

The Morality of EU Constitution

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The traditional (monist) constitution of democracy assumes a sovereign, a nation-state people who monopolize a given territory and establish over it a state under their own sovereign rule. Such a sovereign state democracy is indeed set up by and for the sovereign as its ultimate author and addressee. In Europe, by contrast, neither a Nation-state people, nor the European people as a whole, could any longer realistically be described as the holder of sovereignty. Instead, they both coexist as ultimately self-standing authorities over their partly overlapping territories and spheres of jurisdiction. Inherent to this pluralist, as opposed to monist, constitution is a challenge between both authorities that, if properly construed, could lead them dialectically through mutual refinement and into generating an inclusive pluralist constitutional formation that, in terms of its moral superiority, the traditional model could not reach. Instead of monopolizing its territory in the hands of a single group of people, such a morally superior constitution opens the possibility of democratic inclusion that was unavailable before, while not endangering the goods achieved thus far. In various ways, implications of such a moral constitution translate into constitutional law and policy, including that of immigration.