

# Swiss-style reform can solve Nice dilemma

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If Ireland wants to make a positive contribution to Europe it could suggest Swiss practices, argues Brendan O'Leary

Now that the general election is over, the major political question in Ireland will become the second referendum on the Nice Treaty. One of the most striking features of the controversy over ratification so far is the comparative lack of Irish proposals to re-engineer Europe's constitution in Ireland's interests.

The Irish-American political scientist, Walker Connor, has remarked that the evolution of the European Union is proof of Roberto Michels' thesis on the "iron law of oligarchy". While proclaiming itself a Union of democracies it has evolved without the support of Europe's public.

The evidence is irrefutable, even for those of us who support the European Union. And there is only one effective way to struggle against the iron law of oligarchy - by direct democracy.

We Irish always talk as if we should be takers or non-takers of Euro-politics and Euro-governance, rather than makers or re-makers. It is perhaps time for us to rethink, and consider a proposal for the future of Europe that both pro- and anti-Nice advocates could recommend.

We are a small state and we are a democratic state. As a small state we have an interest in ensuring that European governance and policy do not become just an affair of the big states. We did not become a sovereign state to enable the UK to govern us with France, Germany, and Italy. As a democratic state we share with the Danes significant and appropriate constitutional constraints preventing our executive unilaterally signing away the sovereign authority of the people in a treaty. But we have not so far acted out of conviction from these facts. Here is one way that we could ask the Taoiseach and the new Government to do so

In Switzerland, referendums have a double majority requirement. For a proposed external treaty or constitutional change, a popular majority in a referendum is required. But a majority of Switzerland's cantons, the building blocks of the Swiss Confederation, must also agree if the change is to occur.

Ireland should advocate a similar proposal for constitutional change in the governance of the European Union. The whole citizenry of the Union should vote on important constitutional change, not just the people of Ireland, and occasionally the people of Denmark.

This would be a democratic proposal and help avoid in future the scenario of uninformed pressure from the likes of Romano Prodi being applied to small states such as our own. If the referendum was always held on the same day in each part of Europe then it would be impossible to isolate, bully or blame a certain people, as has happened to Irish and Danish citizens.

But the citizens of Europe should also vote as citizens of their member-states. To pass any measure should also require the support of a voting majority in each of the member-states. This would be proof of the federal character of the European Union - and not dissimilar to arrangements in the US and Canada for constitutional change - and would prevent the big states dictating constitutional transformations in their interests.

Advocates of direct democracy might argue for further change, along Swiss lines, enabling a direct initiative by a certain number of citizens, with, say, one million verifiable signatures, across at least four states of the Union, that would enable them to place changing a treaty or Union constitutional provision

on the agenda. By confining the initiative to constitutional changes and by regulating its operation it should be possible to avoid the commercialisation of referendums by lobby groups such as occurs in California.

This possibility of direct initiative would make political elites intent on changing the European Union aware that they might face a popular revolt if they press too far ahead of the people. It would encourage them to build widespread consensus for change. A Taoiseach who makes a habit of consensus might well consider this a good idea for Ireland and for the Union as a whole.

Others might reasonably argue for significant thresholds of consent before referendums are to count. Without a turnout of, let us say 30 per cent, no proposed change in a referendum would be valid. Likewise any constitutional change requiring a referendum would fail without this minimal level of turnout.

The referendum device and a minimum threshold would reverse the current position in which apathetic and powerless Europeans watch the confusing transformation of the European Union without any control over its evolution.

To understand the present governance of Europe currently requires a master's degree in constitutional law, fluency in three languages and an infinite appetite for institutional detail that is found only among politicians and political scientists.

The referendum device and the possibility of a citizens' initiative and a minimum threshold would mean that to win citizens' support for any changes, European politicians would have to persuade them to turn out. The provision of thresholds would also prevent fringe groups from relying on apathy to dictate outcomes to the rest of us.

We might, of course, want to place especially strong barriers on any changes by European governments, or by Europe's citizenry in a referendum, to the minimum standards of the European Convention on Human Rights, which is the default Bill of Rights of the EU. Referendums should not, in general, be about reducing the democratic rights of other citizens.

These are ideas that pro- and anti-Nice advocates should feel free to endorse. Pro-Nice supporters should recommend them to assure voters that they are genuinely interested in a European-wide federal democracy. When they talk of a democratic deficit in Europe they usually, and wrongly, have in mind the weakness of the European Parliament, rather than the power of the people.

Anti-Nice treaty advocates, who rightly say they are not against the European Union as such, should recommend these changes as ways to strengthen Ireland's hands in future and to make the rest of the EU rather more like Ireland than at present.

These are changes that would win broad support among European political parties and informed citizens, and at least provide a talking point for the unconcerned, bored and currently Europhobic.

Without such prospective changes many Irish citizens will be sceptical about whether they should approve the Nice Treaty, and whatever treaty comes next. And, without such changes, many citizens of a prospective European member-state, such as Switzerland, are reluctant to join a Union in which they would lose their existing democratic powers.

So, when pro-Nice advocates knock on the door in the coming months, ask them whether they favour referendums as a principle of democratic governance in Europe as well as Ireland. And when the anti-Nice treaty advocates call, ask them whether it is true that they are Little Icelanders or whether they want the EU as whole to be more directly democratic like Ireland and Switzerland.

Our Government should not have to apologise to other governments because we are more democratic in

the constraints we place on our executive in signing treaties. If Ireland wants to be nice to Europe it should commend Swiss-style changes to the rest of the European Union.

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