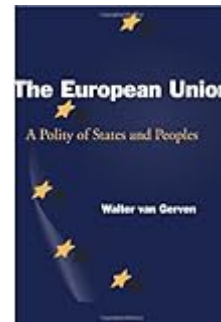


Walter van Gerven. *The European Union: A Polity of States and Peoples.* Stanford: Stanford University Press, 2005. v + 397 pp. \$70.00 (cloth), ISBN 978-0-8047-5063-9; \$28.95 (paper), ISBN 978-0-8047-5064-6.



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Towards a Citizen-State: The Evolution of European Constitutionalism

Originating as a series of lectures at Stanford University and King's College London in 2003, Walter van Gerven's book is a complex, dense work that treats a difficult subject: the legal foundations and constitutional development of the European Union (EU). For the most part, it is not a straightforward history of the EU or of the process of European integration; it does not deal substantively with the creation of the common market, the process of enlargement, or the political debates surrounding them.[1] Instead, van Gerven explores the Union's institutional development, relying on political science scholarship and an analysis of recent historical events to investigate "how 'Europe' was gradually transformed from a technocratic organization into an ever-closer union of states and peoples with a growing democratic legitimacy" (p. 1).

In this, van Gerven's work is part of a recent scholarly trend in what might be described (tongue firmly in check) as EU "triage" studies. These works seek to document the successes and failures that have arisen during the EU's growth; to analyze the current crises it suffers from

over such areas as foreign policy coordination (such as the Iraq war and relations with the United States), Turkish membership, the democratic deficit between public participation in and elite activities within the EU, and constitutional developments; and forecast its chances for survival. Some analyses adopt the "doom and gloom" approach of Walter Laqueur or the "smash it all down and start over" attitude of John Gillingham.[2] However, other books in this vein consider the integration process more positively, such as Glyn Morgan's *The Idea of a European Superstate* (2007), or breathlessly compare European advances favorably against political, social, and economic trends in the United States, as in recent books by Jeremy Rifkin and T.R. Reid.[3] Van Gerven's work, while rigorously academic, falls squarely on the positive side of the balance. This attitude reflects in part van Gerven's background as a member of various EU committees and a former Advocate General of the European Court of Justice. This level of personal involvement and expertise makes his intricate analysis engaging and worth consideration.

Van Gerven's main argument is deceptively simple. He argues that for the EU to achieve legitimacy as a "full-fledged 'body politic'" it needs to replicate at the EU level those institutions, practices, and constitutional norms associated with parliamentary government (p. 2). In doing so, the EU would be appropriating structures familiar to its member states in some form, which would, in turn, preclude the need to evolve new, untested forms of democratic legitimacy. The Union would become not so much a nation-state as what van Gerven calls a "citizen-state," a descriptive category that explicitly rejects the dark historical legacies of nationalism in Europe while also signaling Europe's shift towards a consensual supranational community of "states and peoples" (p. 2).

Van Gerven structures his book topically, with chapters analyzing various facets of his wider analysis on the EU's push toward democratic legitimacy and the "citizen-state." Practically speaking, one can divide the work into two parts. In the first half, van Gerven exhaustively explores important features of democratic governance, those principles and characteristics he views as "vital" in conferring legitimacy upon political entities (p. 159). These are government accountability, the rule of law, and general principles of good government (open government, civic responsibility, equality before the law, social justice, and freedom of the press). His approach in each chapter is methodical and tightly organized. He first explores the legal and historical meanings of these terms and phrases as they exist in European and American constitutional law. He then examines how the EU's current practices and developments accord with these foundational principles. Perhaps unsurprisingly, van Gerven's conclusions are that the EU has made good progress in most areas. For instance, chapter 3 addresses the EU's adherence to the rule of law and van Gerven concludes that the Union's record in such areas as judicial review and respect for basic rights and fundamental freedoms "is not insufficient at all" (p. 154). But room remains for improvement. In particular, in his analysis of the principles of open government in chapter 5, van Gerven notes that the EU's "attitude still draws too little inspiration" from an ideal of civic responsibility and citizen participation (p. 253).

The second half of the book includes the real meat of van Gerven's argument. Here, he turns from evaluating the EU as it has developed thus far to analyzing the proposed, now-defunct EU Constitution. In chapter 6, van Gerven explores the drafting process, looking specifically at how the document seeks to balance power between the Union and its member states, a balance he envisions

as a "continuum that stretches between two ideal-typical modes of governance: the *intergovernmental* pole [where Member State national leaders collectively make policy] and the *supranational* pole [where EU government structures dominate and are able to curtail the actions of all Member State actors]" (p. 265). He also looks at how the draft constitution deals with the issue of democratic legitimacy and further analyzes areas within the draft in need of revision, focusing on the financial framework and funding sources and procedures for amending the constitution. Van Gerven's conclusions are largely positive, noting that the draft constitution's reform of such issues as the delineation between EU and member state competencies, the qualified majority voting formula, and the EU's legislative procedures would certainly "move the Union, in a significant manner, in the direction of a supranational political entity" (p. 308).

In chapter 7, van Gerven returns to the question of what kind of political system the EU should emulate with a comparative analysis of the United Kingdom and Germany's parliamentary systems and the presidential frameworks of the United States and France, an analysis that relies heavily on the scholarship of Arend Lijphart and Giovanni Sartori.^[4] Ultimately, he rejects a presidential system for the EU, arguing that it would not be inherently superior to a parliamentary one, while also noting that of the EU's member states, only Cyprus has a pure presidential system, thus making its particular structures unfamiliar to most European states (p. 344). Therefore, he concludes that the EU, a "highly heterogeneous polity," would be best served by a non-majoritarian, multiparty consensus parliamentary system with a strong executive (p. 372). And in his mind, the EU draft constitution represents an important but not final step in this "parliamentarization" of the EU (p. 374).

In some respects, it is a shame that van Gerven's book appeared when it did (in early 2005). The fast-moving political circumstances surrounding the collapse of the EU constitution in mid-2005 quickly rendered parts of his analysis moot. The constitution's defeat, however, has not eliminated issues of constitutional reorganization and expanding democratic legitimacy. In fact, as both recent agreement on a new EU reform treaty (the future Treaty of Lisbon) and subsequent Euroskeptical criticisms that the treaty is simply the failed constitution risen from the dead demonstrate, closing the democratic deficit while expanding and reforming the Union are very much pressing political questions. Thus, van Gerven's perceptive arguments and legal analysis regarding the EU's recent constitutional developments will remain per-

continent and valuable for political leaders throughout Europe as they struggle with the Union's legitimacy issues. The question ultimately remains of whether his solutions for the EU's democratic ills are the right prescriptions. As the last two years of acrimony over the constitution have also demonstrated, the end results of the integration process are often muddled compromises that dilute theoretical proposals beyond all recognition.

From an educational standpoint, some chapters within the book could also serve as useful introductions to EU constitutional issues for both undergraduate and graduate students. In particular, his first chapter is as clear and concise of an introduction to the EU at the beginning of the twenty-first century as one will find anywhere. It outlines the EU's organizational structures, values, and identity as well as the evolution of a European body politic and the reasons why the EU is not and will most likely never become a nation-state. This chapter alone is perfect for introducing students to what is, at times, a nebulous, dense topic but scholars of modern European history and politics will also find much of value in van Gerven's meticulous and layered analysis of the EU's constitutional evolution.

Notes

[1]. The best current text on the history of European integration is Desmond Dinan, *Europe Recast: A History of the European Union* (Boulder: Lynne Rienner Publishers, 2004). For a more polemical but comprehensive

work, see John Gillingham, *European Integration: 1950-2003: Superstate or New Market Economy?* (Cambridge: Cambridge University Press, 2003). See also Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press, 1998).

[2]. Walter Laqueur, *The Last Days of Europe: Epitaph for an Old Continent* (New York: Thomas Dunne Books, 2007); and John Gillingham, *Design for a New Europe* (Cambridge: Cambridge University Press, 2006). In this vein, see also Christopher Booker and Richard North, *The Great Deception: Can the European Union Survive?* (London: Continuum, 2005), as well as Alberto Alesina and Francesco Giavazzi, *The Future of Europe: Reform or Decline* (Cambridge: The MIT Press, 2006).

[3]. Jeremy Rifkin, *The European Dream: How Europe's Vision of the Future Is Quietly Eclipsing the American Dream* (New York: Tarcher/Penguin, 2004); and T.R. Reid, *The United States of Europe: The New Superpower and the End of American Supremacy* (New York: Penguin, 2004).

[4]. Van Gerven specifically exploits Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999) and Giovanni Sartori, *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes* (London: Macmillan, 1997).

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