

Lessons from Europe's and Canada's constitutional experiences

RECON Workshop

WP 2 – The Constitutionalisation of the EU, the Europeanisation of National Constitutions, and Constitutionalism Compared

Oslo, 20-21 March 2009

Venue: **Holmenkollen Park Hotel Rica**, Oslo (www.holmenkollenparkhotel.no)

Organized by ARENA – Centre for European Studies, University of Oslo in cooperation with the Nordic Association for Canadian Studies (NACS) and the European Network for Canadian Studies (ENCS), co-funded by Foreign Affairs and International Trade Canada (DFAIT)

This workshop is organised under work package 2 of the RECON project, which deals with (a) the constitutionalisation of the EU, (b) the Europeanisation of national constitutions, and (c) comparisons of constitutionalism in the EU and in other selected entities.

The purpose of this workshop is to compare the EU with Canada (a multinational and multicultural state), in an area that is of particular relevance to democracy and also to the present European situation: the representative and participatory character of constitution-making and their link to constitutional failure.

The dynamics of Canada's approach to constitution-making has important parallels with that of the EU. Both have seen a transition from a closed executive-style and intergovernmental approach to constitution-making to a more open and participatory style (in Canada first with the patriation of the constitution in 1981-2, and in the EU with the Laeken process 2003-4). The outcome fails to obtain agreement among the key stakeholders (Quebec in Canada, France and the Netherlands in the EU). The next effort sees a retreat back to closed, executive-style constitution making (in Canada: Meech Lake, in the EU: the Lisbon Treaty). In both instances this is also rejected (in Canada by Manitoba and Newfoundland, in the EU by Ireland). In Canada the process was re-opened and resulted in the Charlottetown Accord 1991-2 which also failed. The character and result of the further EU process is still uncertain. How to understand and interpret these processes and their results? Were they failures?

The workshop will take up and discuss three sets of aspects of the Canadian case, with direct bearing on the EU. These are: (a) constitutional refashioning of community as a gender empowering device; (b) the effects of democratically inclusive participation in constitutional change processes on outcomes; and (c) what constitutes constitutional failure? Here the focus is on the relation between failed reform efforts and how these can be understood in normative terms.

All of these are clearly relevant to the contemporary European situation. The purpose of the workshop is thus twofold: (a) to scrutinize these for possible lessons and (b) to reflect on the lessons for democracy and democratic theory.

Programme

RECON Workshop: Lessons from Europe's and Canada's constitutional experiences
Holmenkollen Park Hotel Rica, Oslo

Friday, 20 March 2009

09:00-09:20 **Introduction:** John Erik Fossum
ARENA, University of Oslo

I – Overview of the Canadian and the European constitutional experiences

09:20-10:10 **Canada's and the EU's engagement in constitutional reform**
A comparative overview
Peter Russell
University of Toronto

10:10-11:00 **Closer to the citizens?**
European constitutional processes, communication policy and publicity
Giulio Itzcovich
Università degli Studi di Brescia

11:00-11:30 *Coffee break*

11:30-12:20 **Fashioning democratic constitutions for multinational entities**
Reflections on the comparability of the EU and Canada
John Erik Fossum
ARENA, University of Oslo

12:20-13:00 **Discussant:** Hans-Jörg Trenz
ARENA, University of Oslo

13:00-14:00 **Lunch buffet**, Restaurant 'De Fem Stuer'
Welcome by Canada's Ambassador to Norway, Jillian Stirk

II – Chartered constitutional refashioning of community

14:00-14:50 **Chartered constitutional refashioning of community**
Less thorough-going than it was projected to be?
Jeremy Webber
University of Victoria

14:50-15:40 **European constitution making and the role of gender**
Yvonne Galligan
Queen's University Belfast

15:40-16:10 *Coffee break*

16:10-17:00 **Canadian constitution making and the role of gender**
Marilou McPhedran
University of Winnipeg

17:00-17:30 **Discussant:** Cathrine Holst
ARENA, University of Oslo

17:30-18:00 **General discussion**

19:30 **Dinner**, Restaurant 'De Fem Stuer'

Saturday, 21 March 2009

III – Democratizing constitution-making

- 09:15-10:05 **Democratizing constitution making**
Reflections on the Canadian experience
Patrick Fafard
University of Ottawa
- 10:05-10:55 **Reconceiving democratic constitutionalism for multi-national polities**
Do the cases of the EU and Canada point in similar directions?
Ben Crum
Vrije Universiteit Amsterdam
- 11:00-11:30 *Coffee break*
- 11:30-12:20 **The complexity of the word 'no'**
An appraisal of the EU's procedures for Treaty change
Christopher Lord
ARENA, University of Oslo
- 12:20-13:00 **Discussant: Carlos Closa**
Consejo Superior de Investigaciones Científicas (CSIC)
- 13:00-14:00 **Lunch buffet, Restaurant 'De Fem Stuer'**

IV – Constitutional reform failure

- 14:00-14:50 **Does the world need more Canada?**
John Erik Fossum
ARENA, University of Oslo
- 14:50-15:40 **Integration through constitutional synthesis: The peculiar political order**
and constitutional law of the European Union
Agustín José Menéndez (paper presented by John Erik Fossum)
University of León
- 15:45-16:15 *Coffee break*
- 16:15-17:15 **General discussion**
- 17:15 **Concluding reflections**
Erik O. Eriksen
ARENA, University of Oslo
- 19:30 Common departure from Holmenkollen Park Hotel
- 20:00 **Dinner, Bølgen & Moi** (Briskeby)