

<http://users.ox.ac.uk/~ssfc0041>

What is in a Name?

Europe's Federal Future and the Convention on the Future of Europe

Kalypso Nicolaidis

kalypso.nicolaidis@sant.ox.ac.uk

Published in an abridged form by European Voice as "Future of Europe talks should be FUN!"

Brussels, March 20, 2003

Posted on the website of Jurist Europe

After a year of discussions, the Convention on the Future of Europe is finally offering a glimpse of the European Constitution to be. Unsurprisingly, the very first draft article indicates that the Union "...shall administer certain common competences on a *federal* basis": Mrs Thatcher's dreaded F-word is once again out of the bottle.

Equally unsurprisingly, Peter Hain, who represents the British government, tabled an amendment along with another two dozen fellow conventioners, to delete the word "federal" from the draft. Yet as Valery Giscard d'Estaing, the French Convention president, was keen to point out during the first plenary debate on the topic at the end of February, these dissenters only represent 15 % of the Conventioners. We have to assume, he said, that those who did not express themselves against, actually support the term federal. Giscard may be right about numbers. But his silent majority often supports the label "federal" for the wrong reasons. And conversely, the nay-sayers are generally more attuned to Europe's public opinion. That is precisely because their vision is the most "federal" in the original sense of the word.

Witness the stands taken on the Convention floor. Everyone agrees on one point: because the EU is *sui generis* there is no definition of the nature of the beast in manuals of public law. So argues a refreshingly blunt Baroness Scotland of Asthal, why not avoid the use of such a politically loaded expression altogether, and simply state the EU's *raison d'etre* - that we can achieve more by working together than working alone? Because, retorts Lamassoure, another Convention heavyweight, its originality makes a label all the more necessary –and federalism is the best we have.

For the yea-sayers at the Convention the federal reference is common ground to "European circles" in the Union, circles to which most of them belong. One Convention member exclaimed that the younger generation of Europeans "would not forgive us" if the F word was out. The cries for more Europe by those who marched in their millions against a war in Iraq were also invoked. The short of it, they say, is that dropping the word federal will not convince opponents of the EU and will only disappoint its supporters. Not that simple, counters with gusto Conventioneer Hololei (an Estonian who at thirty three prides himself as representing the younger generation at the Convention); to stick to traditional concepts would be the real betrayal. Did the US founders in Philadelphia hang on to obsolete labels?

But the EU is not in its infancy, replies the federal camp. The term simply describes what is – the existence in Europe of a federal level of governance that articulates the common interest of all the member states. We should call a spade a spade, or, for Andrew Duff, a British liberal democrat representative, speak the truth in the clearest possible way. Moreover, supporters note, the word federal is used here to describe a decision making process *not* the Union itself. As such, it covers only some of the Union’s activities, like money, competition policy or external trade, and not others, like foreign policy or economic coordination. Those are conducted under the so-called intergovernmental method, where the member states have the first and last word. Federal in the European context means that the euro and the dollar are managed in the same way, not that the EU looks like the US – and indeed there is no backing inside the Convention for changing its name to the “United States of Europe.” But if federal is neither the best description of what is nor even the dominant way in which things get done, why bother?

Conventioneers offer two types of responses. The most egregious is that intergovernmentalism is simply an interim stage of European integration, and that the “federal” *telos* should thus be inscribed in the Constitution. What a strange thought, when actually the originality of the community method lies precisely in combining cooperation between governments –an intense and continuous form of diplomacy- with supranational management of the whole affair.

The other take is to assert that the virtues of federalism are precisely those prized by the no camp. Yeses insist that federal is not, emphatically not, synonymous with centralisation. Indeed it is synonymous with the principles of subsidiarity (which states that decisions need to be taken as close to citizens as possible), decentralisation and equality between states. Look at Germany they say, not the United States! Is that what they want then, an EU where the member states have become as integrated as German Landers?

Even the European socialist group acknowledges in its official statement that the term raises a problem of “vocabulary”. As a way out of the dilemma, suggests Finnish parliamentarian Kiljunen and others, let us refer to a *supranational* basis, or on a *community* basis for administering EU competences, rather than a federal one. But who will argue that these labels will speak more clearly to the citizens?

Once again the Franco-German couple came to the rescue. Fellow conventioneers/Foreign Ministers de Villepin and Fischer lobbied for Delors’ “federation of nation-states” as conveying the synthesis of Union of peoples and of sovereign states. Instead of the old mantra that the EU is more than a confederation and less than a federation, let us simply acknowledge that it is both. Somehow however, most of their colleagues seemed to read this new grand compromise as another “cut-and-paste.”

In truth, the notion of federalism is as old as human society. It is one hundred thousand years ago, say the anthropologists, that human clans established cooperative agreements among themselves according to its basic principle: that neither the unit nor the whole should have primacy over the other. Federalism is such a universal and resilient principle

precisely because it does *not* resolve the tensions which exist between the two poles, the One and the Many. The One is not a simple expression of the Many; nor are the Many simply components of the One. Federalism does not mean bringing different polities together as one, however decentralized. It means instead retaining what is separate *in spite of* all that is common.

When in the 17th century Althusius developed his model of republican federalism, he did so *against* Bodin's vision of the state. Statism, he argued, was a modern version of Monarchy. A more radical departure from the rule of kings would be to share power among communities of different types, and to do it in such a way as to accommodate a European reality of four or five arenas of territorial governance, not all territorially defined. The history of federalism is that of the progressive demise of the Althusian vision and its subversion by Bodin's paradigm of the state. By the end of the 1800s, would-be federations had all turned into 'federal states.'

Today, whether *for* or *against*, most people fail to understand the notion of a federal state as an oxymoron. Were the British representatives true to their own vision of the EU as a neo-medieval, non-centralized, post-modern entity, the very opposite of a super-state, they would make it their mission to rescue the federal baby from the statehood bathwater. What a tribute to Althusius if we could all agree to call the EU a federal union *as opposed* to a federal state. A Federal Union of Nation-states -FUN.

Kalypso Nicolaidis is University Lecturer in International Relations at Oxford University and expert advisor to Mr George Papandreou. She recently published The Federal Vision: Legitimacy and Levels of Governance in the US and the EU.