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## Pluralism and European Unification

Hans-Martien ten Napel\*

### 1. Introduction

It does not often happen in academia that one is explicitly encouraged to (also) present a normative view on a particular matter. I am grateful therefore to the editor of this volume for the opportunity to do so in relation to the European Constitution project. In this chapter, I will explore what a Christian vision of Europe might look like and assess the extent to which the draft European Constitution meets these demands. Given the fate of the draft European Constitution hitherto, the question will also be raised as to the implication of the results of this analysis for any future phases of the project.

Why would it be worthwhile to do this? First of all, because by mid-2006 Europe (including Russia)<sup>1</sup> was the home of around 530 million Christians, still the highest number of all continents. According to statisticians of religion, the number of Christians living in Europe will gradually decrease to 514 million in the year 2025. By that time, more Christians will live on other continents, notably Latin America, where the number is expected to rise from 517 to 623 million, and Africa, where it will grow from 398 to 596 million. In addition, the number of Christians in Asia will increase from 351 to 498 million and in North America there will be an increase from 222 to 250 million. Globally speaking, the number of Christians will grow from 2.2 billion to 2.6 billion, which means from 33 to 33.5% of the world population. Within that same period, the percentage of, for example, Muslims will grow from 21 to 24, whereas the percentage of the non-religious and atheists will drop from 14.1 to 12.3.<sup>2</sup> Jointly, these figures prove how right the 'recovering secularist', David Brooks, was, when he observed: 'Secularism is not the future; it is yesterday's incorrect vision of the future'.<sup>3</sup> Secondly, almost from the beginning, but certainly since Saint Augustine started work on *The city of God* in 413, there has been a reflection on 'earthly kingdoms' within Christianity.<sup>4</sup> It would somehow seem unwise, and even need explanation, to ignore the fruits of reflection by such an historically powerful cultural force.

The topic poses a preliminary problem, however: a Christian vision of Europe does not exist, of course. Christians in Europe, as anywhere else, belong to many

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<sup>1</sup> Russia has a total population of 141.5 million (2005).

<sup>2</sup> David B. Barrett and Todd M. Johnson, 'Status of global mission, 2006, in context of 20<sup>th</sup> and 21<sup>st</sup> centuries', [www.gordonconwell.edu/ockenga/globalchristianity/resources.htm](http://www.gordonconwell.edu/ockenga/globalchristianity/resources.htm).

<sup>3</sup> David Brooks, 'Kicking the secularist habit. A six-step program', *The Atlantic Monthly* 291: 2003, pp. 26-27, at p. 26.

<sup>4</sup> Saint Augustine, *The City of God*, New York 2000, p. 140.

different denominations, of which, numerically, the Roman Catholic, Protestant and Eastern Orthodox are the major ones. In this chapter, I will limit myself to the pluralist approach,<sup>5</sup> which was developed in full during the 20<sup>th</sup> century by the Calvinist legal philosopher, Herman Dooyeweerd (1894–1977). It builds on earlier Christian writings by such authors as John Calvin (1509–1564), Johannes Althusius (1557–1638), Guillaume Groen van Prinsterer (1801–1876) and Abraham Kuyper (1837–1920).<sup>6</sup> It also shares strong similarities, however, with Roman-Catholic social teaching. The reason for focusing on the pluralist approach is not just my more intimate familiarity with it, but also its potential relevance in the context of present-day Europe, as characterized by cultural and religious diversity. Furthermore, once stripped of its theological roots, the approach might also prove to be acceptable to the non-religious and adherents of other faiths. Finally, whereas in the Netherlands interest in pluralist thinking is waning, this approach is very much alive in North America.<sup>7</sup> This is all the more interesting, since one of the purposes of the present volume is to compare the European Union with the United States of America.

As to the contents of this chapter, in section 2 I will first discuss what the pluralist approach is roughly about. In Section 3 I will subsequently focus on the first central element of this approach, i.e. domestic justice. In Section 4 I will focus on the second central element of this perspective, i.e. international justice. Lastly, I will present a conclusion in which the European Constitution project and the pluralist perspective will be critically assessed in conjunction.

## 2. The Pluralist Approach to Constitutional Democracy<sup>8</sup>

A major premise of the pluralist perspective is that, no matter how sovereign nation states and other political entities regard themselves to be, ultimate sovereignty belongs to God alone. This view dates back to the early church confession that 'Jesus is Lord' (1 Corinthians 12: 3). From this it follows that neither national states nor supranational institutions, such as the European Union, should be absolutized as the ideal political organization in this world. The criterion for the legitimacy of both the national state and the European Union is how well they are doing in establishing justice, either nationally or internationally. Since justice in the political sphere will not readily amount to the ideal of biblical justice, it is referred to as 'public justice' instead.

<sup>5</sup> This approach is sometimes referred to as Christian-pluralist to distinguish it from other pluralist movements, such as American behavioralism, which is actually closer to the individualist tradition. See 'Introduction: the question of pluralism', in: James W. Skillen and Rockne McCarthy (eds.), *Political order and the plural structure of society*, Atlanta, Georgia 1991, pp. 1–27.

<sup>6</sup> James William Skillen, *The Development of Calvinistic Political Theory in the Netherlands, with special reference to the thought of Herman Dooyeweerd*, Ph.D. Duke University 1974.

<sup>7</sup> See, for example, Luis E. Lugo (ed.), *Religion, pluralism, and public life. Abraham Kuyper's legacy for the twenty-first century*, Grand Rapids, Michigan 2000; *Markets and Morality* 5: 2000, nr. 1, Special issue on 'A century of Christian social teaching: the legacy of Leo XIII and Abraham Kuyper'.

<sup>8</sup> For the purposes of this section, I have in particular drawn on: James W. Skillen, 'What distinguishes the Center for Public Justice?', *Public Justice Report* 21: 1998, nr. 1, pp. 3–6, and nr. 2, pp. 6–7.

With respect to public justice, it must first of all be noted, generally speaking, that the 'three great revolutions' that took place in the Netherlands (16<sup>th</sup> century), England (17<sup>th</sup> century) and North America (18<sup>th</sup> century) respectively, have their roots, at least in part, in a Calvinist distrust of power.<sup>9</sup> This fear of what men might do with power, which has given rise to such doctrines as the rule of law, separation of powers, checks and balances and democratic accountability, can be traced back to the doctrine of the fallenness of man. I will not elaborate on these and other classical doctrines of constitutional theory, however, since that is done elsewhere in this volume.

More specifically, as far as domestic justice is concerned, two kinds of pluralism are of relevance. The first type is commonly called 'structural pluralism', but could also be labeled 'horizontal subsidiarity'.<sup>10</sup> It starts from the idea that God has created society with the potential to unfold into a number of different spheres, such as the family, education, business, the arts and government. Since government constitutes only one of these spheres, it is under an obligation to recognize and uphold the autonomy and freedom of civil society which has responsibilities of its own.

The second type is called 'confessional pluralism'. This principle implies that religion, rather than constituting a separate sphere, has a bearing on all aspects of life.<sup>11</sup> Moreover, since Jesus and Jesus alone is Lord, society should neither be governed by a particular church (Christian imperialism) nor – as is more applicable to the United States – by a Christian majority (Christian nationalism). Instead, governments should uphold the right of all persons who live within their territory to be free to practice their diverse religious or non-religious faiths in both private and public life. A society that meets this demand, as the Netherlands has done since 1917, may be called a pluriform democracy, that is 'a democratic system with rules and structures which incorporate the array of subculturally rooted fundamental perspectives and preferences even into the very services normally considered to belong to the state exclusively'.<sup>12</sup>

According to the pluralist approach, the state also has a calling where international justice is concerned. This can hardly come as a surprise, inasmuch as ever since Jesus sent the apostles out 'to the ends of the earth' (Acts 1:8) Christianity has

<sup>9</sup> Abraham Kuyper, *Lectures on Calvinism*, Grand Rapids, Michigan 1994 (1931), p. 86. See also: Marci A. Hamilton, 'The Calvinist paradox of distrust and hope at the Constitutional Convention', in: Michael W. McConnell, Robert F. Cochran, Jr. and Angela C. Carmella (eds.), *Christian perspectives on Legal Thought*, New Haven and London 2001, pp. 293–306; John W. Sap, *Paving the Way for Revolution. Calvinism and the struggle for a democratic constitutional state*, Amsterdam 2001.

<sup>10</sup> Contrary to vertical subsidiarity, which in Article I-11, par. 3, of the Constitution is referred to as the principle that 'in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level'.

<sup>11</sup> Note that religion is not synonymous with the church as institution, which is confined to its own sphere.

<sup>12</sup> Stanley Warren Carlson-Thies, *Democracy in the Netherlands: consociational or pluriform?*, Ph.D. University of Toronto 1993, p. 32. See also, by the same author, 'The meaning of Dutch segmentation for modern America', in: George Harinck and Hans Krabbendam (eds.), *Sharing the Reformed Tradition: the Dutch-North American exchange, 1846-1996*, Amsterdam 1996, pp. 159–175.

been an international movement with global aspirations.<sup>13</sup> What this means for governments is that they are not only limited with respect to civil society (structural pluralism), but also that they ultimately reside under Christ's authority. They cannot, therefore, confine themselves to merely serving their own interests, as the 'realist' approach to international relations expects them to, but should also be concerned with promoting international justice. Their calling is made considerably more difficult by the present state system, which emphasizes state sovereignty and does not necessarily recognize an obligation relating to international responsibility. It is still difficult, on the other hand, to imagine a legitimate form of world government that would do away with national states altogether. The ideal is therefore to persuade these 'sovereign' states and supranational institutions, including the United States and the European Union respectively, to promote a just international order with the help of such international organizations as the United Nations.

In sum, the pluralist perspective provides a limited number of distinctive criteria for constitutional theory, in addition to its significant contribution to the various classical doctrines. They somehow centre on the concept of justice, which is applied to both domestic and international politics. Domestic justice is defined as comprising structural and confessional pluralism. In spite of certain similarities, these criteria also set the (Christian-)pluralist approach to constitutional democracy apart from the school of 'liberal nationalist', or 'ethno-cultural pluralist' thinkers, that emerged in the course of the last two decades and challenges traditional liberalism. This school emphasizes normative principles to enhance constitutional accommodation of sub-state national societies, such as the principle of self-determination, the principle of representation, the principle of recognition and the principle of reciprocity.<sup>14</sup>

### 3. Domestic Justice

In attempting to assess how well the draft European Constitution meets the criteria in the field of domestic justice, as defined by pluralist thought, the first thing to notice must be that the prolonged debate on whether a reference to the Judeo-Christian heritage should be included in the Preamble, did not really represent the heart of the matter. It is understandable, to a certain extent, why the Vatican, the Conference of European Churches and the European People's Party (Christian Democrats), for example, have come out in favor of such a reference,<sup>15</sup> especially since the first draft of the Preamble expressly referred to humanism and respect for reason. This obvious double standard can only be appreciated against the backdrop of the negative experiences suffered by certain countries in the past with religious strife in general and the role of Roman-Catholicism in particular. Yet, from a pluralist perspective, such a reference is not essential and the present formula which contains a general reference to 'the cultural, religious and humanist inheritance of Europe' is acceptable. After all, the Preamble of the American Constitution does

<sup>13</sup> See Bob Goudzwaard, *Globalization and the Kingdom of God*, Grand Rapids, Michigan 2001, pp. 19–22.

<sup>14</sup> See Stephen Tierney, *Constitutional Law and National Pluralism*, Oxford 2004.

<sup>15</sup> See the contribution by Paul Cliteur to this volume.

not contain any reference to religion, but starts instead with 'WE THE PEOPLE'. Moreover, had a specific reference to the Judeo-Christian heritage been opted for, it would have been appropriate to also refer to, in particular, the role of Islam.

Secondly, the considerable attention paid in the draft Constitution to the classical doctrines of constitutional theory, beginning with the Preamble which refers to 'the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law', must be noted. Article I-2 proceeds by listing as values on which the Union is founded 'respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights'. In view of such wording, it is possible to be moderately optimistic about the further development of the European Union into a community of values, in particular the values that underlie the democratic constitutional state, as championed by pluralist thought.<sup>16</sup>

It may be observed, especially in relation to structural pluralism, that in the latter article pluralism, among other things, is said to 'prevail' in the societies of the Member States. This, however, implies diversity rather than structural pluralism. Attention is paid to what could be called 'vertical subsidiarity' (Article I-11, paragraph 3), which also has its roots, of course, in Christian – notably Roman-Catholic – social thought, but not expressly to the concept of horizontal subsidiarity. Admittedly, there are articles in which the importance of civil society is stressed. An example is Article I-47, paragraph 2, which calls upon the Union Institutions to enter into 'an open, transparent and regular dialogue with representative associations and civil society'. Article I-48 offers another example, stating that the European Union not only 'recognizes and promotes the role of the social partners at its level', but must also 'facilitate dialogue between the social partners, respecting their autonomy'. Finally, according to Article 52, paragraph 3, the Union recognizes the identity and specific contributions of both churches and non-confessional organizations and promises to 'maintain an open, transparent and regular dialogue' with them as well.

Yet, it could be argued that this reveals more about the intention to involve civil society in the policy-making process than that it actually limits the role of government in European society. This impression is reinforced by the fact that in Part II of the Constitution, which contains the Charter of Fundamental Rights of the Union, hardly any reference is made to civil society in the articles on social rights, such as social security and social assistance, health care and environmental protection. It must be again stated that neither the American Constitution contains the principle of structural pluralism. As Alexis de Tocqueville already observed, this has not prevented the United States from developing a flourishing civil society. However, inasmuch as structural pluralism is a means of achieving limited government and represents a form of separation of powers in society, there would have been no objection, from a constitutional theoretical point of view, to including an article on it in the Constitution. This would have given horizontal subsidiarity the same status as vertical subsidiarity. As experience with the principle of subsidiarity in the past has shown, such a provision will not guarantee that it is, in effect, respected. It could be

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<sup>16</sup> 'Further' development, because most of these values have already been included in previous treaties.

argued, however, that this would be even less guaranteed where there is no reference in the Constitution. In theory, a similar procedure could have been imagined with respect to structural pluralism to what is currently set out in the Protocol on the application of the principles of subsidiarity and proportionality.

There is a similar situation in relation to the case law of the European Court of Human Rights. According to the draft Constitution, the European Union will seek accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article I-9, paragraph 2). As a result of this, the case law of this Court will become more directly relevant to the Union. In its ruling in the case of *Refah Partisi (the Welfare Party) and others versus Turkey*, for example, the Court elaborated considerably on the principle of pluralism. It considered in paragraph 89 'that there can be no democracy without pluralism'.<sup>17</sup> Yet, also here, the horizontal dimension of subsidiarity, as emphasized in the pluralist perspective, is lacking.

With respect to confessional pluralism, Article I-52 of the Constitution provides that the European Union 'respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States' (paragraph 1) and 'equally respects the status under national law of philosophical and non-confessional organizations' (paragraph 2).<sup>18</sup> In a similar vein, paragraph 3 of Article II-74 guarantees '(t)he freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions (...) in accordance with the national laws governing the exercise of such freedom and right'. In view of the principle of subsidiarity, this restraint is understandable, perhaps. More plausible, however, is that the topic of church-state relations has proven to be too sensitive to be regulated at this stage, given the problematic nature of the debate on the possible inclusion in the Preamble of an express reference to the Judeo-Christian heritage. As a result, we will have to wait and see whether either the French tradition of *laïcisme* (secularism) or the Roman-Catholic and Eastern-Orthodox inclination towards Christian nationalism will prevail. The pluralist approach would offer a third way, acknowledging, contrary to laicism, that religion has a public role to play as well, while at the same time, in contradistinction to Christian nationalism, guaranteeing equal treatment of all religious and non-religious worldviews. It is to be regretted that this choice could not be made at this stage; the case of the Netherlands shows that ultimately only a pluriform public order can meet the needs of minorities with different fundamental perspectives and preferences.<sup>19</sup> For the sake of the stability of the emerging European political and legal order, therefore, it can only be hoped that paragraph 1 of Article II-70 on freedom of thought, conscience and religion, which provides that '(t)his right includes freedom (...), either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and

<sup>17</sup> Judgment of 13 February 2003. See also the Court's judgment in the case of *Leyla Şahin v. Turkey*, 29 June 2004, par. 15 and 102.

<sup>18</sup> These provisions are similar to the ones in the previous treaty as well.

<sup>19</sup> See Carlson-Thies, *Democracy in the Netherlands*.

observance', will be interpreted broadly.<sup>20</sup> From the American experience it can be learned that the U.S. Supreme Court's interpretation of the corresponding First Amendment has varied considerably in the course of time.<sup>21</sup>

Thus far, the European Court of Human Rights has, in its own words, 'frequently emphasized the State's role as the neutral and impartial organizer of the exercise of various religions, faiths and beliefs, and stated that this role is conducive to public order, religious harmony in a democratic society'.<sup>22</sup> This is neutrality, however, rather than the pluralist concept of positive neutrality or equal treatment, which implies that government neutrality is not violated, 'even if government grants aid, recognition, or support to religion or religious groups, as long as government gives equal aid, recognition, or support to *all* religions and parallel or similar secularly based systems of belief and their organized groups'.<sup>23</sup> Moreover, the Court tends to afford the states that are party to the European Convention for the Protection of Human Rights and Fundamental Freedoms a considerable margin of appreciation in this area.<sup>24</sup>

#### 4. International Justice

In the Spring 2003 issue of *Foreign Affairs*, there appeared an article by President Leslie Gelb of the American Council on Foreign Relations, in which he signaled a 'rise of ethics in foreign policy'.<sup>25</sup> He pointed, among other things, at the surprisingly strong moral conviction behind America's intervention in Iraq. To what extent is Europe's anticipated common foreign and security policy also characterized by ethical and moral concerns? Does it live up to the ideal of international justice, as advocated in pluralist thought?

The European Union's objectives with regard to the outside world are formulated in Article I-3 of the draft Constitution. According to its paragraph 4, the Union shall

'contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.'

<sup>20</sup> Of relevance in this context is also Article II-82: 'The Union shall respect cultural, religious and linguistic diversity.'

<sup>21</sup> See John Witte Jr., *Religion and the American Constitutional Experiment. Essential rights and liberties*, Boulder, Colorado 2000.

<sup>22</sup> *Case of Refah Partisi (The Welfare Party) and others versus Turkey*, 13 February 2003, par. 91.

<sup>23</sup> Stephen V. Monsma and Christopher J. Soper, 'Equal treatment and societal pluralism', in: Stephen V. Monsma and J. Christopher Soper (eds.), *Equal Treatment of Religion in a Pluralistic Society*, Grand Rapids, Michigan 1998, pp. 1-8, at p. 1. See also, by the same authors, *The Challenge of Pluralism. Church and state in five democracies*, Lanham, Maryland 1997.

<sup>24</sup> See, for example, its judgment in *Leyla Şahin v. Turkey*, 29 June 2004, regarding a ban on wearing the Islamic headscarf in higher-education institutions.

<sup>25</sup> Leslie Gelb and Justine A. Rosenthal, 'The rise of ethics in foreign policy', *Foreign Affairs* 82 (2003) 2-7.



As was the case in the area of domestic justice, it can be concluded that once the Constitution is ratified, Europe will more resemble a community of values. There are at least two differences with the approach adopted by the U.S. Administration under President George W. Bush. First, whereas in the two editions of *The National Security Strategy of the United States of America* (2002, 2006) document an international order is advocated that, because of its emphasis on political and economic freedom, resembles the 'caretaker state' as found in traditional Dutch conservatism,<sup>26</sup> Europe envisions a world order that is rather characterized by the principles of the welfare state. Second, whereas the United States prefers a unilateral approach, Europe opts for a multilateral approach within international organizations and structures, governed by rules of international law. Admittedly, in either case the difference is relative rather than absolute. The European position nevertheless corresponds clearly more to the pluralist perspective, than do the U.S. policies pursued by the born-again Christian George W. Bush.<sup>27</sup>

At this point, the question could well be raised as to how realistic Europe's strategy is, compared to that of the United States. In order to answer this question, it is useful to recall the *Our Global Neighborhood Report*. This study was published in 1995 by the Commission on Global Governance, an independent group of 28 leaders under the chairmanship of Ingvar Carlsson. The then Dutch Minister for Development Co-operation and former Labor MP, Jan Pronk, also sat on the Commission. The report pointed out that it was imperative to develop a global civic ethic as the cornerstone of a more effective system of global governance. Such a global civic ethic was referred to as 'a common commitment to a set of core values that can unite people of all cultural, political, religious or philosophical backgrounds'.<sup>28</sup>

Contrary to what theories about an imminent 'clash of civilizations' would have us believe, such a basic consensus was reached as early as 1993 in the form of a *Declaration of a Global Ethic*, adopted by the Parliament of World Religions in Chicago.<sup>29</sup> The *Declaration* was signed by representatives of virtually all major and minor world religions, but formulated in such a way that it would also be acceptable to the non-religious. The *Declaration* is premised on the idea of 'full realization of the intrinsic dignity of man, the inalienable freedom and principal equality of all people and the necessary solidarity and interdependence of all people'. The notion of human dignity is, of course, what underlies the idea of the rule of law. It is subsequently formulated in the *Declaration* as a fundamental requirement that each human being be treated humanely. Four general traditional guidelines on human conduct are derived from this requirement. These can be found in most religions of the world: the obligation towards a culture of non-violence and respect for life ('thou shalt not kill'), the obligation towards a culture of solidarity and a just economic order ('thou shalt not steal'), the obligation towards a culture of tolerance and a life of truthfulness ('thou shalt not lie') and the obligation towards a culture of equal

<sup>26</sup> [www.whitehouse.gov](http://www.whitehouse.gov).

<sup>27</sup> See James W. Skillen, 'Foreign policy and international justice. Are there criteria for judgment?', *Public Justice Report* 26 (2003) 4-5, 8.

<sup>28</sup> *Our Global Neighborhood. The report of the commission on global governance*, Oxford 1995, p. 48.

<sup>29</sup> The *Declaration* is found at [www.weltethos.org](http://www.weltethos.org).

rights and partnership between man and woman ('thou shalt not commit sexual immorality').

Such an – existing – ethic could well serve as a moral foundation for a new world order, be it that it follows from the *Declaration* itself that democracy and the rule of law cannot be promoted separately on the basis of different ethical standards. Viewed from this perspective, Europe's broader moral approach, which includes social rights, is more likely to materialize, than the more narrow morality prevalent in the United States with its emphasis on political and economic freedom. The new world order will have to be just or it just will not be. Furthermore, the rule of law can only be credibly promoted by regimes that themselves respect international law. The European approach also seems potentially more successful, therefore, in relation to the second difference.

Another question that could be asked is whether the world order envisioned by the draft European Constitution, characterized by the principles of the welfare state, is compatible with the emphasis placed by pluralist thought on civil society. In response to this, it should first of all be noted, in general, that the concept of public justice implies that governments have a responsibility of their own, which cannot be assigned to others, even where internal social policy is concerned. This applies *a fortiori* to international society, where thus far there has been too little rather than too much government intervention. This having been said, it is striking how rightly the *Our Global Neighborhood Report* emphasizes the importance of an emerging global civil society, much more so than the draft European Constitution does.

## 5. Conclusion

In this chapter it was argued that, from a pluralist point of view, the main criteria on the basis of which the European Constitution project should be judged are domestic justice, comprising both structural and confessional pluralism, and international justice. These criteria are not new; on the contrary, they have been gradually developed in Calvinist political theory during the past five centuries. They even go back, at least in part, as far as the writings of Saint Augustine (354–430). Yet, considering their current problematic application in both Europe and the United States, calling them to mind at the start of what could ultimately become a new phase in the process of European unification, does not seem a superfluous act. Moreover, the pluralist approach seems to be of particular relevance to a Union which, according to the Preamble of its draft Constitution, views itself as 'united in its diversity'.

With respect to domestic justice, it was concluded that the draft European Constitution can hardly be thought of as satisfactory. It is not so much the Preamble that is the problem, as one would have expected in view of the discussions during the Convention, but rather the main body of the draft Constitution, in which not one unambiguous reference is made to either structural or confessional pluralism. As a result, the standard of public justice is not met, in spite of the fact that the word 'justice' is used more than once in the draft Constitution.

The situation seems better, at first sight, where international justice is concerned. On paper, Europe's ideals in this area better reflect pluralist values than those of the

Bush administration. The first challenge for the Union in the coming years will be developing a common foreign and security policy, however.

All in all, from a pluralist perspective, the draft Constitution contains several elements which ought to be preserved in any new phases entered into by the European Constitution project, because they would give the Union more the character of a community of values. Moreover, the Union can help to promote these values, notably democracy and the rule of law, throughout the world by its external action. They can be seen as necessary preconditions for the more specific doctrines of constitutional theory that derive from a pluralist view of society. These more specific doctrines are regarded by their adherents as of relevance to all cultures as well as all times, because they are assumed to correspond 'with the way things really are in terms of God and the nature of human being'.<sup>30</sup> A statement of this nature reflects their worldview, but then '(i)n a sense, every theory is a faith-inspired "testimony" to what a theorist observes'.<sup>31</sup>



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<sup>30</sup> Peter S. Heslam, 'Prophet of a third way: the shape of Kuyper's socio-political vision', *Journal of Markets and Morality* 5: 2002, pp. 11-33, at p. 26.

<sup>31</sup> John Hiemstra, *Worldviews on the Air, founding a pluralist broadcasting system in the Netherlands*, Lanham, MD 1997, p. 151.