

Esko Seppänen's contribution to the general discussion of the so called future (constitutional) convention, 26.8.2002

The EU's Constitutional Convention talks of values, but not one of its working groups is charged with defining values or elaborating what they amount to.

Thus it is necessary to take a close look at the problems that arise when defining concepts.

What, for example, is democracy? I propose to set out and answer this question in the following.

Democracy

Democracy is political liberalism for the people. Economic liberalism, on the other hand, is not democracy.

Democracy cannot be created out of thin air; it is rooted in history. It is freedom from rule by one doctrine, and it is not ordained from on high or by the almighty. There is no absolute (single, correct) democracy, nor is there any standard format. It is interaction and roleplay by people: there are subjects and objects of power. It is a struggle for power and it is self-sustaining decision-making. It is contracts and the peaceful resolution of disputes.

Lasting democracy cannot be produced from the top down, nor does imported democracy work: imported democracy violates historically rooted institutions and may erode the sovereignty of its recipients. If order is based on compulsion and violence, world democracy is non-democracy. Force-fed democracy must not be used to break up tried and trusted patterns of existence and social bonds.

Humility and equality are among democracy's virtues.

Democracy is not a system, and is certainly not a system of capitalist control. Political or economic democracy are not the trademarks of capitalism. To its actors, democracy is often a question of expediency: political liberalism is demanded for those countries that do not have economic liberalism, but not for those that are part of the global capitalist system. Thus democracy, or political liberalism, is demanded for China or Belarus, but not for the oil and gas-producing countries of the Middle East or central Asia, which are dictatorships. Democracy should be demanded everywhere.

Democracy is national sovereignty. It is freedom from external control and it is autonomy. It is the right to restrict the wielding of power by others in one's own affairs.

Democracy is the language and terminology of the time when nation states were born. The nation state has nurtured democracy, which was born of the rebellion of the oppressed and developed into participation orchestrated from above. Nation states can also subjugate and be undemocratic, and in such cases there should be the freedom to act against domination by the state.

If Spain does not grant independence to the Basques, nor Great Britain to Northern Ireland, nor France to Corsica, it is inconsistent for these countries to condemn Russia for not allowing Chechnya to cede from the federal state. Nor is any clause allowing countries to leave the Union to be entered into the EU's constitution.

The nation state gave rights to citizens, curbing the privileges of the feudal elites. That was democracy. In Russia, the dictatorship first of the tsars and then of the communists delayed the granting of civil liberties and rights to individuals, which is why Russia is lagging behind on democracy or political liberalism. Russia skipped the period of bourgeois power and political liberalism, going straight to the rule of oligarchs and the president. These are not democracy.

In the USA the state came about without a history, being created almost from nothing: the indigenous peoples were killed and a constitution in one language was adopted for all. The US method does not lend itself to the EU. Europe's indigenous people cannot be treated in the same way today.

There is no supranational state democracy. The greatest obstacle to this is the lack of a common language and culture. There are other obstacles too. If the EU becomes a federal state, it will be a state without a people. The UN and its sub-organisations are not democratic either. The UN, however, does not threaten the sovereignty of the nation state as long as the state does not breach international law or international treaties such that the Security Council could impose sanctions.

An essential feature of national independence is an identity, the distinguishing features of which have been biological blood ties, tenancy of a regional area, linguistic community and a shared history and culture. A separate currency is another aspect of sovereignty, as are military forces under independent control, unlike NATO troops or a Euroarmy. National legal systems also embody important collective historical experience.

The individual's self-knowledge is often formed via the above identity of the nation state and is fixed to a geographical region. In terms of democracy, however, a nation is only one of the levels of communality. The most favourable conditions for democracy are in countries with the most homogeneous populations. Security and the need to belong to the same group may endanger the liberal granting of democratic rights to new immigrants. Membership of a nation does not, however, require common ethnicity. It can also be based on a common desire by individuals for freedom, fraternity and equal opportunities for all.

If the power of nation states is run down, it will be supplanted by a new international order and a world without frontiers for capital: globalisation. This is unipolar rule. The USA will control – if necessary by violence and illegally – all realms: the earth, the sea, space and information.

Autonomy

Democracy is voluntary participation by the people in power. It is self-government by the members of a community, but mere autonomy is not democracy. Democracy means autonomy with its own set of rules and conflict-resolution procedures.

Full autonomy is not possible in a federal state that imposes shackles on national democracy by transferring legislative and/or executive power to the centre. Since the EU – or Europe – is not a nation, it cannot be governed internationally. The EU, therefore, is not democratic, and power

ought not to be handed over to this supranational federation in the hope that once it has power it will become democratic. A superpower is being created whose power is based on taking diversity and forcing it into a standardised mould. This will require powerful rule from the centre, and will mean a departure from self-government by nations and citizens. The EU's central power is the ethos of a new political elite: federalist hegemony.

Democracy is not a revolution or a coup, even though the middle classes came to power in Europe through revolutions. Since the law is the political will of the ruling class, it depends on the class wielding power at any given time whether democracy is middle-class or whether it is more communal: socialist. The beginning of democracy is rule by the people, the end is not.

By its nature, socialism democracy: political liberalism for all and markets that are free of the power of monopolies. Socialism is also communality: the obligation to care for one's fellow human beings. If the EU gains a constitution, it is the duty of every socialist to demand that it also contains a social charter.

Democracy is not unrestricted freedom. Limits can be imposed on it. The power of peoples is also limited by other peoples; there is no clear border defining where one people ends and another begins. Restrictions on democracy are not undemocratic as long as they do not infringe the rights of minorities.

Democratic decisions need to have general acceptance or legitimacy, and representative bodies must represent everybody or at least as many of the people as possible. In the EU, the constitution is being prepared by a Convention which is undemocratic. Its 105 members do not comprehensively represent over 500 people, men and women. It is not democratic, even though it comprises two members from each Member State's parliament. The fewer representatives there are, the narrower the representation. Owing to the small number of members of the Convention, the federalists are over-represented at the expense of the defendants of national autonomy.

Thus the Constitutional Convention is likely to yield up the lop-sided proposal whereby the Community method is favoured in the EU's division of power at the expense of the intergovernmental method. As national democracy the Community method is inferior to the intergovernmental method; governments must enjoy the confidence of national parliaments.

The rule of minorities is not democracy, but nor is it democracy for decisions to be made by a majority without matters being prepared jointly or transparency in decision-making. Afterwards democratic decisions need to be felt to have been made correctly.

When people themselves consent to their rights being restricted, that is democracy. If persons are not willing to go along with the will of the majority, they must act freely to produce a new majority. Tolerance of those left in the minority is democracy.

If a nation is all-powerful, its citizens must not be devoid of rights in respect of it. It is bad democracy if citizens are devolved to a new status of subserviency simply by virtue of a decision by the majority. The same is true if people are forced to accept values and goals as given. A people should have – and if it hasn't, it should acquire it – the right of opposition to dictatorship by the majority and democratic oligarchs.

Only legally delimited and regulated majority rule is democracy. Democracy and the rule of law, therefore are like Siamese twins: you can't have one without the other. Everybody must be bound by the same laws. In a democracy those in positions of responsibility must ensure that legal decisions are observed generally. Democracy also means having tough resources to defend it. Police, intelligence and the armed forces must be subject to democratic control.

Human rights

Democracy is primarily a feature of a community and is not associated with human relationships between individuals. Other concepts exist which describe these better. The community and the individual are, however, in constant interaction and shape each other.

Persons are individuals in politics by virtue of their right and eligibility to vote, via their right in civil society of assembly, freedom of speech, association and industrial action, and by dint of private property and access to the market in the economy. When defining the individual's rights and freedoms, what is not forbidden ought to be permitted.

A good democracy is one where there are individual rights and freedoms, which are not

synonyms, and equal opportunities. Individuals need to receive support and protection from society, and there have to be legal guarantees to prevent oppression. It is not democracy if the subjects of power have the rights and the objects have the responsibilities. Democracy, however, is not simply on/off democracy; it is different at different levels.

Democracy has to encompass absolute norms which must not be breached. Refusing to go to war, defending human rights and opposing totalitarianism must be a right. Peace must be defended and action must be taken nationally and through international law against illegal violence. Humanitarian interventions in other countries are not democracy if they are not legitimate under international law. The right to so-called preventive illegal acts cannot be justified as defending democracy. Democratically elected persons can decide, for example, to kill Kurds in Turkey or the US can attack Iraq, but that is not democracy. Illegal war is not democracy.

Everybody must commit themselves to human rights which have been agreed by international treaty. These represent absolute democratic bounds which must not be compromised.

In protecting the minority from the arbitrariness of the majority, absolute principles must be defined which the majority must not transgress. Human rights limit the sovereignty of states in legal questions. These are defined in the UN's Declaration on Human Rights and the European Human Rights Convention, and elsewhere. In a democracy, human rights are limitations which must be entered into constitutions and treaties to ensure that they are not hastily overturned. Communities hold together best when there are clauses on the protection of minorities and qualified majority provisions.

Individuals have rights, which are offset by responsibilities towards others. Questions of the rights of the community – or nation – in relation to the individual and the duties of the individual towards the nation – or federal state – are problematic. They have to be resolved democratically.

Media democracy

Democracy is the right to information and education for all, and the means of acquiring information have to be available to all. Concealing information from free citizens is an

undemocratic exercise of power. It is the way in which many EU governments rule.

Democracy is an endeavour to foster enlightened power in society, and the information society has to be an education society. One must fight for science but beware of its totalitarian achievements. Science is not inherently democratic, nor is its task to expand democracy.

Freedom of speech is something which is binding on states and the subjects of public authority. Democracy is unconstrained media. The media must be open to the subjects of democracy, whoever they are. Media democracy means representing the interests and benefits of all, exposing systems of repression and exploitation and supporting democratic forms of activity. Since democratic freedom is the freedom to hold dissenting opinions, there must be public space for this. Commercial media seem to alienating citizens of their right to participate in decision-making and monitor the subjects of power. Neocapitalism destroys by commercialising the institutions of society which democratise information.

Economic non-democracy

Since the overthrow of feudalism, democracy has been the power of the middle class over the state, but not the economy. The economy – unlike the state – is sovereign, and international capitalists are independent of states. Their sovereignty rests on invisible supports: capital takes flight if it is inhibited by democratic decisions.

Nonetheless capitalists require the means of repression of states to enforce protection of private ownership and legal forms of discipline and subjugation. Government lends legality to the enactment of the logic of capitalism.

In the labour markets, incomes policy can be the power of the whole over its parts, in which case it is not autonomy or contractual freedom. If corporate power structures dictate the actions of the state, employers and trade unions, they are inhibiting democracy. Power cartels are not democracy.

The economy is a realm of freedom, with no restrictions on the wielding or flaunting of power.

The most undemocratic feature of the markets is that rights are owned in the markets which close them off to others. There is a need for anti-trust legislation to ensure that new entrepreneurs can enter the market. This is inhibited by supranational corporations obtaining monopoly positions, backed up by all sorts of patents. A monopoly is not democracy. Therefore small companies require market protection against large corporations.

The privatisation of state-owned companies is economic liberalism, which is not democracy, whereas state ownership may be democracy.

Elections

Democracy is limited as to size, and the technical preconditions for it (joint preparation, linguistic equality or protection of minorities) are not present if communities are too large. As a community grows in size, democracy deteriorates qualitatively. It is diluted as the size of the unit grows.

Representative democracy works best through general elections where there is equal suffrage for all. The right to one's own language when preparing matters is a feature of good democracy. The European Parliament – or the Constitutional Convention – does not have full linguistic democracy.

Democracy can also be direct, non-representative democracy, for example referenda. If there is a referendum on the EU's convention, the result must be counted by country, because the EU does not consist of a nation but rather of nations. If a supranational convention does not win the approval of a particular nation, it will not gain legitimacy either.

Democracy is the joint and public preparation of political matters and decisions, electoral secrecy and regular electoral intervals. Alternatives and criticism must be aired in public discussion. If, in elections, electoral propaganda and the presentation of candidates or proposals are skewed in favour of a particular participant, the elections or referenda will not be democratic. Democracy was weakened in Ireland when public funds were used to halt the balanced presentation of alternatives after the public delivered the "wrong" vote on the Treaty of Nice. Democracy means publicising electoral financing and advance presentation of all alternatives, as well as balanced financing of these ahead of elections.

European parliamentarianism as constructed round European parties is democracy without all of its facets, for example broad national representation. A pan-European election based on a list as called for by the European Parliament is non-democracy.

Parliamentarianism is part of middle-class democracy. It means that laws are made in parliament on a proposal from the government and that those exercising executive power must enjoy the confidence of parliament. Democracy means public scrutiny of decision-makers and civil servants. If those in power in a community abuse the entitlements of their power, they must be stripped of them.

Use of the vote lends legitimacy to those to whom power is delegated in elections and ballots. The right to participate is not an obligation to participate, and a low turn-out means a crisis for democracy: political power is not generally accepted.

The electoral system in use in most EU countries is not democratic and can impinge on the ability of minorities to get their voice heard. The use of voting thresholds may prevent new ideas from surfacing. The French electoral system destroys representative diversity and is not democratic. An electoral list system is often party dictatorship and as democracy is not as direct as personal elections. With his cabinet, the prime minister of Great Britain harnesses the interests of elected representatives to his own interests.

If common constitutional values are laid down for the EU, the content of these must be left open. One should not demand democracy if we are not told what is being demanded when democracy is called for.