



The Constitutionalization of the European Union

Abstracts

Dr. Marco Brunazzo

Burial or Resurrection? The fate of EU “pillars” after Lisbon (Presentation based on a draft paper by Marco Brunazzo and Pierpaolo Settembri)

The Treaty of Lisbon is rightly commended for two beneficial innovations. In the first place, it has done much to simplify the basic legislative procedures of the Union and to apply them to an ever greater range of policy areas. In the second place, it has done away with the former so-called “pillar” structure. Recalling the origin and functioning of the pillars since the adoption of the Maastricht Treaty and sketching out a map of EU policy-making introduced by the Lisbon Treaty, the article argues that the various clusters of rules and actors that are involved in policy-making are better understood as “regimes” rather than described through the traditional concepts of competences, procedures or pillars.

Dr. Sergio Fabbrini

Understanding the EU: A Comparative Perspective (Paper)

The constitutionalisation of the European Union (EU) is necessarily a contested process. The final approval of the Lisbon Treaty will not resolve the division on the finalité of the union between those member states that interpret the EU as a political project and those that view the EU as an economic organization. This division is an outcome of the material and (especially) cultural asymmetries within the EU, asymmetry increased by the various enlargements. This is also the experience of the other main (democratic) union of states, the United States (US). However, whereas the contested process of constitutionalisation in the US was based, at least since the Civil War, on a common constitutional framework and it has been ordered by a super-majority procedure for settling disputes, the EU lacks a document that embodies a shared language and a procedure that is able to solve the disputes. Here is the puzzle: the EU needs a constitutional treaty for regulating its disputes, but the divisions between its member states make the approval of such a document highly implausible. How to sort out from this dilemma?

Dr. Andrew Glencross

Constitutions: Past, Present and Future- The EU in Comparative Perspective (Presentation)

The purpose of this talk is to situate constitutional debates about the contemporary EU – as well as its future – in an appropriate comparative and historical context. This means examining analogous issues of constitutionalization and associated problems of political representation in the US and Swiss federal experiences. Constitutionalization is understood here in terms of limited government, judicial review and horizontal and vertical separation of powers. In a democratic/republican context, constitutionalization further

gives rise to vexing questions about the location and mechanism of popular sovereignty. The constitutional experience of EU integration is thus contrasted with similar issues arising in the course of American and Swiss political development. The latter two can be seen to have resolved important constitutional issues through presidentialization and direct democracy respectively. Current EU constitutional debates are then discussed in terms of the applicability of not only presidentialization and direct democracy but also a sui generis notion of “politicization” to see what promises and pitfalls each model has for resolving constitutional conflict in the EU.

Dr. Joseph Jupille

Referendum voting in EU Democracy (Paper)

European Union member states have now held over thirty referendums on aspects of European integration. For some, referendums represent an appropriate vehicle for democratic involvement in the EU. I argue that the very complexity of the EU’s treaties, institutions and policies defies effective democratic engagement through the referendum vehicle. Through an examination of recent votes on the Constitutional Treaty and the Lisbon Treaty, I identify the role played by calculation, community and cues in individual voting behavior in EU referendums, and also scrutinize the conditioning effect of EU complexity on the operation of these factors. I conclude that the EU is in a bind which, while not of its own making, nonetheless will condemn it to falling short on democratic grounds.

Dr. Daniel Kelemen

The Durability of EU Federalism (Paper)

Predictions of the EU’s imminent demise are a staple of EU politics. The Greek financial crisis has occasioned the latest round of hysteria about whether the European Union can hold together. Most analysis of the durability of the European Union is based on little more than conjecture and intuition. This paper argues that rigorous analysis of durability of the European Union should be based on conceptual frameworks found in the literature on stability and instability in federal systems. Applying these analytic lenses to the EU we can see that – media hysterics notwithstanding – EU federalism is highly durable.

Dr. Andrés Malamud

The European Parliament and the diffusion of regional parliamentary institutions worldwide (Paper)

No process of regional integration has been safe of criticism for allegedly suffering from democratic or institutional deficit. These deficits, the argument goes, are the consequence of scarce accountability and the lack of transparency of regional decision-making. Different regional blocs have attempted a variety of ways to face these deficiencies, the most visible of which is the creation and empowerment of a regional parliament. This presentation analyzes comparatively five of these institutions in Europe and Latin America – i.e. the European Parliament, the Latin American Parliament, the Central American Parliament, the Andean Parliament, and the Mercosur Parliament — with the aim to understand their impact on representation, decision-making and accountability. The conclusions highlight severe contrasts across the Atlantic and advance a series of factors plausible to account for them.