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Transnational movements and the question of democracy

The rise of the NGOs in recent years has raised various new problems, most pressingly that of the "democratisation paradox": Whilst the NGOs ultimate aim is to promote democratic structures in respective countries, their own structures remain relatively unaccountable and undemocratic. Other questions concern the sharing of power between NGOs and democratically elected chambers and the influence NGOs are able to exert over them. Claus Leggewie looks at the complex mechanisms involved and proposes ways out of the legitimisation crisis.

The democratisation paradox

Many Non-Governmental Organisations (NGOs), which are active throughout the world and address a worldwide public, present themselves, in comparison to government representatives, as the true democratic actors. As they have put global problems on the agenda and created a critical, oppositional forum for important issues, their democratising role can be acknowledged without qualification. They raise questions, which concern an enormous number of people worldwide and which can only be dealt with transnationally. Without the NGOs the establishment of the political systems would hardly have taken note of them, nor would the mass media have paid much attention. The role of social movements has always been to uncover the deficits of public debate and to break down the isolation of political elites preoccupied with themselves. An anti-racist group, based in Cologne, graphically put its finger on this double function of raising issues and of mobilisation with the slogan "Arsch huh, Zäng usenander!": If you don't move yourselves, we'll do it, and you'll only move yourselves, because we do it.

Put in more general terms: Social movements bring new political aims (e.g. sustainability), new institutions (e.g. *Agenda 21*) and new procedures (e.g. round tables) to the fore. In the very act of doing so they insert themselves into the structure of intermediate institutions existing between the private sphere and administration – along with the political parties, interest and pressure groups and associations and the mass media – but they do so as outsiders in emergency situations and as suppliers of ideas to the public sphere, as an early warning system within the political system and as an engine of social change. Such citizens' initiatives do not have to bother about the representativeness of their "interests of humanity"; otherwise the positions of radical minorities would have no legitimacy from the start. When a few hundred rebels stormed the Bastille, they did not first of all carry out a survey to find out whether the majority of Parisians would think it a good idea; nor did demonstrators in Seattle or Genoa consider whether their slogans ("This is democracy!", "Voi G-8, noi 6000000000!") coincided with the results of opinion polls. The capital of social movements is "neither votes nor dues-paying members and

expertise, but the commitment of their supporters" (Rucht 2000, p 55).

Social movements started *thinking* universally and globally early on – the relationship of capital and labour was a little restricted to one country as gender relations or damage to the environment. Today, however, they also definitely *act* internationally and transnationally. Starting from very small circles "opponents of globalisation" have created a worldwide public arena for problems and questions which were considered of secondary importance in the mainstream of representative democratic institutions, but which now the established actors increasingly have to address. From the beginning of the 1970s, new social movements have triggered controversies and conflicts, which were not reproduced in the conventional lines of conflict of postmodern industrial societies, and thus have influenced and changed the given institutional arrangement from the outside. Since then the role of social movements has become that of the political mediation of interests. They behave with greater professionalism and sophistication, while the boundaries between protest movements and NGOs have become even more fluid (there is any case often a division of labour between the two). In what follows, despite their differences, they will be treated together as transnational protest and reform actors under the heading of "Non-Governmental Organisations" (NGOs).

As already mentioned, the *democratising function* of these movements is indisputable. On a primary level of the articulation and mobilisation of protest they are not yet confronted with a "democratic question", as one may call the constantly growing demand in the modern period to legitimate collectively binding decisions (including the shaping of opinion leading to them) through elections and plebiscites. The usual and fundamental decision-making criterion is the "guillotine" of the majority; extremely tight election results in the USA and Germany have shown how finely this guillotine majority can slice. Today, however, the activities of NGOs can no longer be summed up in terms of information, consultation, monitoring and the like, nor of educational events and protest campaigns. Their role goes far beyond arousing public interest and mobilising around specific topics, and as soon as they intervene in decision-making processes – particularly beyond the local and the national sphere, to which social movements have until now largely orientated themselves – then they must put up with and indeed themselves pose the question as to their democratic legitimation. Thus far the question has not been satisfactorily answered either by journalists or scholars, which is a little surprising given the claims made and the importance of the question. The democratic claim of the NGOs is problematic in three respects:

- First they participate formally or informally in decision-making processes, without being subject to rule-led and continuous control by those affected.
- Secondly internal opinion surveys of the members and supporters of movements or organisations are rarely drawn up by NGOs. As a rule, therefore, their spokespersons do not have a mandate.
- Third NGOs frequently operate without reference to institutions, which as popularly elected bodies or as interest groups can legitimately claim to represent the will of the population as a whole or of parts of it.

As emphatically as NGOs have pointed to the "democratic deficit" of international regimes (for example of the World Trade Organisation WTO), the more their own deficits of legitimation and representativeness leap to the eye and are indeed deployed against them by government representatives (cf Beisheim 1997; Schmidt/Take 1997; Klein 2002). This discrepancy between

the claim to representativeness and organisation reality can be described as the *democratisation paradox*, insofar as NGOs *have a democratising effect, without themselves being democratic*. What the WTO and other agencies of transnational governance are rightly accused of, is likewise, true of the NGOs. In political arenas "beyond the nation state" there is altogether a lack of credibility.

There is also an element of historical debt to be discharged. The spontaneous storming of the Bastille was followed by the elevation of the Estates General to "Representatives of the French People" and of the Third Estate to precisely that instance which, in the place of the "hundred thousand" (meaning the minority of aristocracy and clergy) decided the laws, that is, in the course of the 19th century the democratic–revolutionary revolt was underpinned by democratic elections. The transnational critics of globalisation still have to provide analogous proof that they, and not the G–8 Summit should speak for "six billion", or in the language of liberal democracy: their "title to rule" is still to be clarified. And at the same time one can only soberly confirm, that "tried and tested institutional or procedural blueprints for democratic and successful governance beyond the state [do not] exist..." (Wolf 2002, p 5). The simple transfer of legitimation mechanisms from the national to transnational contexts is out of the question.

The short arm of democratic institutions

The words "democratic and successful" address two central aspects of legitimation: output legitimation through the effectiveness of government decisions and input legitimation through the participation of the sovereign people in making them. The fact that both government and non–governmental organisations are struggling with the same structural problem, that is, the lack of democratic representation on the global level, is a consequence of the undermining of the nation state from two sides, through the *privatisation and internationalisation* of decision–making). Local and national decisions frequently have an effect beyond the borders of a nation state and simultaneously ever more supranational bodies make cross–border decisions. There is, however, ever less (discernible) involvement on the part of those affected, and in any case there are no "competent instances" to which supranational actors could be accountable. This violates two basic democratic rules: a) the congruence rule, which states that those persons affected by power should be congruent with those exercising that power, (b) the attributability of decisions to subjects who are answerable and can be held to account.

At present adequate instances of assessment, that is, parliament and public sphere, exist only within the framework of the nation state, with the partial exception of the European Union. Yet, as is well–known, the parliament directly elected by Europeans has very limited rights, so that in this still unique supranational representative body the complaints about the democratic deficit are likewise legion. At the European, and even more so on the global level there is no parliamentary formation of government or parliamentary responsibility, no formal control of the executive, no unity of legislative initiative and responsibility for passage of legislation. That means, that all the essentials of the parliamentary prerogative are lacking in the transnational context, whereas actual government activities at this level are increasing by the day. Even more than in the nation state, where parliamentary rights are being eroded, we are here constantly living experiencing "the hour of the executive".

The unmistakable democratic deficit of international and supranational regimes looks even more blatant against the background of the *global success of democracy* since 1945 and above all since 1989. More than half the member states of the United Nations, only a few decades ago made up of overwhelmingly authoritarian systems, are today governed democratically, many of them have organised several regular elections and have durably guaranteed basic and civil rights. Democracy, as precarious as it may still be in many places, is in worldwide terms no longer a minority programme. However, the positive balance-sheet at the end of a 20th century pervaded by totalitarian regimes remains limited to the *interior aspect* of states (whose sovereignty and ability to shape events are diminishing), if beyond the nation state no analogous mechanisms of the rule of the people by and for the people (to follow Abraham Lincoln's classic definition) are to be found.

The critics of really existing globalisation have appeared on the scene as potential representatives of global democracy. The NGOs admittedly are non-state pretenders to sovereignty, which in the mainstream of political theory and constitutional law was tied to the state. To most schools of thought the people and nation is only conceivable in the context of the state, to them democratic self-determination presupposes the existence of a state. Beyond the state there begins the rule of other states, legitimated (or not) by other nations. Consequently supranational communities are not states and – one might be tempted to continue – do not rule. But that, of course, is wrong: The European Union or the International Monetary Fund evidently do exercise power, and even the United Nations has here and there developed into an instrument of supranational government. "Public policy networks" have everywhere grown up in the space between traditional government and governance of a new type, the "societal world" (Czempiel) has established itself in the interstate relations of the state world.

It must be accepted, therefore, that the nation state is only one form of political community among many. Just as local authorities or regions (such as the German *Länder*) have a political identity and aim for the involvement of citizens, this is also naturally the case with supranational and transnational regimes. If the sovereign can bring his rights to bear at several levels of government (e.g. local authority, federal states), it is surely not inconceivable that this can also occur outside the boundaries of the nation state – wherever power is exercised. The democratic principle holds good irrespective of the territorial aspect of political rule, but its institutionalisation beyond the nations is at best rudimentary. And here it is evidently necessary to leave behind *majoritarian* ideas of democracy, according to which a political community (*demos*) reaches politically binding decisions by submitting clear alternatives, embodied in political parties and persons, for which majorities are found in elections and plebiscites, and which in turn determine the direction of policies for a fixed period of time.

In the competitive democracy thus described, the majority of the people and/or the representative body of the people is the source of legitimation. Yet it has to be said, that this "model of democracy is unable to make any connections in the political space beyond the state" (Wolf 2001). The possibilities of a European representative body are correspondingly limited. It certainly co-operates with the European Council on individual cornerstone acts, but it possesses only restricted rights of assent with respect to peripheral parts of the Community budget and limited supervisory rights with respect to the European executive. "The fact, that there is a parliamentary organ at the Community level at all, has been purchased, not least, with its relatively modest range of

powers" (cf Gusy 2000). And despite a considerable growth in powers since the 1970s another rule of thumb held good: "The more important a task, the smaller the parliamentary involvement in it" (ibid.). That raises the question, whether the European Parliament has at all developed into an additional legitimation resource or whether, rather, a reciprocal weakening of the national representative bodies *and* of the supranational parliament has taken place. While the importance and regulatory density of the European political level are increasing, national parliamentarians are less and less able to bring any influence to bear on it, yet at the same time they are facing additional competition from the enhanced powers of a European Parliament, which is itself unable, within the European balance of powers, really to throw any weight onto the scales.

Supporters of European integration want as it were to "rev up" – establish a European "full parliament" (and supplement it with a second chamber, so that smaller nations are not permanently outvoted). There are others who dispute the democratic deficit blamed on the lack of powers of the European Parliament: Since there is no European *demos* (and no European public sphere), then no direct legitimation of Commission and EU Council of Ministers is required; the latter have borrowed their representative quality – by way of a representation of state interests in the executive and steering committees of the EU legitimated by national elections. The principle of democracy, so it is argued, does not necessarily require that all state organs be directly elected by the people, and this mediated legitimation is transferred to the European level. Accordingly the governments of the member states participating in the EU Council of Ministers draw sufficient legitimacy from the national elections of the parliaments from which they emerged. In other words: If the ministers of agriculture or social affairs in Berlin, Paris and Copenhagen are adequately legitimated, then they are so in Brussels likewise. That inevitably produces spaces removed from the control of all representative bodies and occupied by oligarchies and lobby groups. Such extended and ramified chains of legitimation become fictitious and cannot be grasped by those affected by the decisions made without specialist knowledge. And if this is already the case at the relatively homogenous level of Europe, then transnational regimes must be seen as spaces in which democracy is even more remote and absent.

Ways out of the legitimation crisis

Remedies must develop out of political practice, in accordance with the motto "form follows function", bearing in mind that a dogmatic adherence to the givens of a territorial state majority democracy mediated by way of party competition is not going to be fruitful. It is hardly possible to map out an ideal route, all that can be done is to point out the obstacles on the paths pursued thus far. Following the academic debate of recent years three possible solutions can be sketched out:

- the consistent, thorough parliamentarisation of supranational institutions;
- the expansion of a cross-border negotiating democracy (augmented by elements of associative, deliberative and direct democracy)
- and a trans-national citizens' federation.

The last variant is only just appearing on the horizon, the two others may be described as the wrong track or an escape route. But the first thing to be avoided is a dead-end (even if an honourable one).

Dead–end: Democratic isolation

It is possible to draw the conclusion, both from the Anglo–American model of democracy, as from a strict interpretation of state sovereignty in continental European thought, that there is little need to pay attention to the question of democratic participation beyond the nation state, because a loss of national sovereignty is inevitably involved, if the sovereign has submitted to the majority decisions of other nations. From this point of view every supranational community formation patterned on a European demos is bound to fail: There can be no competitive democracy without a world government – and besides such a world government must be prevented. The deeper reason, usually not much taken into account, for the refusal of the United States and Great Britain to take part in supranational and multinational adventures, is a desire to maintain the autonomy of the Westminster Parliament or the American Congress. The USA and Great Britain are certainly not excluded from the economic and cultural dissolution of borders, but they distrust supranational and transnational experiments in democracy, which amount to a political dissolution of borders.

This position suggests a reversal of international political integration or a regulative minimalism to guide the interdependencies of markets or the setting of limits by a hegemonic power. The attempt to protect "lofty" parliamentary rights should not be underestimated: Parliaments are, after all, the core institution of democratic representation and of a democratic public sphere and thus far both indispensable and unsurpassed as guarantees of democratic legislation and government formation and control. All proposals, which aim at a democratic legitimization of transnational decisions by way of a territorially expanded parliamentary control must be regarded in this light. That, of course, assumes exactly the kind of multilateral approach, which the oldest liberal democracies oppose, that is, the surrender of sovereignty rights to supranational decision–making centres, whether the EU or the United Nations or the WTO. It is the motherland of parliamentarism, above all, which has thus far carefully avoided this step, whereas a "postnational" polity like the Federal Republic of Germany already sketched it out in its 1949 constitution; nevertheless the Federal Constitutional Court as "guardian of the constitution" has also emphasised, that such a delegation must not harm the mode of operation of German constitutional organs.

Wrong track: Supranational parliaments

It is not impossible that international political communities will emerge, which identify themselves as an autonomous demos and constitute themselves in the shape of supranational parliaments. This is the hope of the school of thought, which would like to achieve democratisation via parliamentarisation and so increasingly draw parliamentary bodies into political decision–making processes. Since their origins in the estates of the of the late Middle Ages, parliaments have gained increasing influence on ever more areas of politics, including international treaties and questions of war and peace, which long remained a prerogative of monarchs and aristocratic and ruling elites. While the democratic principle has for some considerable time largely been realised in the expansion of parliamentary prerogatives, there can now be observed a strong tendency towards de–parliamentarisation, which is part and parcel of the general devolution of the possibilities of exercising democratic influence. To the familiar tendencies towards the formation of oligarchies and of bureaucratisation there was added the power of "invisible forces", of experts and of the "revenge of lobby groups on the common weal (cf Bobbio 1988).

Without wishing to over-dramatise their influence, one has to include in this list of threats to representative democracy the drift of mediating functions from parliaments to the electronic media; that further underlines the reduction of parliamentary assemblies to a purely symbolic politics, especially as many important decision-making processes have already shifted from "the House" to arcane and opaque arenas of negotiation, and parliaments frequently function only as chambers of registration and ratification of decisions made elsewhere.

In the case of the (old) complaints about the erosion of parliamentary rights it must not be forgotten, that the loss of influence is built into "majority parliamentarianism" itself, once government fractions see their primary task as supporting a government which has emerged from their own ranks and then transfer this to the supranational political level. A parliament that understands itself, at least in part, as in *opposition* to the government, is more inhibited, when it comes to giving up rights to another parliament, which intrudes on the rights of the national representative body, even if a degree of parliamentarisation is thereby introduced into European foreign policy (cf Krauss 2000). As an antidote, the German Federal Constitutional Court, for example, has suggested increased participation of national parliaments in the formulation of negotiating positions and final treaty drafts of national governments in the European Council. A continuous parliamentary observation and supervision, extending over the whole political process, of the national negotiating delegations in inter-governmental arenas, was also discussed and suggested by the Commission of Enquiry into Problems of Globalisation of the German Federal Parliament. Many international and supranational regimes, including military alliances like NATO and WEU, have set up (inter-) parliamentary assemblies, but these are largely tailor-made as co-operative negotiating systems and they provide no space at all for cross-border opposition to executive decisions.

The alternative to the more or less pronounced veto function of national parliaments would be the already mentioned expansion of the EU Parliament into a regular full parliament. Such a reform of the European constitution (cf Weiler 1999) would pair a European government with a genuine representation of the European demos furnished with all rights – the executive would bring forth its own nation, so to speak. That would have to be based on a fundamental agreement by the citizens of the Union, by which, first of all, Europeans feel primarily as Europeans, secondly they work out for themselves a common set of basic values and, thirdly, also regard the European level of politics as the truly decisive one (cf Fuchs 2002a). A rhetoric fixated on the "eternal nature" of the nation state all too easily consigns such perspectives to the utopian realm, but it would most likely be realised, if at all, through a political-cultural demarcation against the outside world (cf Fuchs 2000b), for example in the assertion of a "social solidarity statism" as opposed to the competitive individualism of America or in the self-assertion of individualism and a state of law as against the post-Communist autocracies to the east.

Realistically and in the medium term, both national and supranational parliaments will in future function primarily as places of deliberation, whereby they too will create greater public attention for cross-border decisions. They will act principally as a "forum of public observation, evaluation and criticism of international politics" (Benz 2001, p 277). Social movements and NGOs can make an important contribution to that, by influencing the parliamentary process in the nation states. It is also conceivable, that parliaments will assume a kind of accreditation role with respect to NGOs, as soon as they intervene in supranational decision-making processes. The "deal" would be this: the

popular representative bodies lend the organisations of civil society a greater formal representative quality, while the parliamentary opposition gains greater resonance as far as public opinion is concerned. So far, admittedly, there has been mutual distance and non-communication between these two levels of politics, and a growing alienation between protest movements and elected representative bodies is evident, which is explained, not least, by the troubled relationship between "government Left" and "movement Left" at the end of the 20th century (cf Leggewie 2002). And thus far the European Parliament has hardly figured as an addressee of political demands for extra-parliamentary protest movements; to them an EU summit is hardly any different from a summit of the G 7/8 States or a meeting of the WTO.

Escape route: Negotiation democracy

The European Union is often described technically as a "multi-level system", which is intended to sum up the semi-state or quasi-state character of this organisation, which is more than a confederation of states but less than a federal state. The majority rule can be applied here only to a very limited extent or not at all, so that alternative, post-parliamentary as they're called, sources of legitimation have to be developed. The negotiation democracy type can be described as "post-parliamentary". It transfers a model of political management, much tried and tested at the national level, to the European one, where it is brought to bear with particular emphasis. The collective will is no longer constituted through a (reversible) majority decision, to which the defeated side must submit, but takes the shape of a horizontal self-regulation of the participating societal interests, primarily, therefore, through communication. Two kinds of communication in particular are proposed here: Negotiation and argument. Negotiation takes place, wherever distribution questions (who gets what?) are on the agenda, argument comes into play, wherever cognitive problems (why and how?) also have to be solved. The aim of such negotiating arrangements is to achieve consensual solutions by enlisting recognised spokespersons of interest groups and by integrating minority groups. In other words: When there is no majority, then agreement must be reached – instead of a vote, therefore, the assent of all, if possible, or many.

In this scenario it is unlikely, that the state will be able to force the societal actors to accept a particular policy, rather, as *primus inter pares* and moderator or supervisor it will initiate compromises. The state monopoly of force is held in reserve, so to speak, and the actors operate "in the shadow of a hierarchy", which is present at the negotiating table only as a last resort. The co-operative state approach appears, when its organs are no longer active in an increasing number of areas of responsibility and conflict situations by virtue of act of sovereignty (laws), but negotiate decisions with the societal actors. Ministries and pressure groups act together, either, to initiate effective and sustained legislation, or also, to find practicable regulation below the legislative level.

Advantages for the effectivity of state activity may be given, the legitimation problems, however, are obvious. Thus public debates about possible alternative lines of action do not take place; weakly organised interests and issues of the common weal are systematically neglected. And while parliaments are no longer adequately informed and are reduced to a spectator role, the door is opened wide to "invisible forces" (bureaucracy, pressure groups, experts): in this arcane sphere of politics elite cartels calmly work out compensation and tie-in deals or mutually obstruct one another. The maintenance of the status quo is preferred to risky changes and innovations.

Such negotiating arrangements are not only the norm in declared concordance democracies like the Netherlands and Austria. Conflict institutionalisation along concordance political lines (Maurizio Bach) has become dominant especially for supranational and transnational decision-making processes, where a parliamentary majority decision is the exception or out of the question. It is this sense that the EU has already been described as a "consociative state" (Schmidt 1999, p 435), in which sectoral policy networks operate more less exclusively. Such networks have very much established themselves in transnational regimes, where meanwhile a whole palette of non-territorial or functional political arenas have been established, notably in climate and gender politics. Such themes are cross-border by their nature and cannot be properly dealt with on either a national or a regional level.

Non-state actors, in the first place NGOs, do not only systematically participate in these sectoral policy networks (and their number has increased enormously since the 1970s). They have considerably supplemented and expanded the spectrum of the elites previously recruited from government politics and interest groups, and insofar as they introduce dissent on values and countervailing power into negotiations, they function, as noted at the above, as a critical public, especially when they can point to sympathetic street protests "outside in the street". Supranational and transnational negotiating systems have become more responsive as a result, but simultaneously NGOs were incorporated into the sectoral committee structure as experts. At best they can reshape global negotiation systems by their presence and involvement in sectoral representative bodies, but at the same time, because of the considerable pressure to be successful and efficient, the "executive" political style can spread to the alternative experts, causing them to be no less technocratic.

The transnational negotiation democracy, which goes by the name of "global governance", faces two ways therefore. It can adopt new interests and groups more quickly and take up their specific often confusing competencies. Furthermore, its essentially polycratic structure stands in the way of authoritarian centralism. Yet the other side of the coin is obvious: Who joins up, as it was the classic task of parliaments to do, the results of sectoral politics, for example transport policy and agricultural market policy? How can the actual participation and supervision of "lay persons", of politically interested citizens be ensured? If the rules of democracy (congruence of rulers and ruled, attributability of decisions), described above as being under threat, are taken as fundamental, could those concerned with regulation and those regulated once again tally more closely, for example with recourse to some conception of the "affected parties". Perhaps it would be possible to anchor participatory claims of private actors in this modern "councils democracy". Against that, as can be seen from the European Union, there is the actual preference given to well organised private interests and the emergence of an arcane sphere, in which the consortium of experts changes the NGOs, rather than the other way around. Not democratisation, but progressive bureaucratisation would be the unintended effect of the opening up of transnational bodies to civil society actors.

In order to prevent or at least mitigate this, practical suggestions have been made, as to how actors can be strengthened "from below" – by accentuating the "third sector", by the establishment of egalitarian discourses and by plebiscites. The core elements of this important debate will be briefly sketched here and discussed with reference to their consequences for a democratic opening and functioning of NGOs.

– *Associative democracy*: With the "third sector" the better half of what often remains a rather nebulous civil or citizens' society becomes active, that is in the shape of charitable associations. These varied actors, with their orientation to the common weal, are considered capable of management roles beyond and in co-operation with state and market, but it remains an open question, how democratic or democracy-promoting impulses can be won from honorary, and to a large extent also professional citizen commitment. According to the concept of "associative democracy" (cf Cohen/Rogers 1994; Hirst 1994) the unequal social make-up and organisational capacity of groups, which, of course, regularly comes to the surface in negotiations, can be corrected by bringing "secondary associations" into being through state support for under-resourced groups and by giving them a seat and a vote, for example at round tables and in regional conferences. That is intended to make the negotiating system both more equal and more open to public good interests.

This appeal can be backed up by vouchers (cf Schmitter 1994), which citizens can distribute to associations and other organisations of their choice; these can be exchanged for state financial assistance, which also creates incentives to represent public good oriented interests. The disadvantage: Citizens would in this way certainly get the opportunity to sanction the actions of association officials, but proceedings in the negotiating system itself would remain opaque, as would, not least, the behaviour of state actors, the control of whom, according to the democratic principle, is the most important issue of all. For the NGOs this approach would mean primarily that they themselves have to strengthen their "associative" dimension, that is, expand local branch activities and make their organisations more transparent and accessible, which appears altogether possible in many cases, but is likely to present difficulties for organisations with an elitist structure (e.g. *Greenpeace*).

– *Deliberative democracy*: A disadvantage of negotiation systems, specific to democracies, is that the negotiating power introduced there and negotiating strategies chosen for particular contexts are what count, and not necessarily the better arguments. Intended to remedy this are numerous proposals to encourage a "deliberative democracy" (cf Dryzek 1990, 2000; Schmalz-Bruns). The democratic space is conceived as a relatively power-free discursive space, in which authority is achieved largely through the validity, credibility and persuasiveness of arguments and there is an obligation to represent positions in public discussion, which orient themselves to the common weal, so that they gain broad approval. Related to the work of NGOs in negotiation systems, the advantage of such debates would be, that they link professional expertise (appropriate specialism, therefore) with moral integrity (consistency with the common good) and provides them with precisely this capital of society-wide influence and representativeness. Also, national boundaries can easily be surmounted in such discursive spaces, since the usual externalisation of the costs of national decisions is difficult to justify. What must be borne in mind, however, is how difficult it is to realise deliberative forums in practice. Where it has been tried (including Internet forums), the discussion of public affairs quickly comes up against boundaries which are drawn by the demanding quality of communication and the intended or unintended exclusion of private persons unwilling to communicate. Discourses are conducted by especially well-informed citizens, but they do not achieve that width of participation which can still be attained in elections and referendums. In this respect "deliberative democracy" is more a complementary enterprise, which can improve the quality of decision-making processes, but is no alternative to parliamentary legitimation.

– *Direct democracy*: Deliberative procedures are always lacking in attractiveness, when the exchange of arguments remains cut off from the actual decision-making process, when, therefore, "people have talked to one another", but ultimately "not about anything". The apparatus of direct democracy has, therefore, also been proposed as a means of filling up the legitimation gaps in supranational and transnational negotiation democracies (cf Abromeit 1998), analogous to referendums as a way of combatting the weakening of parliamentarism on the national level. Such referendums are supposed to take place, when the autonomy of a regional unit is seriously affected, for example in the case of fundamental changes in the treaty structure of the European Union. Even more interesting in terms of the legitimation of transnational political regimes is the suggestion, that *sectoral referendums* also be permitted and with an analogous veto function. In referendums of this kind the results achieved in negotiations are submitted to a "sectoral demos" for inspection and transnational policy networks are subject to political control "from below".

Conceptually at least this marks a shift from a territorially founded legitimation of nation state politics to a practically or functionally founded legitimation of non-state politics. The managers and experts, lobbyists and political entrepreneurs active in policy networks, who produce cross-border politics, face "consumers" provided with an effective veto power. This means that the postulates of representativeness, inclusivity and transparency are taken into account and that, thanks to the "sectoral demos", it is possible to begin to move back towards a congruence of rulers and ruled. The derivation of such concepts from assemblies of the representatives of estates and neo-corporatist negotiation systems is unmistakable; conceivable examples of such referendums on the expert-led decisions of transnational policy networks would be ones on possible EU guidelines on permitted genetic manipulation of foodstuffs and a range of similar questions of consumer protection. As always, of course, the devil is in the detail: How is the sectoral "constituency" to be defined, who is affected at all and more or less by sectoral decisions, what kind of representatives are sent to policy networks, do they function as a kind of "electoral college", and how do sectoral and territorial decision-making levels regulate co-operation or conflict?

World citizens' federation as solution?

Conclusion: The democratic question raises serious problems of a new kind in the supranational and transnational context. The simple transfer of mechanisms and procedures of direct and representative democracy from the nation state to the transnational level of decision-making is impossible; and to hope, that the effectiveness of transnational regimes is enough by itself to create legitimation, would come close to a capitulation in democratic political terms. To move forward conceptually and practically, it is evidently necessary to take leave of the model of the all-round competent (in his area) citizen represented by elected deputies and adapt to the Union and world citizen specialised and responsible in specific areas of politics. In other words, develop forms of political legitimation, which are no longer (solely) territorial, but functionally or sectorally founded (cf also on this Frey 2001).

This does not at all mean that nation state citizenship should be replaced or even abolished, it must be complemented, however, by elements of world citizen participation and institutionalised in new forms of political membership. This model can be characterised as "federalist", inasmuch as several levels and obligations of political affiliation interlock supportively, but

not in the manner of a territorial federation of states, but as the interaction of national, regional and sectoral levels of participation and joint decision-making. Even at the level of the model, a considerable increase in complexity and an opaque overlapping of representative organs is apparent. Merely sticking to the hierarchy of competitive democracy and to nationally defined citizenship would, however, be a false reduction of complexity.

No easy route to transnational democracy

The possible contribution and significance of the NGOs can be discussed against the background of these reflections. To begin with certain criticisms were acknowledged, *first* that they frequently, formally or informally, take part in decision-making processes, without submitting to any control by those affected by the decisions, *second* that they rarely conduct a representative internal survey of views of members and supporters of movements or organisations and that their spokespersons do not as a rule have a mandate and *third* that they often carry on their work without reference to such institutions, which can present a claim, as national representative bodies or as interest groups, to articulate the will of the population as a whole or of parts of it. These evaluation criteria remain as standards of assessment; even if it is not possible to operationalise them in line with classic representative organs, they certainly provide criteria for the self-evaluation of NGOs, which cannot restrict the public and common good claim of their interventions to moral appeals and cultural self-presentation. If they wish to sustain the claim, then it will be possible with their help "to risk more democracy" in world society as a whole. The legitimisation of private actors also has to be secured beyond "good" information and expertise, consultation and dialogue. A declared orientation to the common weal and to universalist norms, which allow examination of the consistency of normative claim and practical behaviour, is not sufficient in an ambitious design. The mobilisation of world opinion does not have to remain the only and ultimate function of NGOs, they can also assume representative functions in a further non-conventional sense. In conclusion, how this can happen will be concretised with reference to the three questions brought up at the beginning:

- Wherever NGOs, as a part of policy networks, are involved in making decisions of a regional or global scope, they must answer to a sectoral "electorate", to whose constitution they themselves contribute through their own network activities. Foundations, institutions of political and electoral education, as well as specialist forums can also contribute to the formation of this democratic infrastructure.
- Supported by the modalities of deliberative democracy sketched above, NGOs also have to make a greater effort to ensure the public discussion of their aims and plans for action outside the usual experts' plenums and symbolic actions. Since, as a rule, cross-border problems are at issue, the possibilities of virtual communication can be utilised, which thus far have been surprisingly little used in NGOs or only as tools of mobilisation.
- Finally NGOs must give up their reserve with respect to parliamentary decision-making bodies (usually rooted in organisational history) and bury the illusion, that it is possible to directly address and attack the organs of "global governance" (WTO and the rest) beyond purely symbolic staged events. Conversely this openness assumes in turn an opening of parliamentary committees to the activities of NGOs and could strengthen parliamentary representative functions.

Given such initiatives the shapeless utopian concept of "world citizenship", which many critics of globalisation have claimed for themselves symbolically–affectively, could get an institutional framework, and allow the unfulfilled claim "We are democracy" to be promoted with greater emphasis. With their assistance a world public sphere would develop in a more than merely appellatory sense, that is, in a demotic one – as a true world political community.

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