The Constitution of EU Territory

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This paper offers a contribution to debates around the reconfiguration of political space in the project of European integration. Its specific focus is the Draft Constitution of the European Union, and its problematic understanding of territory. It claims that there is a profound ambiguity between senses of territory in the Draft Constitution, which in part aims to transcend existing territorial divisions and notions of territory, particularly those associated with the nation-state. This is an aspirational sense of Europe as a putative space of values and area of solidarity, illustrated through the ideal of territorial cohesion. On the other hand, territory is being re-inscribed in the Constitution in a 'hard' sense, organized through border controls, jurisdictional limits and a concern with territorial integrity and sovereign rights. In providing a reading of the draft Constitution itself, analysing the tensions and silences within its text, the article seeks to contribute to wider debates concerning the European project and its values, and the contribution social theory and political geography can make to an assessment of them.
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Introduction: Europe's Many Spatialities

The reconfiguration of political space lies at the heart of the project of European integration, and is the focus of a wealth of recent studies by, for example, geographers (such as Levy, 1997; Heffernan, 1998; Kramsch, 2002; Scott, 2002), political scientists (Rosamond, 2002; Rumford, 2002; Saint-Etienne, 2003), anthropologists (Shore, 2000), planners (Healey, 2004) and perhaps most interestingly those adopting a cross-disciplinary perspective (Brenner, 1999, 2004; Jönsson *et al.*, 2000; Berezin and Schain, 2003). We can summarize Europe's emergent spatialities in eight broad groupings; eight ways of reading the changing political geographies of Europe.

First is the notion of '*area*', as in 'European higher education area', 'European area of freedom, security and justice', 'European economic area' and so on and related ideas such as 'single European market' and 'single European sky' (relating to the management of air traffic). Here 'area' refers to a common or 'single' space without internal borders where activities can be coordinated and joint undertakings performed with reduced regulatory barriers, enhanced economies of scale, and greater organizational efficiency

and effectiveness. Second and third are two senses of *regionalization*. The first of these refers to the European Union (EU) as a regional bloc in a multi-polar economic world along with NAFTA, Japan, ASEAN and so on (Gibb and Michalak, 1994; Frankel, 1998). Regionalization in its second sense refers to the strengthening of regions below the level of the nation-state and to the emergence of cross-border regions (Jones and Keating, 1995; Jeffery, 1997; Keating, 1998; Bialasiewicz, 2002). The promotion of such regions has long been associated with European integration and regional development has been an important element of EU policy for at least 30 years. The Treaty of Rome contains an explicit commitment to the reduction of inter-regional disparities, a commitment that gained institutional expression in the formation of the European Regional Development Fund in 1975. The EU has also promoted political representation at the regional level, although the rather patchy development of autonomous or devolved regional governance scarcely matches the expansive rhetoric of a 'Europe of the regions' that became popular in the early 1990s.

The fourth spatiality is associated with *urbanization*. European cities are increasingly drivers of economic innovation and competition (Parkinson *et al.*, 2004) and their social and governmental roles are also growing (Le Galès, 2002). Cities are also dense agglomerations and nodes of cultural diversity and social mixing (Amin and Thrift, 2002) and, in many ways, urban Europe *is* multicultural Europe. Fifth is the *rescaling of the state* (Brenner, 2004) and the development of multilevel governance (Bache and Flinders, 2004; Hooghe and Marks, 2001) and, to a limited extent, of multilevel citizenship (Painter, 2002, forthcoming). Multilevel governance is related to regionalization in both senses, but is also concerned with the ways in which the geography of national state power is being reconfigured in often quite complex ways (Brenner *et al.*, 2003). Sixth is the notion of *a networked Europe* (Leitner *et al.*, 2002). There are several different network theories evident in the literature, including policy network theory (Rhodes, 1997), actor-network theory (Law and Hassard, 1999), and the concept of 'network society' associated with the work of Manuel Castells (1996). These different approaches are not necessarily mutually compatible, and each conjures a different set of geographies. A network can be seen as a set of cross-cutting connections between pre-existing entities (such as the inter-urban networks discussed by Leitner *et al.*). Alternatively, social life can be understood as always already networked — the position of actor-network theories, among other approaches — such that entities are constituted in relational networks and do not pre-exist them. While some writers (e.g. Leitner *et al.*, 2002) suggest that network approaches can be brought together with the notion of rescaling, it is also possible to see network thinking as a challenge to the idea of scale.

We see *the blurring of the 'inside' and the 'outside' of Europe* as a seventh spatiality in at least two ways. On the one hand, recent writing on European cultural identity has stressed the long history and complex geographies of hybrid Europe, reflecting past (and present) imperialisms, transnational kinship ties, and Europe's debt to other cultures, peoples and practices (for a cultural–historical analysis, see Passerini (2002); for political and political-economic readings of 'Europe outside of Europe', see Balibar (1998, 2003), Bialasiewicz and Minca (forthcoming), Galli (2002)). These interconnections, while often profoundly unequal, speak to the impossibility of defining an essential or bounded European cultural identity whether defined in terms of religion, rationality or ethnicity. We will consider some of these issues in more detail later. On the other hand, there are the increasingly complex institutional geographies of the EU itself, with the development of a variety of intermediate statuses between full membership and non-membership and the associated multi-speed and concentric ring models of European integration they seem to imply.

Eighth, and finally, there is the question of *territory*, which forms the principal focus of this paper, although in our considerations we will, of necessity, engage also with a number of the other spatialities. Indeed, the eight forms outlined above are in no way mutually exclusive. The understandings of space they presume often overlie; their geographies are often overlapping, intertwined. For example, the notion of area is part of what we are concerned with when we talk about territory, and debates about scale and the blurring of Europe's 'inside' and 'outside' are also, necessarily, territorial.

In what follows we propose to consider the question of territory as it is revealed (or sometimes concealed) in one expression of the project of European integration — the recent draft *Treaty Establishing a Constitution for Europe*[1] agreed in Brussels in June 2004, and signed by the leaders of the 25 nation-states in October of that year. Just as territorial issues are not the only expression of the EU's changing spatiality, the draft Constitution is not the only source of insight into territorial issues. Nevertheless, this particular focus is interesting for two reasons. First, territory remains central to the process of integration, but in profoundly ambiguous ways. European integration is an attempt to transcend existing territorial divisions and even existing notions of territory, particularly those associated with the nation-state. Territory, however, is not being erased, but rather re-inscribed in two senses that are in tension. One sense, which we will refer to as 'hard' territory, is organized through border controls, jurisdictional limits and a concern with territorial integrity and sovereign rights. The other is more open and aspirational and relates to Europe as a putative space of values and area of solidarity; it evokes the ideal of territorial cohesion. Second, 'constitution' is equally polysemic. The term can refer to an object (a text), to an act (of founding or definition), to

the makeup of a whole (from its *constituent* elements), or to a process (of becoming). In the case of the constitution of a polity (such as the EU) questions of territory are integral to both makeup (being) and process (becoming). Yet if the EU is an attempt to transcend existing notions of territory, it is of particular importance to examine its most explicit act of self-definition — the text of the draft Constitution — for what it tells us, or fails to tell us, about what such transcendence might involve.

So while we will refer to a range of EU official literature, our principal aim is to provide a reading of the draft Constitution itself, analysing the tensions and silences within its text. Intriguingly, its treatment of the diverse spatialities summarized above is markedly uneven. The (mainly territorial) notion of 'area' is prominent, for example, but the term 'network' only appears in five articles of the Constitution (I-14, III-223, III-246, III-247 and III-273), and the emphasis is on networks in a few tightly defined areas, namely 'transport, telecommunications and energy infrastructures' (III-246), with a stress on the consent of the member states where networks impinge on their territories (III-247).

The draft Constitution is, of course, a partial document, and as we shall see it avoids and fudges all sorts of political conflicts. It does not mark a profound discontinuity in the spatialization of Europe, and nor do we claim that it should. On the contrary, in many ways it reinforces *existing* understandings of territory, with all their ambiguities and unstated tensions. In other words, the Constitution does not tell us everything there is to know about EU territory, but it does tell us something interesting about the difficulties the question of territory raises for understanding the EU politically and geographically. The verb 'constitute' draws attention to the ways in which states of affairs are brought into being. With this in mind we focus on the process that led to the Constitution, and how both the process and the document constitute the territory of the EU. We begin by summarizing the unsteady political journey that produced the agreement.

The Process of Constitution

The Palace of Laeken on the northern outskirts of Brussels is the home of Albert II, Belgium's constitutional monarch. In this appropriate setting on 15 December 2001 the heads of government of the European Union initiated the development of a Constitution for Europe. The resulting *Laeken Declaration* on the future of the EU began with a familiar rehearsal of the EU's achievements:

  For centuries, peoples and states have taken up arms and waged war to win
  control of the European continent. The debilitating effects of two bloody

wars and the weakening of Europe's position in the world brought a growing realisation that only peace and concerted action could make the dream of a strong, unified Europe come true. In order to banish once and for all the demons of the past, a start was made with a coal and steel community. Other economic activities, such as agriculture, were subsequently added in. A genuine single market was eventually established for goods, persons, services and capital, and a single currency was added in 1999. On 1 January 2002 the euro is to become a day-to-day reality for 300 million European citizens. The European Union has thus gradually come into being. (European Commission, 2001)

The last sentence appears as a statement of the obvious, yet the nature of the EU's 'coming into being' — its *becoming* — is a far from simple matter. The Declaration also included a frank assessment of the challenges facing the EU as it 'stands at a crossroads, a defining moment in its existence'. Two main challenges were identified: the 'democratic challenge' of bringing Europe 'closer to its citizens' and the challenge posed by a 'globalized world' in which Europe 'needs to shoulder its responsibilities in the governance of globalization'. Meeting these challenges would involve addressing three issues: 'a better division and definition of competence in the European Union', 'simplification of the Union's instruments', and 'more democracy, transparency and efficiency'. Although the Laeken Declaration included a section headed 'Towards a Constitution for European citizens', the idea of a formal Constitution was presented as a long-term objective and a supplementary activity — something that might be worth pursuing in its own right and *in addition* to addressing the challenges of democracy and globalization, rather than the mechanism through which these challenges would be met:

The question ultimately arises as to whether this simplification and reorganisation [of the four existing treaties] might not lead *in the long run* to the adoption of a constitutional text in the Union. What might the basic features of such a constitution be? The values which the Union cherishes, the fundamental rights and obligations of its citizens, the relationship between Member States in the Union? (European Commission, 2001, emphasis added)

The Declaration concluded by announcing the establishment of a 'Convention on the Future of Europe' with the former French President, Valéry Giscard d'Estaing as its Chairman. M. Giscard and the Convention were charged with producing not a draft Constitution, but simply a 'final document' outlining their conclusions:

The Convention will consider the various issues. It will draw up a final document which may comprise either different options, indicating the degree

of support which they received, or recommendations if consensus is achieved. Together with the outcome of national debates on the future of the Union, the final document will provide a starting point for discussions in the Intergovernmental Conference, which will take the ultimate decisions. (European Commission, 2001)

The 105-member Convention was made up of representatives of the governments and parliaments of the Member States and candidate countries, representatives of the European Parliament and the European Commission, the Chairman and two Vice-Chairmen. A small number of representatives from the Economic and Social Committee, the Committee of the Regions and the 'social partners' were invited to attend as observers, as was the European Ombudsman.

According to the published record, it was not until the meeting of the Convention's Praesidium on 25 June 2002 that a formal view was expressed on the nature of the Convention's 'final document':

[The Praesidium] felt that the ambition of the Convention, in terms of credibility and of impact on the following IGC, should indeed be the drafting of a 'Traité constitutionnel'; but, following discussion, the Praesidium confirmed that they thought the process of examining first the 'what' and 'why' questions, then the 'how' questions, and finally the 'who' (i.e. institutional) questions, remained the right one.[2]

The initial suggestion that the Convention should draft a Constitutional Treaty was made by small group of Convention members who proposed that the European Commission should draw up a draft Treaty for the Convention to discuss. This proposal was rejected by the Praesidium on the grounds that it implied the Convention was 'shirking its responsibilities'.[3]

Thus neither the Laeken Declaration, nor, to begin with, the Convention that it established was definitely committed to producing a formal Constitutional text.[4] Nevertheless, at the Convention's plenary meeting on 3 and 4 October 2002 'in the general debate, broad consensus emerged on the idea of enshrining the legal personality of the Union in an explicit fashion in the new constitutional treaty'[5] and at the plenary on 28 October, in accordance with the wish of 'well-nigh the entire Convention',[6] Giscard presented a preliminary draft of a Constitutional Treaty. This document was extensively debated and revised before the *Draft Treaty Establishing a Constitution for Europe* was eventually published on 18 July 2003.

In legal terms the draft Constitution, as it quickly became known, was a proposal to the Intergovernmental Conference (IGC) on the Future of the Union that was held in December 2003 and marked the conclusion of the Italian Presidency of the European Council. Despite extensive negotiation,

the IGC was unable to reach unanimity on an amended version of the Treaty. The incoming Irish Presidency was therefore asked to make an assessment on the prospects for progress and to report to the European Council in March 2004. Finally, in Brussels on 18 June 2004, following detailed negotiations and some amendments, agreement was reached on the draft Constitution.[7] The political process then passed to the individual national-states for ratification, either by parliaments or referendums, of which Spain was the first to vote.

We will not discuss the disputes that marked the negotiations of the Constitutional Convention. Nor are we explicitly concerned with the politics of some of the most emotive issues, such as the issue of the President or the Foreign Minister, or the 'myths' surrounding the Constitution to which Tony Blair makes regular reference. However, we do want to stress that the difficulties in reaching an agreement are not only the product of the conflicting needs and interests of Member States but also reflect deeper ambiguities within the European project: ambiguities that, necessarily, become apparent when an attempt is made to render practice into word.

One such ambiguity concerns, precisely, the question of territory. Constitutions typically, though naturally not in all cases, make territorial claims or assumptions. Examples of explicit claims include those in the Constitution (Fundamental Law) of the USSR (1977), which stated that 'the territory of the Union of Soviet Socialist Republics is a single entity and comprises the territories of the Union Republics' (art. 75), and in the Constitution of post-Soviet Latvia, which says that 'the territory of the Latvian State shall consist of Livonia, Latgale, Courland, and Zemgale, within the boundaries stipulated by international treaties' (art. 3) (Raina, 1995). An example of territorial assumptions may be found in the Constitution of post-socialist Bulgaria, which states simply that 'the territorial integrity of the Republic of Bulgaria shall be inviolable' without specifying the location of its boundaries. However, where territorial claims are explicit they often refer to the uniting of separate territorial units, such as the States of the USA, the Republics of the USSR, or the *Länder* of Germany. Most often, the precise boundaries of the constituent units are not themselves defined. This means that even in constitutions that appear to make explicit territorial claims, those claims are usually derivative and in the end also based on assumptions. (The Latvian Constitution cited above appears to be unusual in offering an international legal basis for its territorial claim, and may reflect a perceived need, common in newly independent states, to explicitly affirm territorial control and sovereignty — something that in Latvia is still not taken for granted.) The question of territory is thus an awkward one for the drafters of constitutions. On the one hand, a constitution is clearly intended to apply to a defined territory, but if that territory is *pre*-defined, then territorial definition is an extra-constitutional act.

Nowhere is this ambiguity more apparent than in the draft Constitution of the EU. The document is both an exercise in consolidation and a statement of aspiration, and this is particularly the case when the draft Constitution speaks, or on occasion does not speak, of territory. Indeed, territory is powerful precisely where it is absent, because it is taken for granted.

It would be tempting to think that this absence is logical, given the Union's particular 'condition'. Whereas most constitutions come into force as the product of political and social upheaval — war, decolonization, liberation from a particular political system — the EU is unusual in that these deliberations come after almost 60 years of internal peace. This is important in relation to territory, for what is at stake here is neither a new system of government for an already existing state, nor the establishment of a constitution over a newly sovereign nation or one whose boundaries have been redrawn. Rather, precisely because of peace, it appears that the territory at stake can be assumed in the document, can be left unquestioned and unsaid as, more generally, can the sense of territory this presupposes.

But can it be left unsaid? And, more importantly, is it really? We suggest that the ghost of modern territoriality continues to haunt the draft document and all deliberations surrounding it. In particular there is a profound tension in how the draft Constitution conceives of territory. It is used *both* to mark 'traditionally' territorial (read: nation-state) imperatives (such as the defence of sovereign space and the regulation of immigration) — *and*, in a more aspirational sense, to evoke the birth of 'a special area of human hope' (CONV 850/03, 4) called 'Europe'.[8]

This tension emerges from a broader one between what Jürgen Habermas (2001, 22) characterizes as a 'Europe of nation-states' and a 'Europe of citizens' (see also Fischer, 2000), between Europe as an ideal, a 'special area of human hope', an un-bounded, unlimited 'area of solidarity' (Therborn, 2000; Habermas, 2001), and a Europe preoccupied with marking the confines of that area, of delimiting belonging to a shared project.

This is one reason why the EU is 'something other, a sort of unidentified political object, difficult to conceive' (Badie, 2002, 235), and perhaps particularly so in terms of its political geography. Existing concepts of territory may be inadequate in understanding what is happening here, not because the EU is a new *sort* of state or confederation of states, but because this tension undermines the very assumptions of modern territoriality. Foucher's (2002, 9) suggestion that it is useful to examine the 'geopolitical originality of the EU in the process of its constitution' thus merits attention.

Foucher offers a range of perspectives that he thinks can be contributed from geography:-

Geographers should be asked to break their silence to come out and participate in the inevitable debate on the making of Europe, particularly of

the Union, which gives rise to very cautious and conformist official views. Thus, one can remain satisfied with contemplating, without batting an eyelid, that the Union can shortly double its strength in members and continue to consider this as nothing but a change in numbers? Is it wise to consider that the introduction of the Euro would have no territorial consequences? Is it reasonable to put off *sine die* any public debate on the question of the final borders of Europe? Should we continue to justify European construction by the central but outdated arguments put forward by the founding fathers? Should we resolve to see in Europe nothing but a province on an implacable march towards 'globalization'? Is there not a (social, geopolitical, environmental) European 'model' to be analysed and, if it exists, to be promoted, so that each one would convince himself that Europeans still have something to say? (Foucher, 2002, 21–22).

While a number of these questions have been addressed by geographers (see, for example, Levy, 1997; Grant, 1998; Heffernan, 1998; Sidaway, 2003) the specific question of the territory of the EU is one which has received relatively little attention beyond a burgeoning literature on the delimitation and security of the Union's external borders (e.g. Derrida, 1991; Géophilosophie d'Europe, 1993; Andreas and Snyder, 2000; Anderson and Bort, 2001; Pagden, 2002; Rupnik, 2002). By tracing the usage of territory in the constitution of Europe we aim to show how the unquestioned assumptions reveal a wider problem with the conceptualization of this key term in debates about Europe and to stress how territorial imaginations/images of territory are powerful precisely because they are an 'invisible', taken for granted, part of our understandings of space and politics.

The Constitution of Constitution

The *constitution* of a state is shot through with violence, exclusion and war. As Foucault (1997, 43) put it, it is 'a question of finding the blood which has dried in the legal codes'. Constitutions are not usually written in the ink of contract and consent, but in the blood of those who died in war. For Foucault, it is issues of race, either in the binary division of two warring races or the monism of a race understood as a population, conceived as both biological and political, that are crucial to understanding the constitution of a state. Foucault's point is not simply about the 'constitution' as a written document, but about constitution as a process of making, something which can either be summed up by a written constitution or left in a process of continual reinterpretation. While the EU's draft Constitution seems a long way from such bloody beginnings, unless it is seen as a settlement arising from Franco-German cooperation following World War II, Foucault's general points about

'constitution' are important, particularly in the way he alerts us to the numerous meanings of the term 'constitution'.

Even the common-sense definition of constitution as 'the rules which establish and regulate or govern the government' (Wheare, 1966, 1) implies a dual sense: constitution is both the 'constitutional articles in a written document' and the 'constitutional institutions as they are actually practised in ongoing state activities' (Lane, 1996, 5). This gives rise to two dominant strands of constitutional theory, constitutional formalism and pragmatism (Lane, 1996, 13–14). But 'the constitution of Europe' is a much more polysemantic phrase than this allows. It includes not only the sense of Europe's makeup and composition — its constituent elements (and the more medical sense of 'the physical nature or character of the body in regard to healthiness, strength, vitality, etc.' (OED)) — but also its system of fundamental principles (Brigham, 1996; Weiler, 1999, viii; Elden, 2002, 125). Etymologically, the word derives from two Latin words: *con-* (*com-*, *cum*) and *statuere*. *Con-* is in part an intensive, but also means 'with', which implies a means of bringing similar things together as the same. *Statuere* — to set up, establish, decree — is from *stare*, to stand. Its past participle *statutum* when used as a substantive meant decree, decision, law, etc., and from it we derive *statute*. Thus, within the word 'constitution' is the root of the word 'state', which implies that the phrase 'constitution of the *state*' is superfluous, excessive. Constitution is *always* of a state — a state of health, of affairs, etc. But if this is betrayed in the word's etymology, it is masked in its spelling: constitution.

A constitution as a declarative act, as the *constatation*, the rendering into word of 'the state of things', is always, as Derrida has long argued, shot through with a necessary exclusion, a necessary violence. Derrida (1984, 16) asks, 'Who signs, and by what so-called proper (or own, or peculiar, or suitable, or appropriate, or right) [*propre*] name, the declarative act which founds an institution?'. This founding gesture is struck through with a necessary *non sequitur* where the effect is, in a sense, the cause of itself. The first issue arises in the very first section of the first Article (I-1.1), where the text suggests that 'this Constitution establishes the European Union'. Like the famous 'We the people' of the American Declaration of Independence this is a constitutive moment underpinned by a profound ambiguity, the declaration establishing the very body which makes the declaration. But note that the 'founding act' of the EU long pre-dates the present constitutional document, which is in some senses a *post hoc* rationalization of a long process of constitution. Indeed, in 1986 the European Court suggested that EU treaties were its 'basic constitutional charter'.[9] In a sense then, the phrase should be reversed: 'the European Union establishes this Constitution'. As Bennington suggests, 'the *chance* of politics is given by this founding impossibility at the moment of institution of the institution, which also means that institutions are

essentially historical and never entirely stabilized, haunted by the *coup de force* that institutes them'. Bennington (2000, 30), following Derrida elsewhere, calls this the 'aporetical moment' (see also Honig, 1993; Ceaser, 1997).

> It is probable, as it might be said, that such a *coup de force* always marks the founding of a nation, state or nation-state. In the event of such a founding or institution, the properly *performative* act must produce (proclaim) what in the form of a *constative* act it merely claims, declares, assures it is describing. The simulacrum or fiction then consists in bringing to daylight, *in giving birth to* [*à metre au jour*, en lui donnant le jour], that which one claims to reflect so as to take note of it, as though it were a matter of recording what *will have been there*, the unity of a nation, the founding of a state, while one is in the act of producing that event. (Derrida, 1987, 457)

Here then, we want to examine how the unspoken assumptions of the EU Constitution presume and thereby *produce* a particular state of things. This state of things can particularly be seen in the territorial order of the EU. The following stages of this paper therefore attempt to unpack and examine the draft Constitution's treatment of internal and external aspects of the EU's territory, in order to reveal some of its (implicit) political geographies.

Territory and the European Union: Internal

Two territorial issues are central to EU policy-making and are addressed explicitly in the draft Constitution: the abolition of internal frontiers and the promotion of 'territorial cohesion'. The second objective of the Union is to 'offer its citizens an area of freedom, security and justice without internal frontiers, and a single market where competition is free and undistorted' (I-3.2). A subsequent chapter on the competences of the EU states that 'the Union shall constitute an area of freedom, security and justice' (I-41.1). The sense of 'constitute' is ambiguous here — either the Union shall be made up of elements that already exist, or the Union shall create something new, that is an active making of this area. The sense of 'active making' is reinforced by the description of the mechanisms to be deployed, which include 'promoting mutual confidence between the competent authorities of the Member States' and 'operational cooperation between the competent authorities of the Member States'. These sub-clauses suggest that the 'area of freedom, security and justice' remains a work in progress, something that has yet to be fully constituted. (They also imply a stronger emphasis on 'security and justice' than on 'freedom'.)

The abolition of internal frontiers is a long-standing aspiration of the EU. Economic frontiers were formally abolished with the official 'completion' of the Single Market at midnight on 31 December 1992 (something of a

'founding act' in itself). However the right of free movement of citizens, as distinct from workers, was established separately through the provisions of the Maastricht Treaty (Treaty on European Union) that came into force in November 1993. In practice, the 1992 completion of the Single Market was something of a juridical fiction, and a range of non-tariff barriers to trade are likely to remain for many years. Ironically, one of the most important steps towards the abolition of internal frontiers has been the Schengen Treaty, which was not initially an EU measure, but an independent initiative of a subset of the Member States, incorporated into EU law in 1999. (It is worth noting, however, that the UK and Ireland do not participate in those aspects of the Schengen scheme that relate to the free-movement of people, while two non-EU states, Iceland and Norway, do.) The abolition of internal frontiers establishes the possibility of an 'area of freedom', but it has also provoked political demands for an 'area of security and justice'. Stronger pan-EU policing and criminal justice powers were the *quid pro quo* for allowing free movement of goods, capital and, especially, people throughout the single market. We shall return to this point in relation to migration below.

According to Article I-3.3, another of the EU's objectives is to 'promote economic, social and territorial cohesion, and solidarity among Member states'. 'Territorial cohesion' is a recent addition to the EU's official lexicon. The concept of 'cohesion' was introduced by the 1986 Single European Act, which set 31 December 1992 as the deadline for the completion of the Single Market. Poorer Member States, concerned that the completion of the Single Market would be to their detriment, insisted on new provisions to promote balanced economic development. As a result, a new Title V on 'economic and social cohesion' was incorporated into the Treaty of Rome. Thus Article 158 of the consolidated version of the Treaty Establishing the European Community reads:

> In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion. In particular, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas (C325/103).

One of the recent negotiations' few revisions to the draft Constitution itself clarifies the extent of 'territorial cohesion':

> Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the

northernmost regions with very low population density and island, cross-border and mountain regions (III-220).

Initially, the practical impact of the change was limited to re-asserting the role of the existing structural funds. This was considered inadequate by the poorer states and the Maastricht agreement of 1991 established a cohesion fund. Access to this fund was limited to states with a per capita GDP below 90% of the EU average, namely Greece, Ireland, Portugal and Spain (the so-called 'cohesion countries'). In exchange, these countries were obliged to pursue economic policies designed to produce 'convergence'.

The use of the term 'territorial cohesion' in the draft Constitution makes explicit the EU's long-standing emphasis on the reduction of spatially uneven development, and evokes an *aspirational* understanding of Europe. Although EU policies of reducing economic and other inequalities within and between Member States do produce specific territorialisations, the ideal of 'territorial cohesion' is precisely that — an *ideal*, a shared social-political vision and not a 'hard', unitary territorialization. This is also confirmed by the symbolic value placed on 'territorial diversity' with the Union's policies (evident, for example, in the idealization of a 'Europe of the regions').

As Patsy Healey (2002) has argued, 'territorial cohesion' is also used in a wider sense to refer to increasing the infrastructural, economic, and socio-cultural linkages between different areas. This usage evokes the idea of 'network Europe' that was mentioned at the beginning of the paper, and serves to emphasize that Europe's diverse spatialities do not operate in isolation from each other.

This attempt to create 'territorial cohesion' and an area 'without internal frontiers' is in apparent conflict with a later clause which suggests continuing respect for Member States' separate 'essential State functions', including those for 'ensuring the territorial integrity of the State' and for 'maintaining law and order and safeguarding national security' (I-5.1). This tension between an 'area' or 'territorial cohesion' at EU level, and 'territorial integrity' of individual states maybe merely the usual EU problem of trying to balance state powers and supra-national powers. Territorial cohesion refers to (mainly) economic disparities whereas respect for territorial integrity of member states refers to security issues and possible secessionism. But is it simply the case of the coexistence of 'hard', nation-state territorialities alongside (apparently non-territorial) aspirations?

The straightforward sense of the territory of a state is that 'any state has a clearly delimitable space where it operates. In order to specify that area in detail it is necessary to consult international law... The basic institution is the control of the employment of physical force in a territory' (Lane, 1996, 91; following Weber, 1971, 510–511). But the question is wider than merely

physical force, for it also relates to the jurisdiction of any legal power. EU lawyers, for example, talk of the 'legal space' within which 'European' laws hold sway (see, for example, Weiler, 1999, 102–129).

The draft Constitution conveys, indeed, at least two senses of territory. The territories of nation states are defined largely by the spatial *extent* of the exercise of legitimate physical force or the monopoly of the means of violence. However, the territory of the EU is of a different kind. It is not merely the sum of the territories of the Member States, for the territoriality of — the territorial qualities of — the EU is qualitatively different from the territoriality of its Member States, in part precisely because it does not have the option of physical force. It is marked, rather, by the aspirational sense of the production of a space where inequalities are evened out, and rights and privileges are distributed throughout. But there is another sense of territory in the draft EU Constitution that surrenders much more explicitly to the statist understanding.

Territory and the European Union: External

If the specification of the 'internal' territoriality of the Union is ambiguous, its 'external' territoriality is even more so. We will focus here on the tension/contradiction evident in the absence, on the one hand, of a 'hard' territorial definition of the Union's borders — and the affirmation, on the other, of the Union's competences in two highly territorialized realms: the administration of security and the regulation of immigration.

Where is Europe?

The draft Constitution raises important questions about the external limits of the Union's territory. It states that 'the Union shall be open to all European States which respect its values and are committed to promoting them together' (I-1.2), but provides no definition, no attributes necessary to be 'European'. There is a number of possible explanations for this lack of clarity. One possibility is that there is no consensus on where the limits of Europe lie. Another is that although there exists a consensus, any attempt to define the limits publicly is seen as too controversial. Alternatively, it may be that there is no need to publish a definition on the grounds that each case will be treated individually. In effect, this would mean that for the purposes of EU membership a state would be regarded as European if existing EU Member States accepted it as such. A final possibility is that any state that respects the EU's values (as set out in Article I-2) will be deemed to be European. Both the last two possibilities raise the prospect of countries from outside the conventional territorial limits of Europe joining the EU at some point in the

future. On such a basis the membership of states from north Africa, the Levant, and central Asia is not impossible to imagine. Further afield even South American and Caribbean countries might be interested. After all, the EU already includes the French *Départements* of Guyane (which borders Brazil and Surinam) and Guadeloupe and Martinique in the Antilles.

There is certainly no serious dispute about the European status of the eight mainland countries which joined the EU on 1 May, 2004, nor about that of Romania and Bulgaria which have applied to join. Malta, despite its proximity to North Africa did not pose problems, but it is worth noting that Cyprus, which lies off the Turkish coast and is 'geographically' closer to Syria than Greece, is not obviously European by geography, yet it too has just joined the EU. The fact that Turkey has also been formally recognized as a candidate country suggests that there is no barrier, in principle, to the extension of the EU's boundaries beyond the widely accepted assumption that Europe's south eastern territorial limit coincides with the Bosphorus. The 'Turkish question' is a broader one, however, for it challenges — figuratively as well as materially — the potential boundaries of the Union. Although Morocco's bid for membership in 1987 was rejected 'on geographical grounds', EU policy makers would be hard pressed to use 'geography' as a justification for excluding many other candidacies: whether in the Balkans (Albania and Macedonia have both announced their intentions to pursue EU membership) as well as in the Caucasus (Armenia, Azerbaijan and Georgia have all been 'considered' for Union accession). Indeed, the stakes may be even higher, for a future resolution of the 'Turkish question' would potentially, as Rupnik (2002, 306–307) notes, take away at least the 'territorial argument' against Russia.

Rather than specifying its limits territorially, then, the EU has defined a set of basic conditions, known as the Copenhagen Criteria (after the Copenhagen European Council meeting at which they were agreed) that any applicant country has to meet:

- stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (SN 180/1/93).

This approach offers a solution to the question of the EU's future limits that may function juridically, but leaves much scope for future conflict over the cultural and political bases for defining the Union's territory. Although European policy makers have been very careful to insist that Turkey would be considered for membership as soon as it fulfils the necessary criteria for admission, there are strong doubts within the country's political elite — and

also among EU policy makers — whether the Turkish candidacy will ever be considered on a par with other 'European' members (see Mulvey, 2003; Hughes, 2004). For example, notwithstanding the Copenhagen criteria, no less a commentator than Valéry Giscard d'Estaing opined in November 2002 that Turkey should not be admitted to the EU because it is 'not a European country' and the effect of its membership 'would be the end of Europe' (cited in Leparmentier and Zecchini, 2002).

However, Chairman Giscard did resist calls, including from the Vatican, for the inclusion of a reference to Christianity as a defining characteristic of Europeanness. Certainly the historic 'idea of Europe' has close territorial connections with Christendom. Europe really only emerged as a viable political entity in the ninth century, when Charlemagne's Carolingian Empire was labelled as such. This was not Europe as a whole, but the western parts — modern day France, the Low Countries, Germany and northern Italy — almost exactly the area of covered by the 1957 Treaty of Rome. The classical Roman split between Rome and Byzantium was continued in the medieval period with the divide in the Church, although the borders of Christendom extended both northward to Scandinavia and eastward through Poland, Bohemia-Moravia and Hungary (Jönsson *et al.*, 2000, 7, 115, 121). However, in contemporary secular and multi-faith Europe, it seems unlikely that an attempt to link the constitution of Europe to an explicitly Christian heritage will be politically practical.

As Edward Said (1995 [1978]) has pointed out, the constitution of the Orient was at once a mode of conceptualizing the other, and a way of constituting the self. Europe was *not* that, and therefore *was* this. In the Cold War years, the simple understanding of three worlds — of a Europe bounded to the East by a wall or curtain and to the South by the Mediterranean — allowed a narrow definition that could include without too many problems of excluding. There were, for a while, two rival versions of the European market (the EEC and EFTA), but no immediate problem of definition in a cultural, spiritual or national sense. Whereas the first wave of post-war democratizations — Spain, Portugal, Greece — allowed the boundaries to be stretched somewhat, it was the collapse of the Soviet empire that threw down the barricades and forced Europe to come to terms with its most immediate other, the countries of Central and Eastern Europe. In terms of the territorial definition of the European project the Cold War actually proved useful, because Jean Monnet and others could claim that 'its borders were fixed by others, by those who felt they should not be part of it'. After 1989, however, 'Western Europe …lost the monopoly of the use of the word 'Europe' (see d'Appollonia, 2002, 179; Foucher, 2002, 26). The opening of the Iron Curtain gave birth, indeed, to a whole new set of divides and boundary lines, although, as Heffernan (1998, 239) points out, these mark 'some remarkably persistent geopolitical instincts

of the European idea through the ages': the enduring need to signify the borders of belonging against a constituting 'other'. In the post-1989 era arguably this has been a role assigned largely to the Orthodox/Russian 'East' (see Antohi and Tismaneanu, 2000; Bialasiewicz, 2003).

Where, then, will Europe's borders lie in the future? The Atlantic and Mediterranean may appear to provide 'natural borders' (Pagden, 2002, 45), as does the Arctic ocean, but the eastern edge of Europe has always been more problematic. It has been drawn in different periods at the river Don or the Urals, but as Jönsson *et al.* (2000, 6) suggest, 'today, the symbolic border runs even east of the Urals, which never in history have proved to be an obstacle to the flow of ideas and human contacts'. While the other borders of Europe can be problematized — after all, the Mediterranean has long functioned as a passage, a space of encounter and exchange, rather than a barrier (Matvejevic, 1996; Jönsson *et al.*, 2000; Latouche, 2000) it remains as the eastern extent which is most difficult to agree upon.

Europe must therefore define itself otherwise, for any *territorial* delimitation runs the risk of excluding 'potential Europeans' (whether in the post-Soviet East, or even, some day, across the Bosphorus). The fact that the draft European Constitution does not attempt to define the 'geographical' boundaries of Europe is thus understandable. To reflect its 'aspirational' understanding, Europe's territorial limits must also be, in a word, aspirational: open to those who might *become* European, which is arguably already the case with the latest wave of accession. In part, then, the refusal to adjudicate on this highly charged issue — despite Giscard's clear views — is deliberate, and of a piece with the aspirational sense of territoriality found in the draft Constitution. But, somewhat paradoxically, the draft Constitution simultaneously enacts and enforces a number of hard territorializations.

Terrorism

It is perhaps hardly surprising in the current global climate that the draft Constitution would make an issue of terrorism, even if this surrenders too much to the present moment in a document which is intended to transcend it. This attempt at going beyond a mere temporary settlement is made clear in Article IV-446, which states that 'the Treaty is concluded for an unlimited period'. In fact, although we do not want to make much of this point, it is interesting to reflect on how far it is possible for a modern-day constitution to go beyond the present. It is tempting to suggest that any attempt to respond adequately to Siedentop's (2001) argument that Europe needs its Jefferson will be doomed because the EU is the captive of its member states and thus too embroiled in the mundane politics of the short-term. Modern constitution-making cannot afford the luxury of the broad brush grand statements of the

18th century precisely because modern government is so closely bound up with organized interests, the media, and the pressure of current events.

The implicit references to questions of terrorism are found in the language of the common foreign and security policy, which is intended to lead to the 'progressive framing of a common defence policy' (I-12.4; I-16.1; I-41.2). Through the drafting of this process, the claims here have been strengthened. Earlier versions, such as 850/03 (I-41) suggested that until the Council has done this framing, 'closer cooperation shall be established, in the Union framework, as regards mutual defence'. In other words, the absence of a common defence policy had to be filled, in the interim, by something that looks very close to a common defence policy, albeit couched in the terms of 'closer cooperation' and 'mutual defence'. This is now simply assumed within the text of the draft Constitution, which like earlier versions aims to provide protection to Member States that are the 'victim of armed aggression on its territory'. In this event, the other States 'shall have towards it an obligation of aid and assistance by all the means in their power, military or other, in accordance with Article 51 of the United Nations Charter'. The Article provides the proviso that 'this shall not prejudice the specific character of the security and defence policy of certain Member States', and that 'commitments and cooperation in this area shall be consistent with commitments under North Atlantic Treaty Organization, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation' (I-41.7).

It is worth asking why is this incident of 'armed aggression' limited to that occurring 'on its territory'? What about acts of war in international waters or airspace? What about attacks on citizens in other Member States or further abroad? We turn in vain for an answer to the place to which earlier drafts referred us (850/03 Article III-214), where more detail is provided, but the 'territorial fix' remains — as does its associated ambiguity. This is continued in the explicit reference to the relation between territory and terrorism, found in Article I-43, and worth reproducing at length.

1.   The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object[10] of terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilize all the instruments at its disposal, including the military resources made available by the Member States, to:
(a)   (i) prevent the terrorist threat in the territory of the Member States;
(ii) protect democratic institutions and the civilian population from any terrorist attack;
(iii) assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
(b)   assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.[11]

The notes section of an earlier draft produced by the Convention suggests that 'for the sake of clarity, it has been specified in the first indent of (a) that prevention of the terrorist threat should take place in the territory of the Member States' (CONV 724/03 p. 103). Again, we are faced with the question of Member States' hard territoriality, in part at odds with the aspirational territory of the EU itself.[12] So does this specification really add clarity?

Migration, Immigration

A similar presentist concern with rigid territory runs through the clauses of the draft Constitution concerning citizenship and rights of (im)migration. Citizenship of the Union, which is in addition to, rather than a replacement of, citizenship of the constituent states (I-10.1), confers 'the right to move and reside freely within the territory of the Member States', to vote or stand as candidates in European and municipal elections in their Member State of residence, and within 'the territory of a third country' the right to make use of the consular and diplomatic services of another Member State where their own is not represented (I-10.2). Explicitly in the second two, and implicitly in the first, the conditions will be the same 'as the nationals of that State'. These provisions relating to citizenship of the Union are the same as those previously established in the treaties of Maastricht and Amsterdam (see Weiler, 1999, 324). In relation to immigration, however, the draft Constitution goes beyond earlier Treaties by writing into European law the commitment made by the heads of government at Tampere in 1999 to develop a common immigration and asylum policy.

Control of borders is a fundamental attribute of conventional territorial sovereignty. The ability to decide who may enter and on what conditions is central to the capacity of a state to effectively realise its claims over territory. In this regard, the draft Constitution's treatment of immigration is an important measure as well as a generator of the process of EU territory-making. Immigration falls under Part III, Title III of the Treaty, which deals with 'Internal Policies and Action'. While this follows public administration conventions in making immigration a matter of 'home' or 'domestic' rather than 'foreign' policy, it also serves to reinforce the doctrine that immigration policy is, first and foremost, a matter of protecting the inside against the outside. Moreover, it is specifically in Chapter IV of Title III ('Area of freedom, security and justice'), that immigration policy is outlined. Chapter IV covers, in addition to 'Policies on border checks, asylum and immigration', judicial cooperation in civil and criminal matters and police cooperation, policy fields associated rather more with security and justice, than with freedom.

The EU does not at present have a common policy on immigration, and here the draft Constitution does go further than simply confirming existing

arrangements, by stating that the Union 'shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals' (III-257.2).[13] Article III-267 elaborates in relation to immigration as follows:

(1) The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.
(2) For the purposes of paragraph 1, European laws or framework laws shall establish measures in the following areas:

   (a) the conditions of entry and residence, and standards on the issue of Member States of long-term visas and residence permits, including those for the purpose of family reunion;
   (b) the definition of rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
   (c) illegal immigration and unauthorized residence, including removal and repatriation of persons residing without authorization;
   (d) combating trafficking in persons, in particular women and children.

There are several points of interest here. First, these clauses express an aspiration, rather than a *fait accompli*. There is a sense here of actually seeking to constitute something new — a European immigration area, although that term is not used. Second, a European immigration area, or something like it, would be a novel and powerful form of EU territoriality. Third, the reference in paragraph 2(b) to the yet-to-be-determined rights of third-country nationals and to their freedom of movement within the EU holds out the possibility of something like EU denizenship as a complement to European citizenship. There is at least the potential here for those who are not EU citizens, but who are nonetheless legally resident in one Member State, to be granted at least some of the Union-wide rights enjoyed by EU citizens (of which freedom of movement and residence throughout the territory of the Union is the most germane, and the most obviously territorial). Given the abolition of border controls at internal frontiers, it is in any case impossible to prevent free movement between Member States. The development of de facto EU denizenship could be particularly significant since one of the paradoxes of EU citizenship is that it can only be obtained through the acquisition of citizenship of a Member State — and Member States retain sovereignty over the terms for the allocation of citizenship. One cannot become an EU citizen directly.

On the vexed issue of asylum the draft Constitution is similarly aspirational. Article III-266 states that 'the Union shall develop a common policy on asylum, subsidiary protection and temporary protection' and that the policy should accord with the Geneva Convention on refugees. The key emphasis in the section dealing with asylum is the development of a uniform status for those granted asylum or lesser forms of protection and of common EU-wide procedures for granting refugee status. Here too, therefore, we can see the potential for something like a common European asylum area, though with more emphasis on standardizing the regulation of entry to it, than on the rights of those within it. In this case, territory is asserted more through the reinforcement of its boundaries, than through the development of its internal qualities.

Clearly, this Chapter of the draft Constitution speaks to a more enhanced sense of EU territory than exists at present. By removing internal frontiers and raising the prospect of extending the right of free movement to non-citizens, while setting out the aim of uniform, Union-wide, regulation of external boundaries, it strengthens both the internal and the external aspects of EU territoriality. Nonetheless, the ambivalent character of the EU's territoriality that we have referred to previously also reasserts itself here. In one of the draft Constitution's very few explicit references to geography we read that the measures relating to the abolition of border controls 'shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law' (III-265.3). The 'hard' sense of territory remains, yet the fact that it has to be so explicitly re-stated reveals the extent to which it is unsettled by the draft Constitution.

The European (E)Utopia

The various 'territorial ambiguities' that mark the draft Constitution thus speak to a broader paradox of reconciling *still-territorial* imperatives (such as security/defence or immigration policy) with the (in principle) *unlimited* ideals of justice and human rights that are presumed to lie at the heart of the European project. We are not the first to note this paradox, for a variety of observers (above all, Habermas, 1998) have commented that Europe's 'problem' lies precisely in *giving institutional/legal shape to values*: to the European 'structure of feeling' imagined by Derrida (1990) and others (for example Todorov, 2003; Verga, 2004).

What we would like to stress, however, are the *geographical* dimensions of this 'problem', which run to the very heart of the modern territorial imagination. As Deleuze and Guattari (1988, 380–381, 474ff) argue in *A Thousand Plateaus*, space can be understood in two senses, as smooth and striated. What is frequently missed, however, is that they insist that 'the two

spaces in fact exist only in mixture' (1988, 475): they can be theoretically disassociated, but in practice are always entwined: 'smooth space is continually being translated, transversed into a striated space; striated space is constantly being reversed, returned to a smooth space' (1988, 474).[14] The aspirational sense of the Constitution is a smooth space of cohesion and values, while the hard territorializations of defence, security, immigration and the frontiers of Europe are the striations marking its surface.

The challenge facing the Constitution, therefore, is not simply one of finding the *right* institutional shape, the *right* territorial 'fix'. It is not simply a question of finding the *right* borders for the 'special area of human hope' that is to be the new Europe. It is, rather, at least to aspire to transcend ('hard') territorial understandings altogether. It is debatable whether this is possible. *All* attempts to define values — legally, institutionally — are always and already territorial. All constitutive/constatative acts enact a necessary fixing, an ordering of such values *in space*; they all *presume territorializations of power, security, identity*; all are necessarily marked by the modern territorial imagination. Striation is not so easily smoothed over. The reluctance of the Constitutional Convention to trace hard borders for the European project (or to trace these only in part) has been mirrored by an unwillingness (noted by many) to state 'Europe's purpose'. In fact, territory is not the only thing 'missing' in the text of the draft Constitution: the Convention was also reluctant to inscribe 'hard' definitions of the principles and values of European belonging as well.

The most visible debates have been those about Europe's 'Christian' heritage, but the issue is a broader one. The Convention's reluctance to clearly state the 'reasons for Europe' has been the focus of numerous critiques — and not only on the part of those hoping to see the codification of a 'Christian Europe'. Those on the European Left have also expressed their dissatisfaction with the Convention's perceived unwillingness to 'take a stand'. In an editorial on the Guardian on 21 May 2004, in the heat of the negotiations, Polly Toynbee echoed some of these discomforts:

> What's the EU for, beyond free trade? Old reasons for European unity have gone. Jean Monnet's talk of keeping the peace after a millennium of European war sounds as archaic as gas masks. Once the wall came down there was no common danger to unite against. Is it surprising people are apathetic or hostile when they see nothing but nit-picking and bartering between men in suits in faraway Brussels?… At the heart of Europe is a void, mitigated only by greed. The EU always needed a political purpose beyond trade: without that, things start to fall apart. (Toynbee, 2004, 27)

Toynbee's editorial is not only a distillation of popular perceptions, however: it also speaks to some of the most common critiques levelled at aspirational readings of the European project, whether conceived as an 'area of

solidarity among strangers' (Habermas, 2001) or 'regime of organised civility' (Offe, 2002). Many detractors, in the academic world and beyond, have criticised Habermas' and Offe's visions as 'dry' and 'dull', lacking the 'spiritual' inspiration that inspires allegiance — and grants legitimacy (see, for instance, Siedentop's (2001) well-publicized arguments). Charles Turner's (2004) recent invective against Habermas is a case in point, accusing the German theorist's vision of the European project of a 'lack of imagination' and asking provocatively: 'Where is the dignified part of a European constitution, the spirit of European laws?' (Turner, 2004, 309). Judging from such critiques (and Turner is one voice among many), the draft Constitution's ambivalent, 'weak', territoriality is paralleled by a set of rather 'weak' — and quite ambivalent — values. *But is this a problem for Europe?* Or could it be, rather, Europe's unique contribution, its 'geopolitical originality' (Foucher, 2002)?

Tzvetan Todorov, in his 2003 book *Le Nouveau désordre mondial* sees Europe's future in its role as a *puissance tranquille* — a 'tranquil power' — guided by 'weak' values, not 'glorious abstractions'. Todorov (2003, 42) sees Europe as an 'evolving, becoming order', not 'prescribable but existing in practice' — or, better yet, in the multiple practices of Europeans. Todorov's ideas echo Derrida's (1990, 75) aspirational vision of Europe as something which gains unity through its 'purposes, interests, cares and endeavours'; a Europe, in Verga's (2004, 178) words, conceived in 'being European', 'a process, not object… enacted, called into being, by the desire' to be European.

While it would be easy to discount such ambivalent definitions, they are anything but weak. They are based on a very clear stand — and a clear political (and geo-political) stance: the refusal to proclaim what Bruno Latour (2003) in an editorial in *Le Monde* termed a 'unique/unitary morality'. Europe's 'weak values' — and its 'weak territoriality' — resist the 'glorious abstractions' derided by Todorov and their 'hard' territorializations, and call into question the 'great values' in whose name 'countless atrocities have been carried out — and continue to be' (2003, 23).[15]

Conclusions

Whether such a 'weak' imagination can provide sufficient common ground for the European project is another story. As the Third Gulf War has demonstrated, Europe is far from united in its political aims. Moreover, cultural critics and political theorists aside, European politicians have shown themselves to be quite unable to transcend a territorial imagination of Europe — and its purpose.

This article has sought to contribute to the ongoing theorization of the European project through a reading of the territorial questions raised by the EU constitution. To some extent, it is part of a call for a sustained spatial

investigation of the EU project. As we have indicated here, spatial theory can offer some important perspectives. In a single article we have not tried to provide either a reading of the entire process of the making of EU geographies, or a comprehensive analysis of what spatial theory could bring to the study of the EU. While the argument has depended on a range of social/spatial theory in order to make its points, it has remained close to the text at hand in order to develop a number of carefully focused arguments. However, both of these other projects — the detailed study of the EU's geographies and the spatializing of EU theory — are worthwhile and have been begun elsewhere.[16]

Although they are based on the English language versions of the various official texts, our arguments would also work in other languages. As Article IV-448 makes clear, the text of the draft Constitution in each of 21 languages is 'equally authentic'.[17] In French and other romance languages the term for territory is etymologically related to the English, although, in French at least, *territoire* tends to have a more exclusively statist connotation than in the English. It is perhaps worth noting that the German term for territory within the draft Constitution is *Hoheitgebiet* — more literally sovereign region, rather than *Staatsgebiet* or even simply *Gebiet*, which is the word Max Weber uses in his famous definition on the state. But when the draft Constitution speaks of territorial integrity and cohesion the German phrases are *territorialen Unversehrheit* and *territorialen Zusammenhalt*. This German language example suggests what is merely *implicit* in the English and Romance languages: the two senses of 'territory' to be found in the draft Constitution. On the one hand, that which we have called the 'hard' territorial sense, the kind implied by Weber's suggestion of the limits to legitimate physical force, tied to the desires and requirements of the member states; on the other, the 'aspirational' sense expressed in the project of European integration itself.

The contrast between these two understandings is not only semantic, however: it is (geo)philosophical, denoting very different understandings of space and its 'proper' governance, its 'proper' constitution. Tony Blair's 'red lines' are perhaps the most explicit recognition of this tension, showcasing the British inability to transcend a particular — and potentially mythological — sense of the territorial imagination of Europe. The British fear of rabies, immigration and the foreign more generally is illustrated in the attempt to fix the European process in space, to draw lines which cannot be crossed, to extract concessions or rebates, to provide more detail and retain control — semantic as well as material — of British sovereignty in British territory. We see this particularly in the British government's concern to stress that, while the treaty applies to Gibraltar as 'a European territory for whose external relations a Member State is responsible', 'this shall not imply changes in the respective positions of the Member States concerned'.[18]

How can an 'aspirational' European project defined by 'weak' values overcome member-states' temptation to fall back on such hard territorializations? The territorial ambiguity that marks the draft Constitution suggests that the solution remains also, in a sense, aspirational; in that the two different geo-philosophies are in a sense only reconcilable if they are left unsaid, that is unstated and unconstituted.

The Constitution of EU Territory Addendum

This paper was originally submitted in autumn 2004, and in revised form in February 2005. Since its writing the constitutional process has been thrown into crisis by its rejection in the French and Dutch referenda, held in May and June 2005.

Nonetheless, we believe that the argument we make here about the territorial aspects of the constitutional treaty still holds. Indeed, as many commentators in the aftermath of the vote have noted (including Jean-Paul Fitoussi, the chairman of the European Central Bank), it is exactly the ambiguities of the Constitution that were penalized, namely its uncertain status, suspended between what was characterized by many French as well as Dutch commentators as the Anglo-Saxon (if not Blairite) model for Europe (i.e. a free-market Europe) and an unaccomplished (purportedly Franco-German) geopolitical vision for Europe as a new international subject.

Europe's ambiguities were penalized in another way as well, however. As some French commentators have argued, the general public did not understand why they were being made to express their opinion on the text, a matter usually reserved for political leaders or juridical experts. In part, this says something about the still lacking popular consciousness of the European public sphere evoked by Habermas (2001), where such deliberation could happen. On the other hand it was a national reaction reflecting national dissatisfaction. That said, it would be important not to fall into the trap of discounting the French and Dutch reactions as a 'return' of the 'national interest': if anything, with their votes, the French and the Dutch made French and Dutch 'national' interests coterminous with Europe — and European affairs (the approval of the Constitution) a matter of internal politics.

The result, whatever the cause, was that the French and Dutch electors voted not so much on the Constitution but on a different issue altogether: the enlargement of Europe and the perceived undermining of the European social model. In France, it was the spectre of the '*plombier polonais*' (the Polish plumber) that captured the popular imaginary; in the Netherlands, broader

concerns surrounding immigration, integration and the survival of the European social model in the face of these latter.

The voters thus said 'no' to the ambivalence of Europe, for years now suspended between the competing pushes for territorial enlargement — and greater integration (the long rehearsed 'breadth or depth' argument). They said both are *not* possible — Europe cannot open its borders (to new members, but also to immigrant communities) and presume to preserve and consolidate a putative European social model (the aspirational vision of a European space of rights and hopes we describe in this piece).

LB, SE, JP, June 2005.

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Notes

 1 For simplicity, we will refer to the document as the 'draft Constitution'. Unless otherwise stated our citations of it refer to the relevant part, article and section of the text published as CIG 87/04.
 2 The European Convention, Meeting of the Praesidium, 25 June 2002, Summary of Conclusions: http://european-convention.eu.int/Docs/praesidium/2002/020625.S.pdf.
 3 CONV 200/02, p. 7.
 4 On the earlier debate about the need for a constitution, see Grimm (1997) and Habermas (1997).
 5 CONV 331/02 (p. 2).
 6 CONV 378/02, (p. 1).
 7 The amendments can be found in CIG 85/04. The final Treaty is published as CIG 87/04, with two addendums.
 8 The phrase 'a special area of human hope' appears in the preamble to the draft Constitution proposed by the Convention. It does not appear in the final version of the text agreed by the leaders of the Member States.
 9 Case 294/83, *Parti Ecologiste, 'Les Verts'* v. *European Parliament* [1986] ECR 1,339, 1,365, cited in Weiler (1999, 12).
10 Earlier drafts had 'victim' instead of 'object' at this point.
11 Article III-231 provides more detailed arrangements, although these are not really very detailed and certainly do not resolve the ambiguity.
12 A similar tension can be seen in the process, post-September 11, of hardening the borders of the USA, at odds with previous aspirations to a free-trade North America. This is particularly damaging to the economic relation with Canada (see Andreas and Biersteker, 2003).
13 Under Protocol 19 annexed to the Constitution, the provisions relating to Border Checks, Asylum and Immigration do not apply to the United Kingdom and Ireland. The territory-making function of this part of the Constitution is therefore spatially uneven.
14 While the ambiguous rendering of this tension marks recent political readings of space such as Hardt and Negri's (2000) *Empire*, it does indeed in practice make sense to think of the overlapping smooth space of globalization over the striated spaces of modernity and its nation states. On this criticism see Sparke (2003), Elden (2005b), and more generally, Elden (2005a).
15 For a fuller discussion, see Bialasiewicz *et al.* (2005).
16 A review essay by Rumford (2004) makes a call for a more concerned analysis of the spaces of the European project, suggesting perspectives from theory that could be included. A detailed analysis of the role of social theory is promised in Delanty and Rumford (2005), which also looks to make some important moves in the direction of such a spatializing (see also Rumford, 2002).
17 There is also a provision made for the translation of the Constitution into other languages at use within member states.
18 Declaration 45 in Addendum 2, of 'Declarations to be Annexed to the Final Act' (CIG 87/04 ADD 2). As a House of Commons Research Paper (04/66, p. 13) makes clear, this is a part a pre-emptive response to the possible consequences of the notion of the 'territorial integrity of the state' supported in the Constitution (I-5.1).

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