

**Shifting the Balance of Power?
Information Society
and its Impact on Trans-national and EU Governance**

Paper to be presented at the Ionian Conference
Facing the Challenges of the New Millennium
Group 3 Citizenship and Governance
May 20-22, 2000
Corfu, Greece

Sonja Bugdahn
Researcher
European University Institute
Department of Social and Political Sciences
Via dei Rocchetini 9
I-50016 S. Domenico di Fiesole
bugdahn@datacomm.iue.it

Abstract

This paper discusses some of the impacts the Internet has made so far on forms of various forms of transnational governance. Contrary to expectations, experience with new communication technologies on the local level have so far been disappointing. In my view, this can be explained by the fact that the use of ICT for institutions lies first and foremost in the enhancing of legitimacy. However, local government is usually legitimised by some form of elections. National and local bureaucracies, though more vulnerable in terms of legitimacy, are long-established institutions. By contrast, the legitimacy of many international forms of governance is increasingly contested. The European Union had already to change its policy following the Maastricht Crisis through the introduction of freedom of information legislation. Challenged by NGO coalitions which are empowered by the new ICTs, more and more international organisations seek now to increase procedural legitimacy by using the Internet for electronic consultation.

Introduction

Progress in information technology has been put in perspective by Westlake (1997: 135) who pointed to the fact that until relatively recently, typed documents would give rise to a maximum of five or six "carbon copies. Today, the Internet makes large amounts of complex information (long documents, databases) over long distances available to every citizen with access to a networked computer. Access is both rapid and low cost. In terms of culture the Internet has long been seen as an anarchic communications system which creates a new kind of public space (Smythe/Smith 1999). Most citizen could also become providers of information at relatively low costs. Moreover, the Internet is based on a free-information ethos, "which can be seen in the reluctance of publishers on the Internet to charge for access to their services" (Trench/O'Donnell 1997: 230). Discussions of impacts on governance have long been focussed on the local level. Attention shifts now to the international or global level. I will first discuss the lack of legitimacy from which several forms of international governance suffer today. I will then present some of the proposals made to enhance legitimacy. As it is to be shown the Internet plays an increasingly important role. In reality, the European Union makes more and more use of the Internet to increase transparency of its processes and outputs. This is contrasted with the operation of a freedom of information right. Last, I turn to the impact of the Internet on the role of NGOs in international governance and the reactions of various international organisations.

Local cybercommunities?

The Internet has sometimes been portrayed as having the potential of revolutionizing and democratizing traditional forms of governance and enabling a new form of democracy. Given that technological progress has diminished spatial and temporal obstacles to electronic voting, the move to an electronic democracy seems at least technically feasible (OECD 1998). In the United States the concept of “electronic democracy” has been a central feature of the technological Utopias proposed by scholars, politicians and activists since the 1960s. A focus on the local level has been probably inspired by the American nostalgia for the community being a small town where the “human scale” everyday affairs, including politics could be reached again through a revival in form of “local cybercommunities”. Since the 1970s opportunities of teledemocracy have been experimented with. There is now a number of operative systems, for example the Blacksburg Electronic Village, Virginia, the Minnesota E-Democracy, the community-based California Smart Community etc. (Savolainen/Anttiroikko 1999 with further references). Projects of electronic local networks have spread from the United States into Europe (Bryan et al. 1997).

Yet, empirical research on the impact of the new ICTs on national and local level has so far often delivered disappointing results. Most electronic democracy projects remain at an experimental stage. In spite of the discourses of interactivity which underlie the initiatives, most of them have in practice been executive- initiated, top down and mostly based on giving more access to information. The extent to which the participatory process was enhanced remains unclear (Tsagarousianou 1997: 174). Similarly, on a national level governments tend not to show much enthusiasm for the offering of information to citizens and even less to seek their input into policy proposals (OECD 1998).

One of the main findings of a research project on the use of ICTs by voluntary and community organisations in Ireland was that a range of financial, technical, organisational and cultural factors inhibited the adoption of newer ICTs. Information and communication technologies were not found to be a necessary or, even less, a sufficient condition of active citizenship. The technologies could not by themselves create a more participatory political culture. “Many voluntary and community organisations are functioning effectively without using computers” (Trench/O’Donnell 1997. 217). Moreover, the survey evidence indicate that voluntary and community organisations were protective and territorial about their information both on a geographical and on a topic basis. Voluntary organisations in

cognate areas were more inclined to collect and compile their information than to seek it from, or offer it to, other similar organisations (Trench/O'Donnell 1997: 229).

In my view, the reluctance of local and national governments to adopt and use information technologies to the end of enhancing accountability and participation of citizens can be easily explained in terms of costs and benefits. Access to information and participation are usually linked to legitimacy (Gentot 1995: 4; Fiorino 1996: 196). However, the source of legitimacy of local and national governments is traditionally the ballot. As a rule, elected governments have relatively little to gain from making more meaningful information available on the Internet and from seeking public input. By contrast, there are other forms of governance which have been since long diagnosed to suffer from a lack of legitimacy. Not surprisingly, the European Union heads this list.

Dimensions of Legitimacy (Deficits)

Most scholars identify different aspects of legitimacy and accordingly, also different reasons for a lack of legitimacy. Many forms of transnational governance are seen as defective in this respect. However, there is now an increasing consensus that different modes of governance might require different forms of legitimation. Increased transparency in general and the use of the Internet in particular is increasingly recommended as a cure.

Majone distinguishes between two main dimensions of legitimacy: procedural and substantive (1998). This could be roughly equated with input and output legitimacy. The input structures of governance are traditionally legitimised by democratic political elections and majoritarian government. Accountability is a key mechanism. It is defined as the ability to determine who in the government is responsible for a decision or action and the ability to ensure that officials in government are answerable for their actions. Elections are seen as the most basic way to ensure that accountability. The question how to hold non-elected state officials accountable is more problematic. In a Westminster system, these officials are accountable to Parliament, while on the Continent more emphasis is put on accountability to courts (Allum 1989: 369 ff.). The legitimacy of a political system depends also on its capacity to achieve the citizens goals and solve their problems, i.e. output legitimacy (Höreth 1999: 251).

Transparency has been analysed in terms of a principle which operates at several levels of an institutional order and influences a wide number of instruments (Chiti 1996. 370). It shall be defined here as the comprehensibility (accessibility) of political and administrative structures, responsibilities, processes and outcomes (for a ranking of different degrees of process transparency see table below).

The EU legitimacy problem seems to be indeed multidimensional (Höreth 1999: 251), given that the level of EU powers goes far beyond those of international organisations. Weiler discusses in length the lack of a constitution, the absence of an EU demos- and telos and last, the “democratic deficit” of the EU which is in itself a combination of numerous different aspects. Three approaches to European governance: *internationalism*, *supranationalism*, and *infranationalism* reflect at the same time different realities (Weiler 1997b: 276). In some crucial spheres Union governance is international, in other spheres supranational and yet others infranational. One feature which in Weiler’s view pervade all Community governance is the overall lack of transparency. Partly this is a result of the added layer of governance and its increased remoteness and partly a problem of the decision-making process.

- International issues are fundamental system rules such as treaties, and issues with immediate political and electoral resonance
- Supranational issues are taken from the primary legislative agenda of the community. Instances of supranational decision-making would be the adoption of the big framework harmonization directives such as banking or video rental rights or the Tobacco Labelling Directive. Actors are governments and community institutions
- In infranationalism actors deal with standard setting and implementing and executive measures. They are usually “second level organs of governance”, with members of Government departments, certain NGOs etc.

In the view of Weiler, all these modes of governance suffer from low process transparency. Actor and event visibility differ, with internationalism ranking highest, and infranationalism ranking lowest. In Weiler’s perspective infranationalism gives greater cause for worries than supranational features of European integration:

“It is time to worry about infranationalism - a complex network of middle level national administrators, Community administrators and an array of private bodies with unequal and unfair

access to a process with huge social and economic consequences to everyday life - in matters of public safety, health, and all other dimensions of socio-economic regulation." (1997a: 151)

A regulatory model of the EC and thereby infranationalism has been focussed on by Majone rather than forms of state building or intergovernmental bargaining. He identified a lack of transparency caused by the growing numbers of committees, working groups, agencies, the overlap of their activities and the divergence between the rules governing their functioning (Majone 1998: 22). Committees at the EU can be classified into advisory, management and regulatory ones. The budget for 1996 listed approximately 400 committees. Much of the work done in committees has been characterised by secrecy: "Working documents and protocols of committee sessions have rarely seen the light of the day" (Demmke 1997: 27 ff.). EC Agencies might indeed represent a fourth and increasingly important mode of EU governance. In the beginning of the nineties a number of independent agencies was set up which perform "technical" tasks or are engaged in information gathering and analysis. The move to the agencies is seen as being fuelled by the low legitimacy of the Commission. To evade current popular hostility and yet to enlarge the Union, agencies have been proliferated and expanded rather than the Commission itself (Shapiro 1997: 290). While the creation of the first generation of Agencies in the early nineties can hardly be directly related to events, Shapiro's analysis seems to be supported by the background of proposals to set up a new *European Food and Public Health Authority*. This obviously follows directly from the BSE "mad cow" crisis when the inadequateness of the way scientific advice was managed in the Consumer Protection Directorate became clear¹.

Very different views have been expressed concerning the output of the European Union. On the one hand, the European Union's general efficiency and effectiveness in dealing with political problems was seen as a source of legitimacy (Höreth 1999: 251). On the other hand the output in terms of legislation has been sharply criticised as being detailed, over-regulated, non-transparent and difficult to implement and apply in the legal systems of the Member States (Demmke/Hochgürtel 1997: 191 with further references).

¹ ENDS Environment Daily 13 December 1999: Outline for EU Public Health Agency emerges, White Paper on Food Safety, COM (99) 719

Transnational networks outside the EU are likely to be subject to similar criticism as EU comitology. Government networks can function particularly well in a rapidly changing environment that thrives on the exchange of information and the ability to use it in different ways. However, networks summon suspicions - of secrecy, technocracy, exclusion and conspiracy. It is not clear how agencies participating in transgovernmental networks can be held accountable to the "democratic constituencies." At the same time, the accountability of international organisations and of Non-Governmental Organisations is hardly better developed. The UN suffers from the perception that it is responsive primarily to its own bureaucracy, the IMF and the World Bank are widely seen as fronts for the United States, the EU institutions have been in crisis over a "democratic deficit" etc. (Slaughter 2000).

I now turn to the question how the legitimacy deficit of transnational forms of governance can be addressed with a special focus on the EU. More and more scholars agree on two points: First, transnational forms of governance will in future become increasingly powerful. Majone predicts that more and more specific functional tasks that can be tackled more efficiently at the supranational level will be delegated to European institutions (1998: 28). Second, standards of legitimacy which are derived from a national context may not seem apt in an international one (Héritier 1999: 279). A model of democracy which is developed in the national context cannot be easily transferred to the EU. A legitimisation by simple repetition of majoritarian forms of governance would be inappropriate.

This conclusion has also led to complacency. It has been argued that the more informal, fluid forms of representation, though not meeting standards of popular sovereignty set by traditional democratic theory, reflect the reality of the EU as a polity composed of multiple identities embedded at multiple levels of governance. The authors then proceed to contrast a model of legitimacy at the national level to one "more appropriate to the EU as a multi-level polity". Legitimacy in a multi-level polity is thought to be acquired through representation by European institutions alongside national institutions; plural and informal forms of representation. Recognition is expressed through interest articulation and mobilization and "multiple, compatible" identities (Banchoff/Smith 1999). However, this approach seems rather too simplistic and pragmatic. The mere variety of institutions and interest groups which make an input to EU decisions - in other words, the maintenance of the status quo - cannot by itself render EU governance legitimate.

While other scholars accept that national forms of legitimisation cannot simply be exported, they still question the status-quo. To increase transparency and accountability various proposals are made. In Majone's view regulatory policies predominate as an EU mode of governance. Other than distributive policies, regulatory policies can be legitimately managed by carefully designed agencies. To this end, a number of rules have to be adopted which specify which procedures shall be followed in administrative decision-making and how various groups can participate directly in the decision-making process. After the decision has been taken, monitoring shall be ensured through ongoing legislative and executive oversight, the budgetary process, judicial review, reorganisations, citizen's complaints or professional sanctions. Though in general sceptical, Shapiro considered the mere existence of agencies of "defined structure and jurisdiction" as an improvement in transparency compared to the comitology process. He suggested that more ways could be found to introduce transparency and participation into the internal processes of the new agencies (1997: 291).

To the end of establishing regulatory networks as a legitimate form of governance, Slaughter suggests to (1) adapt domestic governance structures in various ways and to create (2) "various internet-based processes of decision-making that will enhance transparency and access". This shall be combined with developing explicit principles of transnational governance. It is proposed to put on a variety of transparency requirements on transnational networks, such as the publication of a record of meetings held and issues discussed and decided, as well as a calendar of upcoming meetings and projects. To the extent that participants in a government network are engaged in actual policymaking or implementation activities, they can be required to adopt "notice and comment procedures" (Slaughter 2000).

The most far-reaching proposal to use the Internet for improving the legitimacy of the European Union was probably put forward by Weiler. He suggested to place the entire decision-making process - especially, but not only Comitology - on the Internet. The key organisational principle would be that each Community decision-making project intended to result in the eventual adoption of a Community norm would have a "decisional web site" on the Internet within the general *Lexcalibur* "Home Page". This would identify the scope and purpose of the proposed legislative or regulatory measure, the Community and Member States persons or administrative departments or divisions responsible for the process and a timetable. Access should be provided to all non-confidential documents which

are part of the process. Weiler stresses that the primary mode and locus of governance would and should remain intact: political institutions, meetings of elected representative and officials parliamentary debates, media reporting etc. However, *Lexcalibur* could enhance the potential of all actors to play a much more informed, critical and involved role. The most immediate direct beneficiaries would be media, interested pressure groups, NGO's and the like. The improved information system would serve as a basis for a system that allows widespread participation in policy-making processes through a possible two-tier system comprising a forum with limited access and an open forum where all interested actors could participate (Weiler 1997a: 153).

The Internet and Freedom of Information Rights

I shall now turn to discuss in detail to which degree the Internet addresses the problems of visibility and transparency of transnational forms of governance. Visibility seems indeed to be enhanced through websites. This is very much regarded as a first step, since the creation of a "virtual incarnation of a government network through a website" allows those who would be in charge (voters, congressional committees and regulated entities) to begin to assert control or impose constraints in a number of ways (Slaughter 2000)

The question of transparency is far more complex. In the OECD Report different degrees of process transparency are listed in descending cumulative order (1998: Section 179).

1. Widespread publication of the decision
2. Clear explanation of the decision
3. Identification of who provided input
4. Publication of inputs
5. Prior to the decision being taken, publication of the problem definition and the options being considered
6. open voting

The *Lexcalibur* page as proposed by Weiler would have the potential to provide for five degrees of transparency. However, there is a number of tricky issues involved which require fine-tuning. The identification of who provided input could be limited to comments received via Internet (or in letter form). Instances of personal access to decision-makers (such as meetings for lunch) are not likely to be published on Internetsites. Neither will the

different degrees of importance which decision-makers might attach to comments be spelt out on the Internet. Most importantly, it is doubtful whether the Internetsite itself can be a source of dialogue and can thereby foster a more “deliberative process” as Weiler expected.

The Lexcalibur project might seem revolutionary or utopian. However, the European Commission employs the Internet already now to make its legislative output more transparent. The Internet based database Eur-Lex provides an overview of all EC legislation adopted in e.g. competition policy, taxation, environment consumers and health protection etc². The full text of directives (including consolidated versions of often amended texts) is made available for free. Thereby the first degree of transparency has already been achieved (see in box). Moreover, proposals for directives (included those which have been stuck several years ago in the legislative pipeline) are now available. In some cases, the Commission has also used the Internet to obtain input on the development of its policies, e.g. on the Green Paper on Public Sector Information³. The role of this paper was explicitly defined as addressing the key questions and proposing policy options rather than predicting the future or promoting particular solutions. Comments received have been posted on the WebSite. Currently there are several electronic Forums operating gathering opinions on policy in general and specific Commission proposals in particular⁴.

The transfer of Lexcalibur from utopia into the real world seems all the more plausible when one considers that the opening up of the legislative process is not an entirely new concept for the European Commission. Following the Maastricht Crisis when the Danish no in the Referendum “came as a severe shock to the whole EC system” (Westlake 1997: 136), the Commission has put emphasis on openness, transparency and public consultation⁵. By contrast, the Council which has traditionally legislated behind closed

² <http://europa.eu.int/eur-lex/en/lif/index.html>

³ Public sector information - a key resource for Europe. Green Paper on public sector information in the information society. COM (98) 585

⁴ See for instance European Internet Forum <http://www.ispo.cec.be/HyperNews/get/eif.html> See <http://www.ispo.cec.be/eif/InternetPoliciesSite/DotEU/responses.html> for responses to a specific Commission proposal

⁵ Lodge regards the pressure brought on the Commission to open up an “allegedly closed process” to be an instance of “scapegoating” by member states governments. Successive

doors might have more problems with the opening up of the legislative process (see Curtin/Meijers 1995).

I argue that in general the operation of a Freedom of Information Right represents a far more costly form of creating legitimacy. The European Commission, the Council and the Parliament adopted rules in 1993/94⁶ following the Maastricht Crisis. After the right of access to documents has been laid down in the Amsterdam Treaty, the proposal for a regulation is currently under consideration⁷. The adoption of Freedom of Information legislation means to give any person the right to inspect any document produced by a specific institution, subject to certain recognised exemptions, such as the safeguarding of national security, commercial secrecy, personal privacy etc. This citizen right is thereby more far-reaching than a limited obligation to publish certain documents on the legislative process on the Internet. Its consequence is that citizens cannot only better participate, but also hold the institution accountable for the handling of cases. This is by no means convenient for officials. Moreover, the right of the individual citizen has to be balanced against other interests which are often ill-defined in legislative terms, such as personal privacy and commercial secrecy and worst, the “public interest”. While it is beyond doubt that a well enforced FoI right can create legitimacy (see for the Swedish experience Freivalds 1996), organisations often perceive its exercise as costly. Moreover, critical

European Councils asked the Commission to make itself more accessible, to reduce the jargon in its proposals and to enhance access to documentation etc. In fact, the Commission was more rather than less accessible than national administrations (1994: 346 ff.). See the three communications adopted CEC, 1992, *An open and structured dialogue between the Commission and special interest groups*. Communication from the Commission on 2 December 1992, OJ C 1993, 63 p. 2; CEC, 1992, *Increased transparency in the work of the Commission*. Communication from the Commission on 2 December 1992, OJ C 1993, 63 p. 8; CEC, 1993, *Openness in the Community*. Communication to the Council, the European Parliament and the Economic and Social Committee on 2 June 1993, COM (93) 258 final, OJ C 1993 166, p. 4

⁶ Council and Commission adopted in December 1993 by common agreement a Code of Conduct (OJ 1993 L 340 p. 41) concerning public access to documents which enumerated principles governing public access to documents in their possession. The Council adopted through a Decision (OJ 1993 L 340 p. 43) provisions for the implementation of the principles set out in the Code of Conduct, followed by the Commission on 8 February 1994 (OJ 1994 L 46 p. 58).

⁷ Proposal for a Regulation of the European Parliament and of the Council regarding public access to documents of the European Parliament, the Council and the Commission. COM (2000) 30 final

observers are likely to take up and discuss first and foremost cases in which access to information was delayed or refused. Consider for example the European Commission: In general the exercise of the FoI right seems to work smoothly with information provided in approximately 90% of the cases. However, critics predominantly focus on a long list of court and Ombudsman cases and thus instances of information refusals⁸. To make matters worse, the seekers of information are sometimes supported by the Danish, Dutch or Swedish governments which make thereby clear that they have a much broader understanding of freedom of information rights than the European Commission or the Council.

The Empowering of NGOs

While the exercise of an FoI Right remains difficult for an organisation, “electronic consulting” is a rapidly expanding practice among international organisations. This can best be understood by taking the increased importance of NGO’s into account. In the past year it has become very clear that the Internet empowers the networking and campaigning of NGOs on a global level (Smythe 1999/Smith 1999). This development seems surprising given that much of the Internet utopia was initially staged on the local level. Global networking might be facilitated through a number of factors. Over the past decade the number of NGOs and their membership have grown hugely⁹. Other than on a local or

⁸ see for instance ECJ, judgement of October 19, 1995, in case T-194/94, *John Carvel and the Guardian v. Council* E.C.R. II-2765, Judgement of March 5, 1997 in case T-105/95, *WWF UK v. Commission*, Judgement of February 6, 1998 in case T-124/96, *Interporc Im- und Export GmbH v. Commission* E.C.R. II-231, Judgement of March 19, 1998 in case T-83/96 *Van der Wal v. Commission* E.C.R. II-545, Judgement of June 17, 1998 in case T-174/95, *Svenska Journalistförbundet (Tidningen Journalisten) v. Council*, Judgement of July 19, 1999 in case T-188/97 *Rothmans v. Commission*, Judgement of 14 October, 1999 in case T-309/97 *The Bavarian Lager Company v. Commission*. A number of other cases is still pending. The European Commissions seeks in particular to protect documents from disclosure related to infringement proceedings. This is accepted by the Court of First Instance. However, when the Commission argued that Comitology committees were entirely distinct from and independent of the Commission and that minutes of committee sitting were consequently not Commission documents, the Court of First Instance annulled the Commission decision (see Rothmans v. Commission). The Ombudsman has actively encouraged a number of EU institutions to adopt rules on access to documents (see Öberg 1998).

⁹ The Economist, 11th December 1999

national level NGOs often do not directly compete for an audience, membership or money on a global level. The issues which are on the decision agenda of international organisations often affect such a broad range of interests that even NGOs from the same state can mobilise different clienteles against a single proposal. Nowadays new coalitions can be build online. The Internet is on a global level more “facilitating” than on a local level. In other words, with the members of an NGO coalition being spread over different continents, the added value of using an email-list is bigger than with members of one group being reachable by a local phone call. Technical NGOs now also specialise in providing highly sophisticated analysis and information¹⁰.

Paradoxically, NGO’s come mainly together to fight against measures promoting globalization: “In effect, as capitalism is globalizing so are its opponents. In both instances the information revolution is playing a key role” (Smythe/Smith 1999). An early instance of a successful Internet-supported NGO protest campaign was the defeat of the OECD *Multilateral Agreement on Trade and Investment (MAI)*. This agreement was clearly designed and intended to limit state discretionary authority to discriminate between domestic and foreign investment in regulation, thereby reflecting “the growing power of capital and the resulting limits on state policy discretion” (Smythe/Smith 1999). The negotiations had been formally launched in May 1995, largely as a result of a United States led and business supported initiative. The OECD initially only invited input from organizations which had a formal consultative status, ie. from the Business and Industry Advisory Committee and the Trade and Industry Advisory Committee. When the text of the draft agreement was leaked in February 1997, it ended up very quickly on the websites of two public policy advocacy groups in North America. Domestic attention increased together with the number of state reservations. A number of countries parliamentary committees, reflecting public pressure, began public hearings. In October 1998 the French government withdrew its support and in December 1998 negotiations ended. In their campaign NGOs have been clearly facilitated through the Internet technology.

“Several NGOs commented on how even though the OECD negotiations centered around complex, technical issues, conducted in secret in an exclusive organization, by being able to instantaneously access the latest intelligence and analysis of long complicated draft texts, as well as the state of

¹⁰ The Economist, 11th December 1999

play of the negotiations, they and their supporters were able to challenge their own government officials and OECD officials.” (Smythe/Smith 1999)

“Civil Society Consultation”

It can now be observed that international organisations increasingly use the Internet for “electronic consultation”. Current instances are the reviewing of the *OECD guidelines for multinational enterprises*¹¹ and the drafting process of the *World Development Report* by the World Bank¹². As a rule, organisations publish draft documents on the Internet and invite and publish comments. More sophisticated, the World Bank selected two NGOs (the Bretton Woods Project and the New Policy Institute) to moderate on-line discussions on the draft report to be posted on the Web every week during a period of six weeks. The OECD has established an *online OECD-Forum* on the controversial issue of *Biotechnology and Food Safety*. After its defeat in Seattle, the WTO now follows this trend. Currently, the organisation proposes to establish a so-called Community On-line Forum within its Internet Site¹³. Individuals and groups shall be offered the possibility of posting documents and of hosting forums on topics of their choice related to the work of the WTO.

One question to be asked is how and to which degree electronic consultation will be linked to procedural and institutional reforms discussed in this paper. Moreover, the impact of electronic consultation on legislative and decisional output and the establishment of legitimacy is yet uncertain.

In my view the changed process is likely to impact on the output, though rather indirectly than directly. Given that no international organisation or network has an interest in having its proposals demolished “in public”, the input of NGO’s will be duly considered at an early stage, i.e. even before proposals are published. There is clearly a danger that policy changes fail to be substantial, with “green speak” and “human rights speak” added

¹¹ <http://www.oecd.org/daf/investment/guidelines/newtext.htm>

¹² <http://www.worldbank.org/poverty/wdrpoverty/events/calendar.htm>
<http://www.brettonwoodsproject.org/debate.html>

¹³ see for a questionnaire on this topic <http://www.wto.org/feedback.htm>

instead to decisions and documents adopted. However, those organisations whose aims are diametrically opposed to powerful NGOs might end up in a stalemate situation.

There also seems to be little doubt that to achieve a certain “threshold legitimacy” of transnational governance some form of electronic consultation will soon be required. An interesting question is whether in future the new standard will “spill over” into the arenas of national and local governance.

References

- Banchoff, Thomas and Smith, Mitchell 1999: Conceptualizing legitimacy in a contested polity. In: *Banchoff, Thomas and Smith, Mitchell* (eds.): *Legitimacy and the European Union*. London; New York: Routledge, pp. 1-26
- Bryan, Cathy et al. 1998: Electronic democracy and the civic networking movement. In: *Tsagarousianou, Roza et al.* (eds.): *Cyberdemocracy: Technology, cities and civic networks*. London; New York: Routledge
- Curtin, Deirdre 1998: Democracy, transparency and political participation: some progress post-Amsterdam. In: *Deckmyn, Veerle, and Thompson, Ian* (eds.): *Openness and transparency in the European Union*. Maastricht: European Institute of Public Administration, pp. 107-120
- Curtin, Deirdre and Meijers, Herman 1995: Access to European Union information: an element of citizenship and a neglected constitutional right. In: *Neuwahl, Nanette and Rosas, Allan* (eds.): *The European Union and Human Rights. International Studies in Human Rights., Vol. 42* The Hague: Kluwer Law International/Kluwer Academic Publications, pp. 77-104
- Demmke, Christoph 1997: National officials and their role in the executive process - 'Comitology' and European environmental policy. In: *Demmke, Christoph* (ed.): *Managing European environmental policy. The role of the member states in the policy process*. Maastricht: European Institute of Public Administration, pp. 23-40
- Demmke, Christoph and Hochgürtel, Johannes 1997: The quality of EC law - the case of the environment. In: *Demmke, Christoph* (ed.): *Managing European environmental policy. The role of the member states in the policy process*. Maastricht: European Institute of Public Administration, pp. 191-220
- Fiorino, Daniel J. 1996: Environmental policy and the participation gap. In: *Lafferty, William M., and Meadowcroft, James* (eds.): *Democracy and the environment: policy and prospects*. Cheltenham, Brookfields: Elgar, pp. 194-212
- Freivalds, Laila 1996: Access to public information. Paper presented at the Conference Access to public information: A key to commercial growth and electronic democracy, Stockholm 27/28 June 1996.
- Gentot, Michael 1995: Openness in public administration. In: *International Review of Administrative Sciences*, Vol. 61, pp. 5-10
- Heritier, Adrienne 1999: Elements of democratic legitimation in Europe: an alternative perspective. *Journal of European Public Policy.*, Vol. 6 No. 2, pp. 269-82
- Höreth, Markus 1999: No way out for the beast? The unsolved legitimacy problem of European governance. *Journal of European Public Policy.*, Vol. 6 No. 2, pp. 249-68
- Ladeur, Karl Heinz 2000: Globalization and the conversion of democracy to polycentric networks – can democracy survive the end of the nation States? Translated by Iain L. Fraser. Paper presented at the Workshop "Globalization and Public Governance", European University Institute, 17 and 18 March 2000.
- Lodge, Juliet 1994: Transparency and democratic legitimacy. In: *Journal of Common Market Studies*, Vol. 32 No. 3, pp. 343-368
- Majone, Giandomenico 1998: Europe's 'democratic deficit': the question of standards. In: *European Law Journal*, Vol. 4 No. 1, pp. 5-28

- N.N. 1999: The non-governmental order: Will NGO's democratise, or merely disrupt global governance?. *The Economist*, December 11th 1999.
- Öberg, Ulf 1998: Public access to documents after the entry into force of the Amsterdam . In: *European integration online Papers (EIoP)*, Vol. 2 No. 8 <http://eiop.or.at/eiop/texte/1998-008a.htm>
- OECD 1998 (ed.): Impact of the emerging information society on the policy-making process and democratic quality.
- Savolainen, Reijo and Anttiroiko, Ari-Veikko 1999: The communicative potentials and problems with teledemocracy. Paper presented at the International Conference on Citizen and Public Administration in the Information Age: Constructing Citizen-Oriented society for the future, 18-20 August, Tampere, Finland.
- Shapiro, Martin 1997: The problems of independent agencies in the United States and the European Union. *Journal of European Public Policy.*, Vol. 4 No. 2, pp. 276-291
- Slaughter, Anne Marie 2000: Agencies on the loose? Holding government networks accountable. Paper presented at the Workshop "Globalization and Public Governance", European University Institute, 17 and 18 March 2000.
- Smythe, Elizabeth and Smith, Peter J. 1999: Globalization, citizenship and technology: the MAI meets the Internet. Paper to be presented at the International Conference on Citizen and Public Administration in the Information Age: Constructing Citizen-Oriented society for the future, 18-20 August, Tampere, Finland.
- Trench, Brian, and O'Donnell, Susan 1997: The internet and democratic participation: uses of ICTs by voluntary and community organisations in Ireland. In: *The Economic and Social Review*, Vol. 28 No. 3, July 1997, pp. 213-234
- Tsagarousianou, Roza 1998: Electronic democracy and the public sphere: challenges and opportunities. In: *Tsagarousianou, Roza et al.* (eds.): *Cyberdemocracy: Technology, cities and civic networks*. London; New York: Routledge, pp. 167-178
- Weiler, J.H.H. 1997a: The European Union belongs to its citizens: three immodest proposals. In: *European Law Review*, Vol. 22 No. April, pp. 150-156
- Weiler, J.H.H. 1997b: Legitimacy and democracy of Union governance. In: *Edwards, Geoffrey and Pijpers, Alfred* (eds.): *The politics of European Treaty Reform. The 1996 Intergovernmental Conference and beyond*. London, Washington: Pinter
- Westlake, Martin 1998: Maastricht , Edinburgh, Amsterdam: the end of the "beginning". In: *Deckmyn, Veerle, and Thompson, Ian* (eds.): *Openness and transparency in the European Union*. Maastricht: European Institute of Public Administration, pp. 127-146