

# The Case of Lisbon Treaty; An Elitist Analysis of the State of Democracy in the EU

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## Abstract

*The gap separating elite and popular opinion on the path and finality of the European Union was never as visible as it became after the negative referendums on the Constitutional Treaty followed by the introduction of Lisbon Treaty. This paper tries to analyse this issue in the light of an elitist theory and it is organized as follows: In the first section the problem will be characterized by means of some theoretical considerations. The following section discusses the key facts from the birth of the Constitution to the birth of the Lisbon Treaty. It is followed by some facts that show that the Lisbon Treaty maintains almost the same content as the rejected Constitution, concluding with some final observations. In more specific terms, this essay will focus on the introduction of Lisbon Treaty after the failure of the European Constitution in the referenda during 2005. The relevant dynamic is not the formulation of a Treaty per se but the important dynamic that will be discussed relates to the particularities that associate this specific Treaty. The analysis of the introduction of Lisbon Treaty will be under the light of an elitist conception of democracy which constitutes the theoretical framework of the paper. The direct link between the theoretical basis and the Lisbon Treaty as a case study is the process of transition -from the failure of the European Constitution derived by a referenda -to a new "imposed" Treaty that substantially maintains the same content.*

*According to this approach, democracy in the EU can be seen mainly as a means to change the governing elites and not as the rule of the "people". In relation to this, Lisbon Treaty is just a subsequent elitist project sharpening further the gap between "people" and the ruling elites.*

Key words: *European Union, Lisbon Treaty, Referenda, Constitution, Democracy, Elitist Theories, Euro-Elites.*

## 1. Introduction

Actually, there are substantial differences within the elitist 'school of thought' that vary from moderate to radical. The main theorists in this field are:

- Vilfredo Pareto (1848-1923)
- Charles Wright Mills
- Gaetano Mosca (1858-1941)
- Talcott Parsons (1902-1979)
- Roberto Michels (1876-1936)
- Robert Dahl
- Joseph Schumpeter (1883-1950)
- Karl Manheim (1893-1947)
- Neo-Marxist Representatives

In regards to democracy, the relevant theoretical conception discussed in this paper is the minimalist model of democracy which is nearest to a Schumpeterian vision. It differs in the point that it is not an attempt to make any normative evaluation, approach that these theories usually take. From this point of view, "elites are seen as relatively a small groups in any society which dispose of disproportionate power; this power originates from the fact that they are occupying specific power-conferring positions or dispose of particularly useful resources"(Haller, 2008,p 8).

According to Schumpeter's model of democracy citizens are only consumers of politics. His theory identifies democracy with a method of electoral competition whereby political leaders are selected by those over whom they rule (Medearis 2001, p.805). Citizens do not take decisions on anything else except of the decision about which party or individual is going to take decisions for them. As a result of the elections, citizens give "a credit" to the politicians that they elect. Politicians use it in order to formulate and implement their policies until the next elections. If they "consume the credit", all that citizens can do is vote them down in the next elections. In reality this is the power that they have. "Democracy is only a method, of no intrinsic value, its sole function is to select leaders, according to Schumpeter. Leaders impose their views, and are not controlled by voters" (Mackie, 2009, p. 128). There is also the risk that citizens might be manipulated by elites in the same way that consumers can be manipulated by publicity. Elites are able to bargain, trade votes and coordinate their moves.

In early elite theories (Pareto, Mosca, Michels) we find a differentiation between political elites who possess the political power, economic elites who possess ownership of the means of production and economic wealth, and bureaucratic elites who hold top positions in public administration. Elites in earlier elite theories were defined as egoistic, per se power-driven, or even corrupted. Actually, no matter how you define elites, the important thing stressed here is the fact that they are a smaller group in relation to masses and elites are the real decision-makers. There are different explanations how this split elite-“people” in EU came about. One set of arguments might be derived since from the foundation of the EEC/EU seen as a wholly elitist project. Another explanation is that the split came with time.

In relation with the decision-making process in European level, one factor that leads to the empowerment of Euro-elites comparing to weaker masses is the level of competence of masses in different issues. Citizens in large scale are not very informed and not very competent in political, economical and legal issues.

This might be a result of two different reasons. It might be a rational choice or it might be just a sad truth. However, the result is that this dynamic leads to an elitist domination of decision-making.

According to Downs the cost of being informed about the details of political issues generally outweighs the benefits to be derived from voting on an informed basis. This happens because of a set of reasons. “The cost of being informed is a sum of the costs of gathering and selecting data with the undertaking a factual analysis of these data. Rational voters need also to invest time and resources in order to become politically informed. Because such a complex procedure, rational voters have strong incentives to try to avoid the high costs of information acquisition. They act according to some rules that allow voters to make political decisions and form political preferences without being fully informed about the content and details of political issues” (Downs 1957, p. 217).

On the other hand, different analysis and surveys are a strong proof of the low level of competence of voters in European level. The above presented table shows the perceived level of understanding of issues involved in the Nice Referendums and the Lisbon Referendum (%):

Level of understanding	Nice I	Nice II	Lisbon
Good understanding of what the Treaty is all about	8	22	9
Understood some of the issues but not all	28	39	31
Only vaguely aware of the issues involved	28	25	30
Did not know what the Treaty was about at all	36	14	30

*Lisbon Treaty Referendum Research Findings (taken from Quinlan, 2009, p.117)*

So, no matter if voters choose not to be informed or they are irrationally not informed, the result is that elites are empowered from this dynamic and there is a gap that divides them from masses.

Elites are also seen as those who mainly benefit from the integration and further deepening process. The population at large is politically alienated and marginalised. Moreover, political scientists symbolically doubt whether politicians responsible for issues in European level live in the same Europe as the people they are supposed to represent.

Actually, doubts about consulting public opinion have been raised times before the French, Dutch and Irish referendums about the European Constitution. As already explained, one of the main arguments against ratification of EU set of rules by popular referendum is that voters cannot be expected to understand technically complex texts of hundreds of pages. It may be also argued that further deepening of European integration brings more advantages to the powerful “Eurocratic” elites and the gains for the population are less obvious and may be hardly perceived. This division is very problematic for the legitimacy of the European Union.

The gap between elites and citizens is there may be since forever but the rejection of the European Constitution by popular vote in 2005 and the introduction of the same content by Lisbon Treaty is only the latest and most sharp event in this regard.

On the other hand, there are also “structural” or institutional reasons why citizens can only indirectly co-determine politics at the level of the European Union.

Although the European Parliament is directly elected it still does not have the main competences of a democratic parliament. The fact that the European Union suffers from a serious democratic deficit highlights the fact that “a majority, in the strict sense, is not required to make policy” (taken from Majone, 2009, p.11). This is not a normative evaluation but actually it is more an empiric observation.

## 2. Actualizing the theoretical approach

### 2.1 From the European Constitution to the Lisbon Treaty

The signing of the European Constitution in October 2004 was seen as a significant step forward for the EU. However, in France was decided to hold a referendum about the Constitution.

“A very high turnout rate of 70% characterized the referendum. The Constitution was rejected by a clear majority of 54.8% of the voters – in spite of the fact that all large and governing parties and politicians had supported it. Only three days later, the Dutch people rejected the Constitution with an even larger majority, 61.6%”(Haller, 2008, p.3). Also in this country, the ruling economic and political elites had strongly advocated its acceptance. These results were a big disappointment for the European establishment. The lack of enthusiasm for the proposed constitution among the Europeans surprised the political elite of Europe but it did not stop them.

Voting for the Constitutional Treaty turned out to be more a symbolic act because elites found the way to move forward even with a public “No” in the referendums in France and in the Netherlands. They moved forward by introducing Lisbon treaty.

Chronologically, the key facts from the birth of the Constitution to the birth of the Lisbon Treaty are (Treaty of Lisbon key facts, n.d):

- In October 2004, EU leaders signed The European Constitution. This Constitution was designed to replace The Maastricht Treaty and The Treaty Establishing the European Community as amended by the Treaty of Nice.
- In May and June 2005, people of the Netherlands and France rejected the Constitution in referendums. The Constitution failed.
- In June 2005, EU leaders announced a "period of reflection"
- In 2006, EU leaders announced that the "period of reflection" would come to an end by June 2008. Citizen's debates on different issues took place in only three or four member states.
- In January 2007, the German Chancellor, Angela Merkel was determined to get something settled to replace the Constitution (when Germany took over the EU presidency).
- In June 2007, the German team came up with a plan to replace the Constitution. Angela Merkel presented the text of a set of instructions for re-writing the previous texts. The document was called the "Draft IGC Mandate". This was in fact an instruction for writing The Reform Treaty.
- In October 2007, a refined version of "The Reform Treaty" was agreed by EU leaders.
- In December 2007, "The Reform Treaty" was renamed "The Treaty of Lisbon" and was signed by the 27 EU leaders in Lisbon.

The new Treaty could be ratified by national parliaments, thus overcoming the difficulties and uncertainties of referendums, since the citizens are considered inadequately prepared to evaluate the legal and technical matters presented by the document. In part, that is why it is considered a mechanism organized by eurocrates behind “citizens backs”.

This perception is reinforced by the fact that Lisbon Treaty looks a lot like the rejected constitution. It is billed as an adjustment of existing documents. It resembles the old document in many points and maintains the same content of a number of articles presented in the constitution.

According to Nicholas Moussis' findings in analysing both Lisbon Treaty and the rejected Constitution there is a large percentage of “congruency” between the two documents. Some of the main points introduced by Lisbon Treaty as the same points previously introduced by the Constitution, are listed below.

- Lisbon Treaty reshapes European institutions and changes voting procedures suggesting a merge of the Community and the Union doing away with the "three pillars" of the Union. The European Union will have a single legal personality under which it will sign and implement external commitments, negotiate policies and activities.
- The powers of the European Parliament are increased considerably. The "co-decision procedure" is renamed "ordinary legislative procedure" and it is extended to a number of new fields.
- Decisions in the Council of Ministers need the support of 55% of Member States representing a minimum of 65% of the EU's population, facilitating the decision-making process in the enlarged Union.
- The composition of the European Parliament is adapted to the new circumstances of the enlarged Union.
- Concerning the budget, it is called the "Union budget". The distinction between "compulsory" expenditure and "non-compulsory" expenditure is abolished and the Parliament and the Council have equal powers in relation to the whole budget.

- The Treaty of Lisbon, same as the constitution contains many elements concerning democratisation of the Union. It reinforces the values and objectives on which the Union is built.
- It gives to the citizens the possibility to participate in the policies of the Union through the citizen's initiative.
- In relation to the integration it explicitly recognise the possibility for a Member State to withdraw from the Union.

Transposing what above listed in technical language:

- "-Article 9 A, Lisbon = article I-20, Constitution.
- Article 9 C(4), Lisbon = Article I-25, Constitution.
- Article 9 A(2), Lisbon = Article I-20, Constitution
- Article 25b, Lisbon = article I-53, Constitution
- Article 1a, Lisbon, Article I-2, Constitution.
- Articles 8 A et 8 B, Lisbon = Articles I-46 and I-47, Constitution.
- Article 49 A, Lisbon = Article I-60, Constitution." (Europedia, n.d)

However, the scale of similarities is larger. This is only a brief set of facts that illustrate the principle behind the argumentation. According to the former Irish Prime Minister, "...most of the changes are presentational changes that have no practical effect. They have simply been designed to enable certain heads of government to sell to their people the idea of ratification by parliamentary action rather than by referendum." (Bonde, 2007, p.27) Apparently, parliamentary ratification does not pose a serious risk because majority parties as national elites, usually tend to find an agreement on European issues.

Moreover the Irish "No" to Lisbon Treaty did not stop it. Similarly, the Treaty of Nice was also rejected by the Irish in 2001, but was later passed after changes were made. Most European leaders expressed grave disappointment with the Irish result but actually the process went on. "The President of the European Commission, Jose Manuel Barroso, said he respected the outcome but called for ratification of the Treaty to continue in other member states, sentiments echoed by French President Nicolas Sarkozy and German Chancellor Angela Merkel (Smyth, 2008). However, other European politicians were not as polite and could hardly contain their annoyance. The French Minister for Europe, Jean-Pierre Jouyet, issued a stark warning that, in spite of the Irish rejection, under no circumstances was renegotiation of the Treaty an option." (Quinlan, 2009, p.117).

Elites "reworked" the Constitution reintroducing it as the Lisbon Treaty and they can rework the new Treaty itself in order to address the specific concerns about it. It is sure that they will find a way to fulfil their will but the lesson that leaders seem to have learned from the failure of the Constitutional Treaty appears to be "No more referenda". The ambition "to bring the European institutions closer to the citizens" seems in some ways distorted. On one hand, the Treaty of Lisbon does contain certain elements to increase citizens' interest in EU decision-making. On the other hand, the process of introducing it is far from this aim. Some democratic theorists counter-attack elite theory conceptions because their understandings of democracy. The elitist and neo-elitist approach is very questionable and in many critics it is argued that although neo-elitists may appear to be more sympathetic to democracy than "old" elitist were in fact their work has a big tendency to give democratic forms an oligarchic content. However, a great number of elements can be seen in the light of the elitist conception and sustained because of concrete facts as above presented .

*Summarizing* - Euro-elites propose a step forward for the European Union through working out a Constitution. They suggest a referendum which fails to pass the document. Failure...? -They bring the same content in a different format avoiding referendums. Euro-elites choose problem-solving effectiveness in relation to the alternative of following the will of people, expressed through direct democracy means. They choose output legitimacy comparing to input legitimacy. Euro-elites perpetuate their power and the pursued European democracy actually turns to be elusive.

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