of political treason. It is a gross social faux pas – a bit like putting furry dice in your car. There is a range of adjectives that is readily applied to the pro-referendum camp: xenophobic, spit-flecked, swivel-eyed, Little Englander'.

The EU's hostile response to recent referendums in France, the Netherlands and more recently in Ireland, reveals that it is a Union of rulers united in mistrust of the people, not a Union of leaders prepared to make a case and to take their people with them.

REFERENDUMS ARE 'FASCIST'

The fear of the rise of national populist movements has long haunted the imaginations of those who built the EU. Sir Stephen Wall, in his account of a key period in the EU, describes talks between the then British prime minister John Major and Helmut Kohl, the German chancellor of the day. 'For Germany, said Kohl, the situation has become much more difficult since unification. With the diminution of the risks of East-West confrontation, nationalism had become a more significant force ... These nationalistic forces were at their least virulent in Germany but he wanted to prevent them recurring', Wall relates²⁹.

As the EU has become the place and forum where Europe's rulers resolve questions of interest, politicians worry that democracy threatens to undo all the good work. In a debate following Ireland's referendum rejection of the Lisbon Treaty, Martin Schulz, German leader of the Socialists in the European Parliament, expressed his dismay. 'We must recognise that there was once a time when the pro-European movement had a heart and soul ... this was after the war, when Europe's peacemaking mystique melded people together. Now, it is the anti-Europe movement which has the heart and soul', he said in Strasbourg on 18 June 2008³⁰.

Schulz was alarmed that anti-EU campaigners were winning out at the expense of pro-EU politicians, more used to cosy conclaves than the hustings. 'You can see that they are

32 Hansard, 9 October 2007, Column 153

33 Ibid.

34 'Constitution Plus', Andrew Duff, FT.Com, 28 February 2007

35 The Conclusions of the European Council and the Council of Ministers, House of Commons European Scrutiny Committee, Tenth Report of Session 2007–08, 4 February 2008

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmeuleg/86/86.pdf>

extremely active. They raced round Ireland, climbed staircases, rang doorbells, canvassed and distributed their campaign materials. They were in evidence everywhere', he said. This situation, the German warned darkly, could lead to the rise of fascism. 'Where is the passion that we once had? The passion has migrated to the other side, the side which speaks ill of Europe, on the right wing of the political spectrum. It lies with those who speak ill of Europe, and who do so simply because they are afraid. In Europe, however, this mixture of social decline and fear has always opened the door to fascism'³¹.

In response to British opposition call for a referendum on the Lisbon treaty, government ministers also hinted at the sinister dangers of referendums. During exchanges in the House of Commons, foreign secretary David Miliband revived comments made in the 1970s by Margaret Thatcher, saying to his Conservative opposition shadow, William Hague: 'I suggest that he listens to what she said: "... that the referendum was a device of dictators and demagogues.'" The right honourable Gentleman will never be a dictator; how does it feel to be a demagogue?'³²

Andrew Duff, leader of Britain's Liberal Democrats in the European Parliament, made it clear that democracy and the EU did not mix. Speaking in the same European Parliament debate as Schulz, he said: 'The plebiscite is a form of democracy, possibly suited for revolutionary circumstances, but completely unsuited for informed and deliberative decisions on complex treaty revision'³³. The contrast between benighted voters and enlightened parliamentary legislators appears repeatedly in the debate over referendums.

Writing in the *Financial Times* last year, Duff, who also sat on the body that drafted the original European Constitution, argued that the EU is intrinsically unsuited to direct democratic accountability. Instead of referendums, he argued, trained politicians are the only people suited to understand the complex consensus underlying the EU. 'The referendum is a simplistic device, requiring a crude answer to a complex question far more suited to the historic compromise of parliamentary scrutiny and deliberation', he wrote³⁴. 'Referendums on the EU constitution are capricious, simplistic, nationalistic, negative and divisive. It would be best to go back to parliaments.'

THE POLITICS OF SECRECY

Today there is a new political divide: between those who accept the political process should be based on mistrust of the people, conducted behind the EU's closed doors, and those who do not. The EU referendum question has become constitutional in the true sense of the word: it is about the nature of politics, who participates in politics, and for whom political structures are organised. Debating the EU has become an argument about what politics should be, in opposition to how it is.

The question is not really about parliaments versus referendums. In reality, the EU is as closed to the scrutiny of national parliaments as it is to the general public. In February 2008, the House of Commons European Scrutiny Committee asked the government to place a copy of draft Council Conclusions in the Parliament's library³⁵. As such documents have binding consequences for the Commons and future governments, MPs thought they might be entitled to demand this basic element of openness.

The response, in June 2008, from David Miliband, is a revealing indicator of the limited extent of permitted parliamentary scrutiny. 'We do not see any prospect for consensus among EU partners to change the present system for recording European Council

36 This EU classification is the lowest for officially recognised documents. More sensitive papers are classed as Restreint UE. The most sensitive political papers are not classified under EU rules to avoid being listed in official registers of documents. Papers that are listed but not published on the Council Register can be applied for under EU 'access to documents' rules. In this author's experience a courteous refusal explaining that disclosure 'could impede the proper conduct of future negotiations' usually follows some weeks later. See Bruno Waterfield, 'Too COSI: what are they hiding?', Daily Telegraph blogs, 29 February 2008

37 The Conclusions of the European Council and the Council of Ministers: Follow up report, House of Commons European Scrutiny Committee, Twenty-fifth Report of Session 2007–08, 12 June 2008

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmeuleg/606/606.pdf>

38 'Five good reasons not to have a referendum - and one very bad one', Timothy Garton Ash, *The Guardian*, 11 October 2007

<http://www.guardian.co.uk/commentisfree/2007/oct/18/comment.politics>

39 Frank Furedi, 'If you believe in Europe, then reject this Treaty', *Spiked*, 28 January 2008

<http://www.spiked-online.com/index.php?site/article/4382/>

meetings. The benefit of the existing system is that it facilitates frank and open discussion in the European Council. Conversely, experience shows that public records of discussions would obstruct agreement by resulting in more entrenched positions and prudence bordering on immobility', he wrote. 'Furthermore they would also push real discussion into the corridors – which would be a step away from transparency and democratic accountability. With regard to the deposit of draft European Council Conclusions for scrutiny, I regret that the government is not at liberty to submit these documents to parliament. Under Council rules agreed by all 27 Member States, these are 'internal documents with a limited distribution' (Limité³⁶) and we are obliged to respect these rules.'

The Committee in turn replied: 'We quite understand why the government considers that it would be dishonourable to breach the Limité classification. We see no reason, however, why the draft conclusions of the European Council or of the Council of Ministers need be classified. It would be open to the government to propose that classification cease. The foreign secretary suggests that a public record of the discussion at the European Council would push real discussion into the corridors, "which would be a step away from transparency and democratic accountability". This implies that the present arrangements are transparent and provide satisfactory accountability. In our opinion, they do not'³⁷.

It seems that when it comes to a possible breach of EU etiquette, MPs can expect to be treated no differently from the voters they represent.

Behind all the hypocrisy and constitutional niceties of parliament versus plebiscite, was a simple political reality or, as Tim Garton Ash, writing in the *Guardian* put it, a 'bad argument'. 'If we had a referendum, the government would lose it. Blue funk, in short. I have to say that when I talk privately to pro-European friends, this is almost invariably the clinching argument: "Because we would lose it!" Even as I write this line, I know it's a gift to British Eurosceptics. "Look", they will gloat, "even the Guardian admits that the real reason is funk. Why don't pro-Europeans trust the people?" But our job, as journalists, writers, academics or think-tankers, is not to hack out party-political lines. It is to tell the truth. And this is the truth. Good as the other arguments are, the bad one is the clincher. If pro-Europeans thought they could win a referendum, as in 1975, they would probably go for it'. Garton Ash himself argued for a public debate: 'Many of my pro-European friends will jump on me for saying this, but I must admit that I rather hanker after open combat. Sound the trumpets, stiffen the sinews, and let us march out'³⁸.

The question of holding referendums, or not, is not a question of pro- versus anti-European. It is a question of your position on secret backroom deals versus open politics in public. Frank Furedi, writing in January 2008, noted there is gulf separating the ideals of pro-Europeans, such as Garton Ash, from the 'EU oligarchy'. 'Observers often confuse the pro-EU sensibility of the oligarchy with a pro-European outlook. In truth, support for the EU is driven predominantly by pragmatic and instrumental concerns rather than by a fundamental adherence to any European ideal', he wrote. 'Despite appearances, the political oligarchy is not passionately pro-European. It lacks a political language or any ideals that might give Europe some meaning'³⁹. The EU consists of procedures and practices to take politics out of the public realm. True internationalism or any European ideal should have, to use President Wilson's words, 'open, not closed, doors, and all the world [as] audience'.

- 40 Slavoj Zizek 'Los europeos quieren más Europa', , El Pais, 8 July 2008
http://www.elpais.com/articulo/opinion/europeos/quieren/Europa/elpepiopi/20080708elpepiopi_4/Tes
- 41 Commission press conference, 13 June 2008
- 42 'The plan now is to quarantine Ireland', Bruno Waterfield, Spiked 16 June 2008. The author saw the text as it arrived on a colleague's mobile phone (which also revealed the identity of the Irish official who sent it).
<http://www.spiked-online.com/index.php?site/article/5350/>
- 43 Frank Furedi, 'After the Irish 'No' vote: pathologising populism', Spiked, 23 June 2008
<http://www.spiked-online.com/index.php?site/article/5373/>

MISTRUST OF THE PUBLIC

Political structures, both at national and EU level, have increasingly become a machine for transmitting decisions taken by enlightened bodies down to voters. This development comes at a moment when the political classes and establishments across Europe are unable take voters with them.

Slavoj Zizek, the cultural theorist, sees the Irish referendum as proof that the political class are now unable 'to express, to translate into a political vision, the yearnings and dissatisfactions of the population'. He wrote: 'The Irish voters were not presented with a symmetrical choice, because the very terms of the referendum gave preference to a Yes. The authorities proposed to the people an option which, in practice, was nothing of the sort, since it consisted of ratifying the inevitable, which was the result of enlightened experience. The media and the political elite portrayed the referendum as a choice between knowledge and ignorance, between experience and ideology, between post-political administration and old political passions'⁴⁰.

Referendums on the EU create a public contest, even if only in the limited form of 'Yes' or 'No', and so disrupt and interrupt the process of political administration. This is why the European elites object to referendums so much. In the aftermath of Ireland's rejection of the Lisbon Treaty on 12 June 2008, José Manuel Barroso, president of the European Commission, made clear the nature of the affront caused by Irish voters. 'The Treaty of Lisbon intends to solve specific problems. The no vote in Ireland did not solve the problems,' he said. 'When 27 governments decided to adopt the Treaty of Lisbon they did not just do it for fun. They have done it because there is a problem and we should find a new way of working together in an enlarged EU. The problem is still there.'⁴¹

Barroso's comments make it clear: the EU is not a system of representation or a public authority. It is a set of institutions and relationships organised for the convenience for national state bureaucracies, on the basis of mistrust of the people. One text sent by a Dublin official to a friend in Brussels put it even more succinctly: 'The Irish people - the bastards - have spoken'⁴². As Frank Furedi has observed: 'As far as EU supporters are concerned, democracy is a curse, which threatens to undo all the good things they achieved during months of behind-the-scenes wheeling and dealing. The remarkable thing about their reaction to the Irish electorate... is that it expresses an intense hostility towards the European public more broadly'⁴³.

It has become clear that the political elites have failed to uphold representative democracy and the principles that underpin it. The Irish No, like the French and Dutch EU rejections of three years ago, is massively significant. It is an embryonic glimmer of a new politics of opposition. Today there are two sides in Europe: those who believe that Yes is the only answer to the EU, and those who call for political structures and decision making to be part of the public domain.

PART 2

'NO' TO THE POLITICS OF THE FAIT ACCOMPLI

Christopher Bickerton

1 'EU plans for force second Lisbon vote: French politicians hatch plan to isolate Ireland and force second Treaty poll', *The Times*, 18th October, 2008

2 'Irish PM seeks way to ratify rejected EU treaty' *The Guardian*, 28 November, 2008

When a majority of French people voted No to the draft Constitutional Treaty in May 2005, national and European elites were stunned. The whole process – from the Constitutional Convention to the final ratification of the Treaty – had been intended as an exercise in bringing the EU closer to its citizens. The French government had wanted to give its own people a chance to support *en masse* the European project. Instead it received a slap in the face. The French people were vilified for having bitten the hand that fed them. As leading beneficiaries of the Common Agricultural Policy, and one of the original architects of European unity, the French had let everyone down.

For all the outrage, the result could not be ignored. As Slavoj Žižek put it, the most democratic part of the French No vote was its sheer negativity: the French people had been expected to vote one way but a majority voted the other way. This was the most basic version of democracy: the freedom of the choice itself. Cynics today point out that the Treaty of Lisbon is not much different from the old Constitutional Treaty. That's true, but at least Europe's elites were forced to go away and think again after the rejection of the Constitution.

Ireland's rejection of the Treaty of Lisbon in June 2008 has been different. The choice presented to the Irish people was more fiction than fact: only a yes vote counts. Officials in Brussels, Paris and Berlin want a second referendum in late autumn 2009, with opt-outs on some of the contentious parts of the Treaty as a sweetener¹. The message of such tinkering is simple: a democratic vote in Ireland does not mean choosing freely between different options. It means doing what the government tells you to do. There is no greater mockery of the democratic process than to replace a choice with a rubber stamp.

This subversion of democracy is laced with its own justifications. The Irish people are only being asked to honour their obligations to other European nations. They are told that if Europe has learnt anything from the bloody and violent twentieth century, it is surely that European solidarity must trump national egotism. The Irish are also being told that there are no national solutions to global problems. If Ireland wants to survive the current financial crisis, it must remain a part of Europe. In a recent visit to Sweden, Irish premier, Brian Cowen, observed that 'the European Central Bank has been critical, pivotal, to Ireland being able to contend with the turbulence that this financial crisis has generated. And I think it has brought home to the Irish people how fundamental the European Union is to our progress and to our development'². We can see already the campaign slogans for a second referendum: Keep Ireland solvent, vote Yes for the Lisbon Treaty!

3 'Czech president triggers EU row with Ireland', EUbusiness.com, 13 November, 2008

4 'Fury as Mandelson is made scapegoat for Irish 'No' vote' The Independent, 21 June, 2008

If there is a second referendum, will these arguments convince the Irish to vote yes? Perhaps, but it will be a close run thing. Ireland's No vote was not a rejection of Europe. The No vote was rather a challenge to the politics of done deals – to the idea that we should give politicians the benefit of the doubt and simply trust them to act in our best interests. This development represents a major challenge for the EU. Is the EU compatible with more mobilised national populations unwilling to give a *carte blanche* to their elites? Can the EU deal with political opposition, conflict and dissent? Czech President, Vaclav Klaus, doesn't think so. In a recent visit to Ireland, he compared the leader of Ireland's No campaign, Declan Ganley, to a pre-1989 East European dissident. 'We were quite happy in the communist era when west European politicians were coming to us and met our dissidents at the time', he said. 'So I am meeting Mr Ganley in the same style and the same way'³ The EU, in Klaus', has as much difficulty in accommodating conflict as did the Soviet block.

This essay looks at the Irish referendum and asks whether democracy and European integration are compatible. It emphasises the novelty of contemporary political opposition to the EU and its threat to the EU's existing modus operandi. It identifies in recent events the potential for a political message that is democratic and internationalist in outlook.

LEARNING FROM THE NO CAMPAIGN

Much ink has been spilt on the question of why the Irish voted no in June 2008. 53.4% of the population rejected the Lisbon Treaty, 46.6% were in favour of it. Turnout was remarkably high: at 53.1%, it was well above the 35% who voted in the first referendum on the Nice Treaty. In the first Nice vote of 2001, turnout was low largely because many Yes voters stayed at home. In June 2008, turnout was high because of a marked increase in the No vote. What brought these No voters out in such large numbers this time around?

Explanations often confuse the campaign with the result itself. They argue that the key issues were a concern for Irish neutrality, irritation at the prospect of losing an Irish Commissioner and fear of further immigration to Ireland as a result of the Lisbon Treaty. Others felt that abortion had been a key issue, with the EU viewed as a threat to Ireland's anti-abortion laws. According to the French president, Nicolas Sarkozy, the Irish vote was lost because of the EU's trade commissioner, Peter Mandelson. Asked if European Commission president, José Manuel Barroso was to blame, Sarkozy replied: 'Ireland's debate focused on abortion, euthanasia, taxation, the World Trade Organisation, agriculture. You can't blame that on Mr Barroso. Choose someone else. Mandelson for example.'⁴

Was the No result so issue-focused? The campaign was certainly made up of very disparate groups, each with different views on the Treaty. Most prominent of these was Libertas, a campaign group founded by an Irish millionaire businessman, Declan Ganley. The group had originally been set up in opposition to the regulation and red-tape coming from Brussels. On Lisbon, it focused on issues such as Irish influence in EU decision-making, democracy in the EU and tax harmonisation. Given Ireland's economic ties with the rest of the EU, Ganley cut a lonely figure in the business establishment, the majority of whom backed the Yes campaign.

Other groups in the No campaign shared Libertas' nationalist rhetoric. Sinn Fein combined this with a welfarist economic agenda firmly at odds with Ganley's anti-regulatory zeal. Sinn Fein also played up the dangers the treaty posed for Irish neutrality, suggesting that it would draw Ireland into the EU's common security and defence structures. For many

5 See Mark Mardell's BBC blog. Mark Mardell, 'Ireland questions EU course', 20 June 2008

6 Millard Brown IMS, Post Lisbon Treaty Referendum Research Findings, September 2008, p.ii. It is important to note that the reasons were given spontaneously, and were not prompted by the interviewer nor the basis of a choice of options presented on a card.

7 Flash Eurobarometer 245, "Post-Referendum Survey in Ireland: Preliminary Results," 18 June 2008

8 Referendum 29 Mai 2005: Le Sondage sorti des urnes. Ipsos. 30 May, 2005, p8.

observers, this heterogeneity was proof that the No camp was little more than a rabble of confused voters. This was the Irish government's official position when it came to Brussels on 19 June to explain itself to other EU member states. Brian Cowen listed nine different reasons for the rejection of the Treaty. The emphasis on incoherence made it easy to bury any single political message under the weight of so many different slogans and pamphlets⁵.

NO LEAP OF FAITH

Since then, the Irish government has been forced to pull its head out of the sand. In research conducted immediately after the vote, and in opinion polls and focus groups conducted in the course of the summer of 2008 as part of a study commissioned by the Irish government, a different story has emerged.

The consultancy firm employed by the government, Millward Brown IMS, found that the main reason given for voting No was 'lack of knowledge/ information/ understanding' of the Treaty of Lisbon. This accounted for 42% of those polled⁶. Treaty-specific elements were mentioned by 26% of respondents, and 16% cited issues to do with loss of power and independence for Ireland. Millard Brown noted that No voters were much more likely to be concerned about the impact of the Lisbon Treaty on Irish neutrality and the issue of Ireland's Commissioner. However, they were in no doubt that 'the primary reason for people voting No' was a lack of information. These findings corroborate an earlier Eurobarometer poll, conducted soon after the Irish vote, which found that standalone issues like abortion and gay marriage accounted for only a tiny proportion of the No votes⁷.

Pointedly, No voters were neither anti-European nor anti-immigration. Their principal concern was voting on a document they knew little about. The mirror image of this reasoning was evident in the Yes camp. The Millward Brown report notes that the Yes voters did not have very strong views on specific aspects of the Lisbon Treaty either. Their Yes vote was intended as an expression of a more general pro-Europeanism. Tellingly, a strong secondary reason – 22% of those polled – for voting yes was given as 'following advice', with the main source of advice being the Irish government itself.

The fault line is therefore not between pro- and anti-Europeans but between those willing to take the government at its word. Both sides understood the matter technocratically, in terms of competence. The message from the Yes camp was 'trust us, we know how complicated the Treaty of Lisbon is, but leave it up to us'. The No vote was also a technocratic response, based on the problem of inadequate information. Nevertheless, given the huge pressure from the side of the political establishment to vote favourably, the No vote was also a collective refusal to be patronised by the government.

There is both continuity and change here with regards earlier referendums. At the time of the Maastricht Treaty, there was a dominant issue: national sovereignty. Some of the subsequent referendums have also been focused on specific issues. In France in 2005, the primary reason for voting No was a general concern about the state of the economy and society. In second place was a specific concern with the 'neoliberal' content of the draft Constitution⁸.

However, alongside issue-specific concerns, we have seen a rising tide of opposition to the politics of expertise, where voters are asked to defer to the superior knowledge of their rulers. In Holland, a striking 32% of voters polled by Eurobarometer immediately after

9 'The European Constitution: post-referendum survey in The Netherlands'. Flash Eurobarometer, 172 TNS Sofres c/o EOS Gallup Europe, p15.

10 Cited in Mair, P. (2007) 'Political Opposition and the European Union' Government and Opposition 42(1) pp1-17. p2.

11 Millard Brown IMS, op cit, piii.

12 Nicolas Sarkozy, Speech to the European Parliament, Strasbourg. 10 July, 2008. My translation.

13 Scharpf, F. (2005) *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press) p56.

the 2005 vote cited lack of information as their primary motivation for voting No⁹. This contradicts much of the reporting around the Dutch vote that highlighted immigration concerns and a fear that the Dutch model of integration was no longer working. The Irish No vote has extended further this sentiment of distrust and hostility to governing elites.

Over thirty years ago, on 6 June 1975, Roy Jenkins was interviewed on television after the Common Market referendum in the UK. Asked why he thought the British public had voted in favour of the EC, he replied 'they took the advice of people they were used to following'¹⁰. The Irish No vote exposed a lack of any comparable trust in the Irish government. What implications does this have for the EU? Is European integration compatible with the rise of more politicised national populations that challenge the authority of their leaders?

EU AGAINST DEMOCRACY

Since June 2008 the Irish government has had to come around to the fact that behind the cacophonous No campaign was a popular rejection of its claim to expertise. Its response has been to stress the need for an extended information campaign. If people didn't feel they knew enough about the Lisbon Treaty, then they should just learn more about it.

The Millward Brown study is very clear in its recommendation to the government: 'advocating institutional reform to voters who have such sketchy knowledge of how the EU operates is a very difficult task' they warn. 'Communication about the European Union needs to revert to first principles in order to help people understand how the institutions work, Ireland's role within them, and how Lisbon would affect this'¹¹. This presents the Irish government, and other member states, with a serious problem. Are the EU's 'first principles' consistent with the demands of democratic representation?

To take an example, the recently agreed Pact on Immigration, which was a core element of the French government's plan for the 2008 presidency, was formulated as a 'pact' precisely because this would not require any precise form of ratification. The pact was a way in which national politicians were able to settle the question of immigration without having to fight any political battles with their populations back home. President Sarkozy said as much in his speech to the European Parliament in July: 'if all of us, us European countries, arm ourselves with a European immigration policy, we then remove immigration from national debates where the extremists use the misery of some and the fear of others in the name of values that are not ours.' 'The only way', he went on, 'to make the debate on immigration more responsible, is to make of it a European policy, stripped of political calculation and forcing countries with different sensibilities to work together'¹².

Sarkozy's message is clear: national voters are the problem, European cooperation is the solution. This message echoes throughout the history of European integration. The very foundation of the EU – the Treaty of Rome of 1957 – enshrined as treaty law a set of economic goals that up until then had been the stuff of major political and social conflict at the national level. In the discretion that they subsequently granted to the European Court of Justice, national executives erected a legal barrier that protects the basic principles of the Common Market from any political challenge. As one leading political scientist has noted, 'by judicial fiat ... the freedom to sell and to consume had achieved constitutional protection against the political judgement of democratically legitimised legislatures'¹³. Educating the Irish people in the 'first principles' of the EU is therefore hardly practicable: no one likes being told they're not wanted. A campaign based around making the EU more transparent has been tried before, notably

14 Mair, P. (2005) 'Popular democracy and the European Union polity', *European Governance Papers*, No C-05-03, p4.

15 'Campaign coverage a 'crank's charter'. *The Independent*, Ireland. 11 November, 2008

16 This is the point made by Žižek in his critique of populism. In his words, "what truly matters is precisely the degree to which the democratic explosion succeeds in becoming institutionalized, translated into social order". In Žižek S. (2008) 'Why Populism Is (Sometimes) Good Enough in Practice, but Not Good Enough in Theory' in *In Defence of Lost Causes* (Verso: London) p265

17 For more details, see Chris J. Bickerton (2008) 'Europe's union of disenchantment', *Le Monde Diplomatique*, July 2008.

18 For a more detailed comparison, see Musso, P. (2008) *Le sarkoberlusconisme*. L'Aube: Paris.

after the No votes in 2005. It is unlikely to work because the EU is not about transparency. Its function is to provide space for policymaking that substitutes political conflicts of principle for a culture of bureaucratic compromise. This culture of compromise suits national political elites for whom the struggle between ideological worldviews has given way to a convergence of opinion on many matters of public policy. The EU embodies this narrowing of political horizons. To ask the EU to become more open and transparent is a bit like asking the British monarchy to disassociate itself from matters of privilege, wealth and class. To paraphrase Peter Mair, if it were possible to make the EU more transparent, then it wouldn't be needed in the first place¹⁴.

BEYOND A UNION OF DISENCHANTMENT

The Irish No vote was a powerful expression of popular democratic sentiment. Most importantly, it called the bluff of all those so-called democrats who have wanted to 'democratise' the EU via bottom-up civil society initiatives, focus groups and participatory networks. The only genuinely democratic position is to subject oneself to the indeterminacy and openness of a popular vote. Anything else is a fudge and an escape from real public consultation. No wonder that 'referendum' has become a dirty word, passionately attacked by Eurocrats and national politicians.

What lies behind the attack on referendums is contempt for those who vote in them. In Ireland, this has reached absurd proportions. Independent broadcasters are demanding that laws on the distribution of campaign airtime be changed because at the moment they are forced to treat elected officials as equal to unelected campaign groups. Revealing of the kind of views the Irish political establishment has of its own people, one Irish MP suggested that equal airtime was like letting a pro-paedophile group campaign alongside other groups in a referendum on a new bill on children's rights. No wonder politicians hate referendums: if you imagine all your voters as potential paedophiles, then why would you let them have a say on anything?¹⁵

Rising political opposition to the EU has helped clarify contemporary elite attitudes to popular democracy. The No vote itself was, however, very open-ended. It understood itself more in the language of technocracy than of democracy. This open-endedness leaves it subject to all kinds of appropriation, some of which will come from the governing elites themselves. A real challenge comes only when such open-ended negativity can transform itself into a more organised and institutionalised attack on the status quo. That is how all progressive political movements stamped their mark on history – by transforming themselves from a groundswell of discontent into a disciplined movement with a clear set of goals¹⁶.

Ireland is not alone in beginning to question this view of politics as expertise and elite competence¹⁷. In Hungary in 2006, opposition to the brazen elitism of the country's prime minister spilt out into the streets. Elsewhere, such discontent has been reabsorbed into the existing order. Silvio Berlusconi's government in Italy is the most extreme example of a more general trend: elitist governments legitimising themselves in populist terms. Berlusconi is the personification of the dominance of market capitalism over any kind of political alternative. And yet he is also the anti-politician: eschewing all political correctness and seeming to bridge the gap between the political elite and wider society. Nicolas Sarkozy is like Berlusconi¹⁸. With his anti-elitist arrivisme he plays to the crowd. At the same time, his relentless energy and activism are classic strategies aimed at demobilizing popular opposition. It's an emergency, he reminds us daily, there is no time to debate. It is precisely because the backlash against the elitist consensus of the 1990s is

so inchoate that it finds itself quickly reabsorbed into figures like Berlusconi and Sarkozy, who embody the Establishment at the same time as they rebel against it.

The Irish No represented a defence of choice over inevitability, of democracy over the post-political world of pure administration and expertise. It has clarified the contempt with which Europe's political elites view democratic politics. It gave another voice to a growing discontent with political elites present across Europe. The great irony of the present time is that European unity is taking place, but in the form of a popular disavowal with the EU. The political moment, however, is only beginning. The task now is to go beyond this emerging union of disenchantment and to articulate a positive vision of Europe. This vision should be internationalist in outlook and guard against any attempt to appropriate it by European elites desperate to transform any incipient politicisation into support for their own flagging political enterprises.