

PEOPLE'S NEWS

News Digest of the People's Movement

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No. 141

5 March 2016

Democracy, independence, and pursuit of the common good: the issues of our era

In 1988 the then president of the EU Commission, Jacques Delors, told the EU Parliament that by the year 2000 the EU would make 80 per cent of the laws of all its member-states. In other words, the EU, and not their own parliaments, would be making most of the laws for Britain, Ireland, and the other EU countries.



A few weeks later he wooed the leading British trade unionists in the TUC by promising that the Commission would introduce pro-labour legislation in a "Social Europe." Trade unions would thus achieve supranationally what they were too weak to achieve nationally.

This pipe dream appealed to people who had no feeling for national democracy and independence. Many of them became zealots for the EU, using the rhetoric of "Social Europe." The post-2008 financial crisis has

disabused many people of this illusion.

In 2016 one might argue about the percentage of laws made in Brussels, but this was and is the reality, and EU power is all the more potent for being invisible and not embodied in a foreign army and the other more obvious trappings of domination; but having to obey laws made mainly by others means being ruled by others. It is the opposite of being independent, sovereign, and democratic.

It is hard to think of a single area of political life nowadays that is not affected by EU law. In most years the majority of laws and statutory instruments that are put through the national parliaments of the member-states come from Brussels, although most citizens at the national level are not aware of this. In 2015 the web site of EUR-Lex (the service that provides the legal texts of EU documents) showed more than 134,000 rules, international agreements and legal acts binding on or affecting citizens throughout the EU.

A member-state on its own cannot decide a single EU law. Its people, parliament and government may be opposed to an EU law; its government representatives on the Council of Ministers may vote against it; but they must obey it nonetheless once it is adopted by "qualified majority" Council vote.

This devalues the vote of every individual citizen. Each policy area that is transferred from the national to the supranational level devalues it further. It reduces the political ability of citizens to decide what is the national common good. It deprives them of the most fundamental rights of membership of a democracy: the right to make their own laws, to elect their representatives to make them, and to change

those representatives if they dislike the laws they make.

The EU has hollowed out Europe's states. It leaves their traditional governmental institutions formally in place—with the accompanying salaries, pensions and other perks for those running them—but with most of their important functions transferred outside, to the external supranational EU level. It turns the state itself into an enemy of its own people, while clamping a form of financial feudalism on Europe.

The “European project” has been pushed through for decades with ruthless contempt for democratic norms. For example, the decision in 1999 to abolish national currencies—an essential pillar of all sovereign states—and replace them with the supranational euro was taken by a tiny number of politicians and technocrats.



During the euro crisis in 2012 the euro-zone elite pressured Italy and Greece to replace their democratically elected governments with more compliant EU technocrats. When the Greek people voted No to a bail-out scheme in a referendum in 2015, the EU Central Bank and the Euro Group of ministers cut off lending to Greek banks, which led to daily limits on ATM withdrawals and the imposing of capital controls to bring the Greek government to heel.

Any move entailing changes to the EU treaties requires the unanimous agreement of the governments of all 28 member-states, and any change to these other rules requires either unanimity or a qualified-majority vote.

This is the practical problem facing those who contend that “another Europe is possible” by reforming the EU at the supranational level in the hope of making it more democratic, or who think that the EU can be transformed into a so-called “Social Europe.”

Those calling for such reforms offer no practical way of achieving them. At the same time most of them balk at calling for the repatriation of powers back to the member-states, because that would draw public attention to how the EU has eroded the national democracy that local politicians were elected to protect.

An essential element of the Cameron package that he is putting forward in the British referendum campaign is a commitment by the EU Council that the treaties will be amended at some future date to exempt Britain (as long as it remains in the EU) from commitment to “ever closer union” and the eventual political union that this phrase implies.

Although Ireland's political elite is one of the most Europhile in the EU, the Constitution of Ireland could contribute to Cameron's undoing. Lawyers we have spoken to are of the view that any change to the EU treaties that might impinge on the fundamental character of the European Union as it is referred to in the Constitution, or might impinge on Irish sovereignty with regard to the EU, or might affect the citizenship rights of Irish citizens, whether as regards the European Union or the Irish state, would require a successful constitutional referendum to validate it.

While one would expect the Government to take such a view, in the event that they took a contrary position it would be open to any Irish citizen to launch a constitutional action in the courts to challenge the failure to institute such a referendum either at present or in the event of the majority of British citizens voting to remain in the EU in the referendum in June.

The matter would then fall to be decided by the Supreme Court, which is the ultimate

interpreter of the Constitution and the rights of citizens under it. This occurred with the constitutional action taken by the late Raymond Crotty in 1986, which challenged the then Government's preferred mode of ratification of the Single European Act.



Raymond Crotty

The legal authorities are of the view that such a constitutional action would stand a reasonable chance of succeeding, which would then lead to a referendum in Ireland on the envisaged change in the EU treaties in so far as it impinged on the Constitution and the civil rights of Irish citizens under it.

In the event of such an Irish referendum having to be held, Cameron could not confidently claim that he can deliver on this central feature of his package; and the very least that can be said about it is that the envisaged change to the EU treaties would have to remain uncertain until it had been validated in accordance with the appropriate constitutional procedures of the Irish state.

And there is more. If Britain votes to stay in the EU, and Cameron's deal to cut social benefits for new EU immigrants comes into force, it must hit Irish emigrants to Britain, and not only Polish or French ones. Enda Kenny is spoofing when he pretends that Irish migrants will be exempted because of the common Anglo-Irish travel area. Protocol 20 of the EU treaties, which refers to the latter, deals with border controls: it has nothing to do with the right of migrant EU citizens to be treated in the same way as regards social benefits in whatever EU country they move to—which is a right governed by EU law. This proposal by the Cameron government is one good reason why

Irish people in Britain and voters in Northern Ireland should vote to leave the EU.

It is relevant to note that these matters have nothing to do with the long-established Anglo-Irish free travel and free movement area and related issues, which are a matter for the respective governments of the two states and are referred to in Protocol 20 of the EU treaties.

EU integration has made the issue of national democracy and independence—of who makes the laws and rules of a society and who decides what is its common good—the central political issue of our time in our part of the world.

From the Treaty of Rome to TTIP

The Treaty of Rome (1957) established the European Economic Community to complement the supranational Coal and Steel Community, which had been set up in 1951 as a spin-off of the rapidly escalating Cold War.

This EU foundation treaty established the four supranational institutions—the European Commission, Council, Court, and Parliament—to enforce the free movement of goods, services, capital and labour among the original six member-states and to establish a customs union with a common external tariff vis-à-vis outsiders.



Giving up the right to impose national controls on the movement of goods, services, capital and labour between countries, and agreeing to obey supranational decision-making in these policy areas, was an unprecedented surrender of state sovereignty

by the governments concerned. The politicians who agreed to it were doing something constitutionally unprecedented: they were depriving their own people of the right to make laws and decide policy over vast areas of government—a right that in some cases had been struggled for over generations. And they were depriving future generations also of that right.

Cross-national free movement of goods, services, capital and labour are not unqualified positives at all times and everywhere, as EU spokespersons imply.

The Common Commercial Policy governing the movement of goods means that EU member-states no longer negotiate their own trade treaties. The EU Commission in Brussels now does this for them collectively. This gives the EU great power externally. Obtaining access to the EU market often requires non-EU states to conform to common EU technical, environmental and health and safety standards. This puts them under pressure to enforce EU rules outlawing state aid, nationally preferential public procurement and export subsidies in their national economies.

The Lisbon Treaty (article 207 of the Treaty on the Functioning of the European Union) extends the Common Commercial Policy to cover trade in services, commercial aspects of intellectual property and investment agreements with states outside the EU. Bilateral and multilateral trade and investment treaties, which member-states previously negotiated with countries around the world, are now negotiated on their behalf by the Commission.

Not surprisingly, the interests of the big states tend to prevail in these negotiations. These commercial treaties open the way for corporations based in the EU to take legal action against entire states abroad whose national regulations on health, labour or environmental standards are regarded as “barriers” to trade or affect corporate profitability.



Collective trade agreements negotiated by the EU, such as the Transatlantic Trade and Investment Partnership (TTIP) with the United States and its Canadian and Pacific area counterparts, expand the role and powers of large private corporations through their access to sympathetic international arbitration tribunals.

Under previous World Trade Organisation (WTO) rules only governments had the standing to take actions of this kind. That is no longer the case. Transnational companies have already used such proceedings around the globe to reduce competition or threats to their profits by, for example, launching legal actions against national green energy and health policies, anti-smoking legislation, bans on harmful chemicals, environmental restrictions on mining, controls on genetically modified foods, health insurance policies, and measures to improve the economic position of minorities. Even the threat of such litigation can cause governments to shelve socially progressive policies.

TTIP proposes a scheme of “permanent regulatory co-operation” between the EU and the United States. The imposition of laws and regulations is the most fundamental function of government. In democratic states, regulation on social or economic grounds should be the result of open discussion and decision by the elected representatives of the people. What transnational business interests want is minimum regulation and “equivalence” between EU and US standards at the lowest possible level.

This proposal would institute a permanent behind-the-scenes negotiation between EU and American bureaucrats and corporate lobbying

groups on both sides of the Atlantic, long after the TTIP treaty had been signed and ratified and when public interest had waned. It would amount to a takeover of fundamental powers of government by the representatives of corporate capital, interacting with the EU bureaucracy.

This is a result of trade agreements having become an “exclusive EU competence” under the treaties. In political terms, TTIP has the aim of tying the EU states economically to the United States and resisting giving to developing countries, such as China, Russia, and India, any real say in setting international trade and investment rules.

The EU gains power by these means to influence national economic policy in non-EU countries, particularly poor and less developed ones, which goes far beyond enforcing free trade and restraining traditional trade protectionism.

And TTIP, if agreed by Brussels and Washington, would be practically irreversible. The treaty would be enforced in all 28 member-states as a matter of EU law and could be amended or revoked on the European side only by all 28 agreeing, which is impossible to see happening.

EU allied to oligarchs and fascists in Ukraine



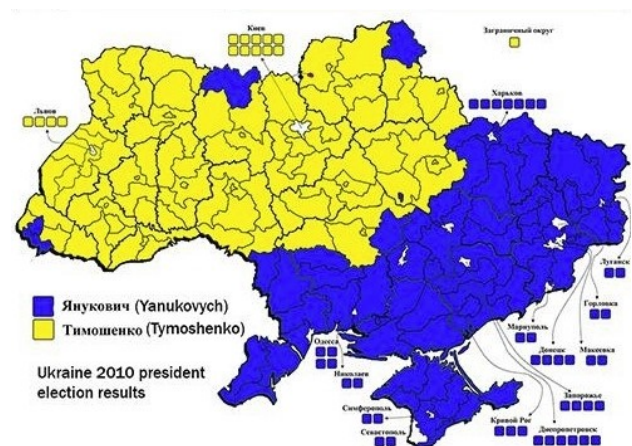
The government in Kiev is no bastion of democracy. It was helped to power by violence and is characterised by repression, corruption, and chauvinism.

Half the population, which does not believe in the present pro-EU and anti-Russian course, has been viciously pushed aside, and there is a clear link between fascist groups and the centre of power in Ukraine.

On 6 April the Netherlands will vote in a referendum on the Association Agreement between the EU and Ukraine. But the treaty has already come into force, on 1 January.

Moreover, NATO is already giving its support to Ukraine, politically as well as militarily. The Ukrainian minister of defence has also declared that he has received arms from individual NATO countries.

When, in November 2013, the former Ukrainian president, Viktor Yanukovich, postponed an association agreement with the EU, and then concluded a new gas deal with Russia, mass demonstrations began that by the end of February would lead to his fall—the fall of a democratically elected head of state. This protest movement styled itself “Euro-Maidan,” named for its “European” aspirations and for “Maidan” (the Square) in Kiev, which had been at the heart of the movement.



This “Maidan Revolution” was portrayed in the western media as a broad people’s movement. In Ukraine, however, relations with the EU have always been an extremely polarising point. This is because Ukraine, as a result of its history, is seriously divided along ethnic-linguistic lines. In the east there is an overwhelmingly Russian-speaking working class, employed in industry that exports a large

part of its production to the Russian market. Many people have family just over the border. In the west, where most people speak Ukrainian, emigration has generally been directed towards Europe and the United States.

Voting behaviour since the establishment of an independent Ukraine has been primarily determined by these economic-ethnic-linguistic divisions, and election debates turn to a great extent around the question of foreign relations: more EU, or more Russia?

“More Russia” was the basis of Yanukovich’s election campaign. He had nevertheless promised to make haste with the negotiations over a trade agreement with the EU, which had begun in 2008 under his pro-EU predecessor, Viktor Yushchenko; but on the other hand he would be trying to gain access to the Eurasian Economic Community, a customs union consisting of Russia, Belarus, and Kazakhstan. In his opinion this would bring the conflicting interests of the people into balance. According to opinion polls, support for each treaty fluctuated at about 40 per cent.

Yanukovich’s decision not to pursue membership of NATO reflected the fact that in Ukraine NATO is more often seen as a threat than as a protector. Half Ukraine’s population, therefore, was opposed to the Maidan protests, and support for Yanukovich’s party, even in February, three weeks before his fall, stood at 30 per cent, making it the most popular. The opposition also had a record of corruption.

When in 2013 Yanukovich decided at the last minute to postpone the EU association agreement, tens of thousands of people took to the streets. After these demonstrators were met with truncheons and tear-gas, the people had had enough. A large popular movement developed, principally in western Ukraine, a movement that consisted primarily of a middle class that hungered for change. Nevertheless a small but determined minority was decisive in bringing about the fall of Yanukovich. Although most of the violence came from the authorities and from hired thugs in the pay of the

government, pictures appeared of demonstrators attacking the police with gas and with staves.



These were no ordinary hooligans. On 1 January 2014 a 10,000-strong torchlight parade was held in commemoration of the Nazi collaborator Stefan Bandera. Nazi symbols proliferated on the walls of Kiev, while dozens of fascists from Sweden streamed in to support their brothers. After virtually every speech from the Maidan podium the speaker called out “Glory to Ukraine!” to which the crowd responded “Glory to the heroes!” This was the slogan of the former Ukrainian fascist movement, which contributed to the country’s “enormous holocaust by bullets” and established a Ukrainian Waffen-SS division.

A front man from the fascist Svoboda Party proudly told the New York Times that they had plundered an arms depot in Lviv and that they were sending six hundred fighters a day to Kiev. Neo-Nazis quickly positioned themselves in the front rank with shields, firearms and petrol bombs in order to storm government buildings. People were killed on both sides.

Yanukovich opened talks with the opposition leaders, and a cease-fire was called. But the radical contingent from the Maidan wanted nothing to do with this and continued to advance with fire-bombs. The violence culminated in unprecedented tragedy when groups of snipers began firing on both police and demonstrators. Virtually the entire world condemned the incumbent president, Yanukovich, which meant that his days were numbered.

Since then, however, the first academic study has appeared, conducted by the Ukrainian political scientist Ivan Katchanovski. Basing his analysis on an enormous quantity of pictorial material, intercepted radio communications from police units, eye-witness accounts, ballistic research, and countless other pieces of evidence, he concluded that the bulk of the deaths, if not the entire bloodbath, was a matter of a “false flag” operation, in which the perpetrators fired on their own people in order to provoke the opposition’s downfall.

Many of Katchanovski’s findings were backed by studies conducted by a UN special rapporteur, a report from the Council of Europe, the German public news broadcaster ARD, the American documentary film-maker John Beck-Hoffman, and Reuters press agency.

Following the bloodbath by snipers on 20 February, Yanukovich found himself under enormous pressure. He came to an agreement with opposition leaders; but Maidan was not impressed and publicly gave him an ultimatum: he had to step down by 10 a.m. on 22 February or they would “take up arms and strike.” On that day Yanukovich was removed by a vote in the parliament. The dismissal procedure was not in keeping with the constitution, which requires a three-quarters majority and a judicial review by the constitutional court.



The important role played by the fascist movement became evident in the light of the countless positions that were handed out to its representatives in the interim government, including seven ministries. According to a report in the Italian weekly magazine *Panorama*, the new vice-premier, Oleksandr

Sich, told the EU Parliament on 4 February that “the fascist dictatorship is the best way to govern a country.”

Although these fascists ruled for only a few months, they fulfilled an important role in unleashing the Ukrainian crisis and in the normalisation of links with the fascist movement.

Yanukovich had not been gone twenty-four hours when what remained of the parliament voted overwhelmingly in favour of abolishing Russian as the official second language in the eastern provinces. Russian news broadcasters were taken off the air, and numerous statues of Lenin and monuments to soldiers who fell fighting the Nazis were attacked and often covered in Nazi symbols.

When people in the east, following the example of Maidan, also began storming government buildings, Kiev answered with soldiers and tanks. The conflict led in the Donbass region to a civil war in which Kiev openly employed neo-Nazi militias, who, like many of the rebels, turned to torture and killings, sometimes in co-operation with the central authorities. In addition, residential areas, including schools and hospitals, were bombed with rockets and cluster munitions. According to the German secret service, 50,000 people lost their lives.

Virtually the only functioning armed forces now are extreme-right militias, who are armed to the teeth, while the state has less control than ever.

Yatsenyuk has referred to Russian people as “sub-humans,” while Poroshenko recently praised Nazi collaborators as heroes who deserved a legal status. His own television channel regularly broadcasts a commercial that compares the separatists to pests that should be exterminated.

Numbers 2 and 4 on the party list of Yatsenyuk have held leading positions in neo-Nazi organisations, while his People’s Front recruited its military council mainly from the

leaders of defunct extreme-right militias. One of these is Andriy Biletskiy, who recently wrote: “The historic mission of our nation ... is to lead the White Races of the world in ... a crusade against the Semite-led *Untermenschen*.”

Biletskiy was also appointed a lieutenant-colonel of police. His former vice-commandant in the neo-Nazi Azov Battalion, Vadim Troyan, was named head of the regional police in Kiev. Other important posts held by down-the-line neo-Nazis are the two presidencies of the National Security Council and the first vice-president of the parliamentary council for law enforcement. The founder of the “Joseph Goebbels Political Research Centre” was appointed head of the propaganda and analysis division of the Ukrainian Secret Service.



Joseph Goebbels

The minister of the interior, Arsen Avakov, employed the same dehumanising language when he labelled pro-Russians “pests.” Keith Gessen, an eye-witness to the brutal bombardment of the residential districts of the Donbass, wrote in the *London Review of Books*: “This is what I heard from respectable people in Kiev. Not from the nationalists, but from liberals, from professionals and journalists. All the bad people were in one place—why not kill them all?”

The post-Maidan establishment has given

the fascists carte blanche to do what they like in the rest of Ukraine. In Odessa, for example, some forty pro-Russian activists were burned to death. Countless revealing amateur photographs have been put up on the internet, and the fascist Right Sector even took responsibility through its web site for this “sparkling page in our national history.”



Pro-Russian media that have not already been removed officially from the air are often intimidated and attacked in attempts to get them to alter or end their reportage. Leaders, members of parliament and activists from the pro-Russian opposition parties are regularly threatened and beaten, even in the middle of parliament, and their homes and offices destroyed.

Ivan Katchanovski wrote at the end of August that a clear majority of legislation carried by parliament had received not a single dissenting vote, a phenomenon that last occurred in Soviet Ukraine. It is perverse, then, that the enormous gains in fascist influence were sold by European leaders as a “victory for the people of Ukraine and for democracy.” And this is a regime that has the full support of the EU and NATO.