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Conference Report

“Opening EU Governance to Civil Society - Gains and Challenges“

CONNEX Wrapping-up Conference RG 4 and RG 5
October 25-27, 2007 in Piran, Slovenia

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Introduction: Conference on “Opening EU Governance to Civil Society - Gains and Challenges”

On 25th-27th October 2007, after more than three years of CONNEX (‘Connecting Excellence on European Governance’), Research Group 4, working on ‘Civil society and interest representation in EU-Governance’ and Research Group 5, working on ‘Social capital as catalyst of civic engagement and quality of governance’ met in Piran, Slovenia for a Wrapping-up Conference (WUC).

The main aim of the conference was to bring together the state of the art knowledge of both Research Groups. The idea was to present new insights gained during CONNEX, to deduct new research questions for the last

months of CONNEX, as well as for continued research after CONNEX, thus assuring sustainability.

The conference focused on three aspects of civil society and European governance and a number of cross-cutting questions were discussed related to biased representation (Session I), participatory engineering (Session II) and civil society and democracy in the EU (Session III).

Biased Representation?

Session I of the Piran conference, chaired by Stijn Smismans (Cardiff), looked into various facets of biased representation in the EU and made us aware of the very differentiated process of interest representation in Europe. The contributions all made clear that social scientists are willing to challenge conventional wisdom and to re-analyse biased representation. Thus, for example, the question of interest group power and influence is again on the research agenda. But Dirk de Bievre (Antwerp) and Andreas Dür (Dublin) also underlined, that a re-analysis of the power question needs to pay attention to the methodological problems arising when analysing influence – or impact, as Rachel Barlow (ESAE London) would like it to be called. In order to reduce pitfalls for future research, as well as to stimulate further discussion and research in this area, Dür presented the strengths and weaknesses of different measures used in the literature.

A different aspect of biased representation is the participation of individuals in associations. William Maloney (Newcastle) analysed the membership structure of nongovernmental organisations (NGOs) in the environmental sector in the UK. Many environmental groups are characterized by a high rate of ‘check book participators’ and a well educated, high income membership, which they actively ‘recruit’ through sophisticated market

research strategies. Yet, Maloney also pleaded for a re-evaluation of biased representation. He reminded the conference participants that beyond the 'negative' image of 'skewed participation' there might be 'positive' aspects of this kind of bias. Some groups serve a surrogate function acting on behalf of constituencies that lack resources, as for example in the case of children, animals or the mentally ill. But biased participation may also have redistributive or progressive elements. Some concerns are shared between socially and politically disadvantaged citizens and active, resource-rich citizens (*e.g.* crime, environment, education, health care, security etc.), and this way, the latter also take care of the formers' interests. According to Maloney, another possible virtue of biased representation in terms of citizen involvement in groups is a bias towards increased political knowledge and tolerance among participants: The resource-rich tend to be the most active citizens and they are also better informed and more tolerant vis à vis non-mainstream opinions. Thus, while the process exacerbates political inequality, it may enhance the quality of political discourse and democratic governance. This point was taken up by the practitioners participating at the Piran conference. They underlined that the reduced time-span of the co-decision procedure in recent years, as well as the still rising number of interest representatives (ranging from trade associations to member state countries themselves) confront civil society organisations (CSOs) with new challenges which are best met by turning into political entrepreneurs. The normative assessment of the development towards biased participation remained open, but it became clear that the professionalization of member-recruitment raises questions about its effects on the democratic legitimacy of the involvement of civil society organizations in the EU policy making process.

Participatory Engineering and EU Democracy

The second session of the Piran conference took a broad view on the question whether democracy can be 'engineered'. Findings were gathered from various perspectives, theoretical and empirical, on different member states and on the European Commission.

The first part of session II, chaired by Gyorgy Lengyel (Budapest), focussed on participatory engineering and EU democracy. The session touched on cross-cutting questions of the conference, such as the latent trade-off between extended participation and enhanced policy impact, which of course had already been discussed in the above mentioned paper from de Bievre and Dür, and on the re-assessment of participatory instruments and their application in EU member states, as well as on the EU-level. Thomas Zittel's (Mannheim/Munich) presentation on 'Participatory Engineering: promises and pitfalls' raised questions regarding the relationship between normative models of democracy and most recent initiatives in the field of participatory engineering. His findings were that although participatory engineering is enhancing direct involvement and a pluralisation of voices, these moves reflect large differences in kinds and in terms of intensity. Case studies from three EU member countries make clear that three very different models of local democracy have developed: While Germany emphasizes direct decision making and changes in electoral laws, Swedish communities stress changes in the communities' representative structures. British communities, in contrast, emphasize New Public Management initiatives. Zittel underlined that the current literature lacks comparative empirical evidence of the politics of participatory engineering, which could provide explanations for these differences between European nation states. Another question raised by Zittel was how EU activities towards local democracy touch on member-states. He pointed to a dilemma of the EU's attempts of introducing participatory

democracy: While governance moves upwards to the EU-level, participatory engineering moves downwards to the local level – the only level on which it is assumed to have real impact. Yet, the goal to educate citizens in ‘local schools of democracy’ presupposes either a transfer of the newly gained political capacities to a wider context, or that more relevant issues have to be decided at this specific level of government. In order to avoid a gap between local participation and the scope of local decision making, which could spawn cynicism and lead to quite reverse results, Zittel proposed to secure a fit between the EU and the local level through a transfer of competencies and, thus, to increase local autonomy in the course of decentralization. Zittel’s conclusion, therefore, is that a democratisation of the EU via participation needs to be combined with the decentralisation of policy making.

The latent trade-off between extended participation and enhanced policy impact, as lined out by Zittel, is also very present in the Commission’s use of online consultations, as documented in the research presented by Christine Quittkat (Mannheim) and Barbara Finke (Mannheim). Analysing the ‘EU Commission Consultation Regime’, they looked at the consultation instruments used by the European Commission and whether the Commission’s participatory strategy is suitable to bring into open a high and diverse range of voices at EU level, which is a prerequisite for deliberative democracy. The data clearly indicates that especially the new instrument of online consultations, applied by the European Commission with the intention to lower the threshold for participation in consultation processes, indeed attracts representatives of very diverse interests. Yet, the quality of online consultations as instruments of participatory policy making varies with their format: especially consultations with open, albeit structured questions might offer real impact through the presentation of new ideas or problem solutions, but participation rates are much higher when online consultations

are based on (multiple-choice) questionnaires, and these, however, do not allow for new input on policy issues.

Over all, the analysis of Quittkat and Finke proved that Commission - civil society relations have indeed changed since the turn of the century and openness, inclusiveness, and transparency have increased considerably. This became also evident from the case study presentation by Joan O'Mahony (London) on the role of 'the public' (variously conceived) in EU fisheries governance. O'Mahony provided a description of the way in which the taking into account, or consultation, of civic groups in this particular field of policy making has changed over time. She convincingly argued that in DG Fisheries the factors that have been important in promoting the specific pace and place of civil society can be related to both, its regulatory object and its regulatory public. Thus, not only do we find variations in political engineering between EU member-countries as found by Zittel, but civil society may also emerge in different ways in the various DGs with some features of civil society more defined than others.

Generally, we witness a re-assessment of participatory instruments from both sides, i.e. from those consulting and those being consulted. Quittkat and Finke pointed out that the Commission itself undertakes a number of evaluations regarding its consultation processes, as the example of the 'Stakeholder Involvement - Peer Review Group' of DG SANCO and the independent evaluation of the Commission's impact assessment system, launched in early 2006, show. But in her case study on DG Fisheries, O'Mahoney discovered also a new and notable development of self-reflexivity on the part of stakeholders, a consciousness that they are the 'involvees', and an effort to consciously comment explicitly on DG Fisheries' instruments of governance and on the methodologies that DG Fisheries use for taking them into account. She pointed out the example of the most

recent consultation exercise of DG Fisheries on the 'Green Paper: Towards a future Maritime Policy for the Union: a European vision for the oceans and seas' (COM 2006/275 final). Here, the environmental NGOs in their written contributions concentrate much on the level and on the depth of stakeholder involvement, and on the relevance of adopting a holistic approach to maritime issues. Other consultation contributors focus on the methodologies used for 'taking into account' the views and opinions of various interest groups.

The comments by Frank Vibert (European Policy Forum EPF, London), as well as the general discussion made clear that we might be confronted with the issue of 'capture', albeit in two different variations: (1) Regarding the case study on DG Fisheries, Vibert raised the question whether we see a power game dressed up as a voice game. It might be that the Commission is looking for new coalition allies (scientists and environmental CSOs) against opposing parties (member states and fishers). (2) The other issue of capture, of course, is the question 'Who is the political engineer?' The involvement of CSOs into evaluating processes, as well as their 'meta-level' contributions on participation instruments and accountability to what originally is intended as a 'policy consultation' seems to give evidence of a relevant trade off: The gain of legitimacy via civil society involvement might come at a high price for the European Commission, namely the loss of control.

Session two also underlined the difficulty and importance of relating research to political theory, especially normative political theory. From empirical research, CONNEX researchers again turned back to basic questions of political theory because middle range theories, which have already been applied to established political systems like the nation state, do not fit well the new case of the European Union. Thus, confronting empirical findings with

theoretical reflections on the 'Democratic Value of Civil Society Engagement', Thorsten Hüller (Mannheim/Bremen) and Beate Kohler-Koch (Mannheim) outlined a normative conception of democracy in order to measure and assess the changing quality of European democratic performance. Their suggestion of a normative notion of democracy appropriate for the EU is based on three normative principles – (1) political equality as reciprocity, (2) transparency/publicity and (3) accountability – and is defined as follows: 'Democratic is a political order, if the essential decisions in the system are generated in public and mechanisms exist, which link or bind these decisions in a egalitarian (or: reciprocal) way effectively to their members.' Hüller and Kohler-Koch outlined the complex governing system of the EU, which is characterised by diffuse responsibilities in a system of network governance and in which CSOs ideally have 'credible support functions': giving voice, monitoring, publicising, and designing normative frameworks. From their theoretical and empirical analysis they concluded that the actual instruments of civil society involvement have, at best, a very much constrained positive effect on the democratic quality of the EU. And indeed, as the discussant Thomas Zittel (Munich/Bruchsal) as well as comments from the audience made clear, the concepts of publicity and accountability and their relation to the features of a 'European public sphere' or, more generally, a European public, will have to remain on the research agenda, open questions still being manifold: Can CSOs support the claims for publicity and accountability? What is the role of the European Parliament and of the (European) political parties? How or where do various concepts of civil society link with compounded publics and how does the European civil society link with national public discourses?

Europeanization of Civil Society and Democracy?

The second part of session II, chaired by Peggy Schyns (Leiden), confronted the audience with somehow contradictory findings. Laura Cram (Strathclyde) explored the concept of European identity and its significance for European integration by drawing upon insights from theories of nationalism and national identity. She conceptualises European identity as an ongoing contingent and contextual process which generates 'banal Europeanism'. Her central hypothesis is that European integration facilitates the flourishing of diverse national identities, rather than convergence around a single homogeneous European identity.

Cram argues that the nations, states and the nation-state structure upon which the EU is predicated are not static entities but are constantly evolving. Thus, being part of the European Union has not only allowed a range of diverse identities to flourish, but altering the relative costs and benefits of particular courses of action may even have encouraged the evolution of some national movements in the particular direction that they have developed. As different understandings of 'nation' come to the fore within member states, or as national interests begin to challenge existing state boundaries, traditional approaches that centre on the nation-state are faced with a number of challenges. This diversity, far from challenging the process of community building in the EU, provides - so the argument of Cram - a vital source of dynamism for the integration process. The role of the EU as facilitator for diverse understandings of collective identities encourages the *enhabitation* of the EU at an everyday level and the reinforcement of a sense of *banal Europeanism* which is a crucial aspect of the European integration process. Facilitating diversity may, thus, provide a vital source of dynamism for the integration process.

Yet, these findings of Cram on banal Europeanism are somehow in conflict with the findings of William Maloney (Newcastle) and Jan van Deth (Mannheim) that the levels of attachment and confidence in European institutions at the local level are relatively low. With regard to the question whether local civil society is conducive to European participatory engineering, Maloney and van Deth's conclusions from their empirical analysis of local civil society associations in Mannheim (Germany) and Aberdeen (UK) are twofold: 1. The mobilization of voluntary associations is likely to result in continued biased representation. Therefore, participatory engineering should look to mobilize citizens that fall outside the 'usual suspects' category – i.e. the young and the old, those with low and higher levels of educational attainment and income, etc. 2. Local voluntary associations have a very limited impact on the attitudes towards Europe among their members and activists. If anything, local activists are even more sceptical towards the EU than the average citizen, although scepticism varies depending on the group's main issue. Family and general welfare groups are the most committed to Europe, and religious, culture, sports and groups-specific welfare groups the least.

Turning from engineering of participation inside the EU to engineering democracy outside the EU the paper on 'The EU as External Democratizer' by Michèle Knodt (Darmstadt) and Anette Jünemann (Hamburg) made clear that the EU policy of external democracy promotion varies across countries. It is indeed more often than not inconsistent and mainly limited to the use of instruments that are aimed at 'inducing' rather than 'enforcing' a change in political behaviour – if action is taken at all. This 'low-profile' approach to external democracy promotion in many parts of the world has resulted in a severe credibility gap. However, it is not only the lack of political will – as many critics of the EU claim – but also the EU's room to manoeuvre which

is limited by various factors. Obviously, there is not one *single* factor but many interacting factors that determine the EU decision-making process, especially when it comes to the use of 'enforcing' instruments that may backfire. In addition to the international environment which they define as a contextual variable, Knodt and Jünemann have specified three main factors influencing the EU's capacity to act as an external democratizer: (1) the multi-level system of the EU which is closely related to its potential to act; (2) interdependence between the EU and the third country and (3) the structure of resonance in third countries.

A particular focus of Jünemann's presentation was on the instruments used by the EU to support the democratization process in Central and Eastern European. The conditions for external democratization were specific since these countries not only had (emerging) civil society organisations but were also offered the perspective to join the EU. Democratisation instruments for non-democratic countries or for transition-countries without civil society organisations (and no perspective of EU-accession) are much harder to develop. Thus, at the Piran conference, especially the importance of structures of resonance in third countries for the democratisation success of the EU was intensively considered, focussing on the structure of civil society and the (non-)existence of civil society organisations. The discussant Peter Burnell (Warwick) raised the question about what should be done by external democratizers if there are hardly any CSOs in a country, as in the case of Georgia. He underlined that supporting civil society organisations is only one instrument to support democratization from outside; others are seen more critically but might still be successful, for example political pressure and different kind of sanctions. Further, empirical research has shown that democracy has to come from within a country, i.e. democratizing instruments must fall on 'fertile ground', as Knodt and Jünemann pointed

out. Yet, and this might even be a normative question, should the EU support social movements, family based structures of self regulating communities, welfare groups, etc. or are such groups considered to be too ‘un-institutionalised’ to become a ‘democratisation-partner’? Finally, as Burnell made clear, one pertinent question here is how to measure success, i.e. the EU’s effect on democratization via civil society support and the sustainability of impact both, in terms of sustaining civil society (organisations) and a democratic polity. As in the case of interest group power and influence (Dür and de Bievre), measuring success of – or impact on – democratisation is a demanding methodological endeavour: How can one attribute success to the EU’s external democratisation strategies when so many other factors intervene?

Civil Society and Democracy in the EU

The final session III, chaired by Carlo Ruzza (Trento), focused on a third dimension of ‘Civil Society and Democracy in the EU’, namely on the relevance of ‘framing’. The conceptualisation of civil society is not just an academic exercise but also highly relevant in political life because it has an impact on political reality. As Bruno Jobert (Grenoble) argued in his presentation on ‘Civil Society as Discourse’ the recourse to civil society mostly is a response to a perceived legitimacy crisis. The concepts vary and are put to different and sometimes contradictory uses, reflecting different world views and strategic interests in different contexts. In order to better grasp the variety of representations of civil society in civic discourses, Jobert suggests introducing three different perspectives (1) the role of politics in the constitution of civil society, (2) the modalities of involvement of civil society organizations in government action, and (3) the conditions of rehabilitation of civil society when it has been disrupted. Against this background, four

models of civil society can be differentiated: (I) the tutelary modernization model; (II) the neo-conservative model; (III) the transatlantic third way; and (IV) the integrative civil society model. All four models attribute different roles to civil society as an agent of democracy and good governance and they can be used as a normative yardstick and as reference to capture the changing realities in Europe and abroad.

Turning to empirical evidence regarding civil society in the multi-level system of the EU, van Deth tested by using survey data, whether the high hopes in the emergence of a European civil society meet reality. Though the data present a multi-coloured and complex picture, some general trends are discernible. A first general conclusion of van Deth is that civil society actors seem to be firmly integrated in nation-centred structures, acting largely on the basis of their national commitments. Furthermore, party elites and association elites are playing a key gatekeeper role and by doing so sustain the multi-level facets of the European space. A bottom-up flow of engagement at the European level is also unlikely to emerge because support for the EU is relatively weak just among those citizens who are active in voluntary associations at the local level. Attempts to involve local civil society groups in EU governance might, consequently, be in vein or might even mobilise opposition and obstruction. Accordingly, so van Deth's credo, a more critical analysis of these actors and their activities is required for assessing to what extent they can or could contribute to good governance in the EU. Arguably this kind of analysis will give a better clue on the potential development of democratic processes in Europe than an appraisal of associational density, diversity and membership levels.

Finally, Frane Adam (Ljubljana) concentrated on the connection between a knowledge-based society, deliberative democracy, and civil society. In his

presentation he 'framed' CSOs as part of elite networks. At EU level, so Adam, we encounter the situation of double-sided elitism where, on the one side, civil-society leadership is acquiring the role of elite and, on the other side, this 'civil-society elite' is interacting mainly with other (national as well trans-national) elite sectors and actors. Concerned are especially those associations which specialised in the representation of interests on the EU level, i.e. which are playing the mediation role between regional/national and EU governance or/and the EU consultation regime. In the context of societal complexity, of growing demand for expertise and professionalization, the civic organisations are forced to act as advocacy groups, where managerial, lobbyist, communication and cognitive competencies are more important than grass-root activism and promises of direct democracy. As a consequence, the role of membership is affected, raising questions of democratic legitimacy and the mediation function of civil-society. But Adam argues that these developments are *not necessarily* a shift away from democratic expectations; rather they can also be conceived as a realistic (and efficient) response to trans-nationalisation processes and to the situation of the EU multi-level deliberation and decision-making system. The presence of CSOs make the elite trans-national networks more open and inclusive and civil society organisations can attain a new role in the EU, contributing to long-term strategic decisions. Thus, the question to be analysed in the future is not whether CSOs are involved in elite networks or not, but rather the manner and form of this involvement. Adam hypothesizes that being part of these elite trans-national networks, CSOs representatives are forced to have very diversified contacts, will develop communication skills and cognitive maps that may go beyond the one-sidedness of the political, business, or scientific communication code.

The third session of the Wrapping-up Conference in Piran gave evidence of the different frames of civil society that people and researchers maintain. This led to the formulation of further key questions for future research, adding to the questions already raised by the papers presented. One question which still remained open at the Piran conference is 'What is civil society and what is its role?' Especially the round table on 'Opening EU Governance to Civil Society: gains and challenges', chaired by Beate Kohler-Koch (Mannheim), which allowed for the exchange between academics, Carlo Ruzza (Trento) and Stijn Smismans (Cardiff), and practitioners, Anne Hoel (The Sociel Platform) and Frank Vibert (The European Policy Forum), underscored some of the topics already raised in the papers and the discussions, such as the contested frames of civil society and how these relate to the image of a European trans-national civil society in support of European integration. It was convincingly argued that more research is needed in order to know in which specific political and social context civil society is emerging as an 'idée directrice' and which specific functions are attributed to civil society organisations.

The discussion also took up the issue of participatory engineering, above all the rationale of supporting the so called 'weak interests', in order that 'value based' and 'rights based' interests are given a voice in EU policy making. The call for more equality in the representation of societal interests takes up a core principle of normative democratic theory. However, 'equal representation' is more than just giving voice to a plurality of interests; it also demands that the interests voiced are representative.

Conclusion

According to the research findings of Research Group 4 and 5, the high hopes put in civil society will not materialise easily. The image of a vibrant European civil society that articulates the needs and aspirations of citizens is caught up by a still segmented national media infrastructure, the multiplicity of languages and political cultures. The concept of associational civil society functioning as a transmission belt for the democratic articulation of EU citizens is not persuasive as long as multi-level representation and accountability are difficult to realise. Thus, the CONNEX Wrapping-up Conference at Piran brought together the broad range of theoretical reflections and empirical findings of both Research Groups and drew attention to new questions to be answered by further research.