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the Public Sphere of
International Governance

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Abstract

In the literature on European and global governance there is a trend to conceptualize 'public accountability' as accountability to national executives, to peers, to markets, to ombudsmen, or to courts. While the empirical analysis of multiple accountability relations within governance networks has its merits the creeping re-conceptualization of 'public accountability' as an umbrella term tends to obfuscate one crucial dimension of it: the critical scrutiny of citizens and the collective evaluation of governance through public debate. This paper critically discusses the advance of managerial and administrative notions of accountability into international governance and advocates a return to a narrow conception of public accountability as accountability to the wider public. It then proceeds to investigate the public sphere of European and global governance, its actors, achievements and shortcomings, in order to assess the prospects for public accountability beyond the state. Evidence is found to support the claim that the transnational public sphere is capable of putting pressure on governance institutions in case of massive maladministration, and of generating and promoting new political concerns and demands that in turn are taken up by the institutions of governance.

Keywords

Accountability - European public space - Governance - Institutions - Networks

Introduction

The internationalization of policy-making, although still slower than the transnationalization of market relations, has anticipated the creation of democratic forms of political input and control. While academic commentators have highlighted this threat to democracy more than three decades ago (Kaiser 1971), only in the 1990s it has become a major issue of public and scholarly concern. Particularly in the EU, calls for more democracy, legitimacy and accountability have proliferated since the ratification crisis of the Maastricht Treaty (De Búrca 1996, Føllesdal 2006). One of the key symptoms of the democratic deficit that few authors fail to address is the problem of public accountability, which appears especially troubling after the turn from traditional intergovernmentalism to governance. 'Governance', both European and global, is characterized by a spread of decision-making competence over various levels of policy-making. At the global level, it is also notably fragmented (Picciotto 1997: 1021). It often takes place in networks that may include only public officials (Slaughter 2004) but quite often also private bodies, thus blurring the boundaries between public and the private realm. These networks rely heavily on informal contacts among the actors involved (Eberlein & Grande 2005).

Due to the diffusion of competences, the public-private mix, and informal modes of operation, the origins of political choices in governance networks are often unclear, and responsibility is at times hard to establish (Lord 2004: 195, Papadopoulos 2007: 473). And, despite the rhetoric of cooperative problem solving and joint provision of public goods, by which governance is often described and justified, '[t]he influence of governance networks is not inevitably positive, nor even benign' (Tooze 2000: 96). Network governance also has a pronounced problem of external visibility. 'Networks are based on flexible and functional peer relationships. Their very informality and clubbishness, however, invite exclusion and make monitoring and participation by non-state actors and other government officials often difficult' (Raustiala 2002: 24). For lay people at least, the operation of multidimensional policy networks is extremely hard to comprehend. Along with geographical distance and language barriers, the emergence of governance networks has blurred the citizens' picture of who is doing what in politics beyond the state. Therefore, '[n]etwork governance obscures the process of and accountability for public policy formulation, decision making, and execution' (Mathur & Skelcher 2007: 235). Hence, it would seem logical to argue that the core of the accountability problem of governance is a lack of *accountability towards the wider public*.

Interestingly, however, this notion of public accountability and the normative demands on governance networks that may be derived from it seem to be on the retreat. In the recent literature, we find public accountability in the guise of accountability to peers within governance networks (Benner et al. 2004), to markets (Grant & Keohane 2005) or towards Ombudsmen and courts (Harlow & Rawlings 2007). For a growing number of authors, public accountability is becoming an umbrella term, meant to describe a variety of accountability mechanisms that operate in the realm of public (as opposed to corporate) governance (Bovens 2007). Only for a minority, it seems, the term public accountability still pertains quite specifically to the opportunity of citizens to critically monitor proceedings of governance (Curtin 1996, Eriksen 2005, Papadopoulos 2007). What we observe here is a definitional contest between traditional notions of 'democratic accountability' and of rival accountability concepts that have their origin predominantly in management and public

administration.¹ This definitional contest mirrors some debates in public policy research about the accountability of new forms of public management or, indeed, governance, although it rarely refers to them (for an overview see Erkkilä 2007).

The aim of this paper is to make a strong case for the public in public accountability. The first section maps the definitional struggle over public accountability in the age of international governance. It substantiates the claim that there is an increasing conceptual creep from economics and management into definitions of public accountability. In particular, it identifies three features of recent discourse that are undermining the traditional view of public accountability as democratic accountability: a) the turn to the stakeholder concept; b) the principal agent framing; and c) the view of public accountability as an umbrella under which manifold instruments or mechanisms can be subsumed. Having mapped the definitional contest over public accountability I in section two defend the view that 'public accountability' should always mean accountability towards citizens. Public accountability is exercised in a non-governmental sphere in which a public debate about the flaws, merits and performance of governance takes place. In that section I also locate its place and importance in any system of governance that wishes to qualify as democratic. I contend that public accountability complements the other central mechanisms of electoral and legal accountability.

The third section of this paper takes issue with the idea of the public sphere, a concept that generally needs explanation, and especially so when it comes to international or global politics. In order to have public accountability as defined in this paper, international governance would need a transnational public sphere, but some would claim that it does not exist (yet). I therefore clarify my notion of a transnational public sphere and two crucial elements of it: first, a functioning media infrastructure and second, a transnational civil society. Organized civil society is instrumental in exposing current governance to wider public scrutiny and in detecting and denouncing pathologies of governance that some of the actors involved would prefer to silence; in translating the highly technical and specialized discourses of regulatory policies into a language accessible to lay people; in flagging new issues and formulating alternatives to the choices made by policy-makers. In short, I highlight the role of organized civil society as a critical *watchdog*, rather than representative of citizens' interests, or supplier of policy-relevant expertise. I conclude that such a public sphere of governance is not only desirable from a normative point of view, but also functionally important. External pressure on governance arrangements that originates from the public sphere is an important mechanism in switching governance arrangements from the routine mode to the 'crisis mode' (Peters 1993: 348) which is more amenable to reform and change.

What is public in 'public accountability'?

The English term accountability, which has no direct equivalent in other languages, has long pedigree and dates back to the middle ages (Dubnick 2007). In contemporary usage the term describes a formal social relationship (Thomas 2003: 549) that is characterized by 'the giving and demanding of reasons for conduct' (Roberts &

¹ This is obviously not true for accountability to courts that has a systematic place in conceptions of democratic accountability, as I will explain below.

Scapens 1985: 447). Others, especially lawyers, would add the possibility to sanction misconduct to this definitional core (Mulgan 2000: 556). Moreover, as Bovens correctly insists, accountability is essentially a retrospective exercise (Bovens 2007: 453). Since accountability may apply to various types of social relationships, different types of accountability may be distinguished. A central and rather uncontroversial distinction has been made between managerial (or corporate) and political (or public) forms of accountability. 'The latter is assumed to apply particularly to governments who are accountable to their electors for the *authority* granted to them whereas the former applies to managers being made accountable for the *responsibilities* delegated to them' (Broadbent & Laughlin 2003: 24, emphasis in the original). Authority, which characterizes the public domain, entails the possibility to make binding decisions that affect everyone. In the public domain the accountability exercise applies chiefly to the review of office holders' conduct, with a view to preventing abuses of power (Thomas 1998: 349); in the private economic domain the focus is on the output of the enterprise and the performance of the management in achieving it.

This section takes issue with the diffusion of managerial notions of accountability into the public domain, which, in particular with regard to 'new modes of governance', has led to a definitional contest between an established understanding of public as democratic accountability and new conceptualization inspired by the management tradition. The disciplines of European studies and International Relations thus join in a discussion long underway among scholars of public policy and public administration about the publicness of public accountability and its implications for democracy (for various geographical and sectoral perspectives see Broadbent & Laughlin 2003, Erkkilä 2007, Haque 2000, 2001, Kettl 1997, Mattei 2007, Minow 2003, Thomas 1998).

In the conventional understanding, public accountability denotes a relationship in which the public, understood as citizens, is holding elected representatives, the government, and the administration to account. 'At its heart, the idea of public accountability seems to express a belief that persons with public responsibilities should be answerable to "the people" for the performance of their duties' (Dowdle 2006: 3). Thus, with its emphasis on citizens this understanding of public accountability comes very close to conceptions of 'political accountability' (Erkkilä 2007: 8, Mattei 2007, Sinclair 1995) or 'democratic accountability'. The touchstone of democratic accountability is the responsiveness of office holders to citizens' expectations and concerns. 'The principal political mechanism of democratic accountability is electoral, with politicians being called to account to voters at periodic elections in which the sovereign electorate has a possibility to sanction them' (Goodin 2003: 34).

However, citizens not only expect public officials to respond to their preferences but also to respect the law, to treat like cases alike, and to spend public funds parsimoniously. These criteria of good conduct may be assessed not primarily via elections but by judicial review, financial auditing, and hierarchical control within public administration. However, as Behn has suggested, political performance and responsiveness remain key to any conception of democratic accountability (Behn 2001: 22). With its emphasis on retrospect and assessment of performance, the term accountability also in the public-democratic context shifts the focus of analysis from the input dimension, which is the main concern of much of democratic theory, to the output dimension and ex post control of office holders. This emphasis on ex post performance assessment circumscribes the common ground with managerial types of accountability.

Managerial accountability, in fact, is centrally concerned with performance and results, but much less with input. With regard to 'new modes of governance', the orientation towards results and the versatility of the managerial accountability concept apparently is an attractive feature. The term accountability seems to be better applicable than, e.g., 'democracy' to new modes of governance within and beyond the state. For one, new modes of governance so obviously escape traditional conceptions of government and top-down steering (Wolf 2002). Second, they are functional arrangements of collective problem-solving, whose regulatory scope is quite narrowly circumscribed. Therefore, Keohane and Grant argue that we ought to get rid of traditional notions of democratic accountability in this context because they would not make us see that '[m]ultilateral institutions are, indeed, highly constrained by accountability mechanisms' (2005: 37). Some empirical studies, such as the 'Global Accountability Report', indeed have endeavoured to measure public and private organizations (IOs, NGOs, multinational corporations) to the very same yardsticks of accountability (One World Trust 2006). There is no room here for extensive reflection on the differences between those types of organizations and the usefulness of cross-sectoral rankings. My point is just to illustrate that the 'public' in public accountability is increasingly becoming redefined in the context of international governance, if not disappearing altogether.

In the following paragraphs I identify three tendencies in the governance discourse that indicate the shift from traditional notions of public accountability towards managerial conceptions. First, the turn away from citizens and towards stakeholders. Second, the popularity of the principal-agent approach, which turns citizens into one principal among many others. And third, the tendency to conceptualize public accountability as an umbrella term that covers multiple accountability mechanisms, many of which do not contribute at all to popular control of governance. The literature on international governance hence is in the process of revising the established distinction between managerial and public/political/democratic accountability.

The turn to stakeholders

A first indicator of conceptual change is the advent of the stakeholder on the scene. Although ordinary citizens also retrospectively assess government there appears to be a tendency in the governance literature to replace citizens or the citizenry by stakeholders. 'Accountability refers to the fact that decision-makers do not enjoy unlimited autonomy but have to justify their actions vis-à-vis affected parties, that is, stakeholders. These stakeholders must be able to evaluate the actions of the decision-makers and to sanction them if their performance is poor (...)' (Held & Koenig-Archibugi, 2004: 127). The term stakeholder has its origins in the management literature and means a party that has an interest (stake) in a firm, to be distinguished from the shareholders who own the firm. The diffusion of this word into debates over public governance implies that public accountability is not for everyone but for those affected, insinuating that these can be recognized and defined objectively, maybe even a priori. The shareholder / stakeholder distinction also paves the way for the internal / external dichotomy to which I will return below.

The turn to stakeholders has not just discursive but practical political consequences. To increase accountability towards stakeholders it is often suggested that institutions of public governance should devise consultative forums in which stakeholders can exercise their right to hold decision-makers to account. While one would not object to

consultations with interested or affected parties the (self-)selection of privileged partners bears the risk of exclusion. This has been highlighted with regard to consultative practices in the EU (Greenwood & Halpin 2005) as well as in the global setting (Ottaway 2001). New regulatory regimes in the United States that foresee extensive stakeholder consultation have given rise to similar concerns about access and publicity. 'For those who are not at the table, however, there is a severe problem of accountability' (Harrington & Turem 2006: 218). The turn from citizens to stakeholders of governance, or to consumers, may hence lead to manifest processes of social exclusion (Haque 2000).

The principal-agent framing

The conceptual move towards stakeholders is complemented by the framing of accountability relations in terms of principal-agent theory (PA). As is well known, the principal-agent concept does not have its origins in political science or democratic theory, but in organizational economics (Jensen & Meckling 1976, Laffont & Martimort 2002). The PA relationship was conceived as a contract under which one or more persons (the principal) engage another person (the agent) to perform some service and to that end delegate some decision making authority to the agent. PA thus is often described as a contractual approach to analyzing governance and delegation. One of the fundamental problems that principals face (and that explains the conceptual vicinity to accountability) is the necessity to monitor the conduct of an agent that enjoys considerable leeway and may have a private agenda.

The PA framework has become popular in political science and also in the study of international and European governance, in which instances of delegation abound (e.g. Hawkins et al. 2006, Kassim & Menon 2002, Pollack 1999, 2007). There is nothing wrong with the transfer of analytical concepts from one branch of the social sciences to the other and the applicability of PA theory is obvious wherever explicit delegation of specific tasks to international organizations or functional agencies is at issue. We should be alerted, however, once the whole issue of public accountability of governance becomes dominated by the PA logic, as in one recent special issue (Benz et al. 2007: 443).

Framing accountability of public governance in terms of a PA relationship facilitates the dissolution of the democratic nexus between citizens and political decision-making. Although it is often applied to it (Strøm 2000), the PA concept does not work particularly well to describe delegation and accountability between citizens and political representatives or governments. First, the act of electoral delegation is extremely unspecific. 'Most electoral democracies present their voters with only two or three realistic choices, which means that a multitude of issues must map into a small decision set. (...) A small decision set means that even perfectly informed voters must make their choice on the basis of the few issues they regard as most important, and then accept their representative's decisions on the other issues, whether they approve of the decisions or not' (Rubin 2006: 70). Electoral choice, therefore, does not resemble a delegation contract. As the act of empowerment is so general and unspecific, citizens cannot retrospectively punish their agent for a single decision they dislike. To make things worse, electoral choice is not only an ex-post review mechanism but it is at the same time, and inevitably so, a bet on the future (Riker 1982). Finally, in democratic politics, standards for assessing the performance of the agent are notoriously unclear. The agent is faced with continually and often

unexpectedly shifting expectations on the part of the principal, which clearly contradicts the original idea of a delegation contract in which expectations are stated.

When applied to international governance the PA concept also lends itself to a distinction between the internal and external accountability of organizations. In fact, national governments are often defined as the key principals who delegate tasks to international organizations, agencies, or courts. Therefore, accountability of governance institutions is owed primarily to them while citizens or 'the public' are relegated to the status of external stakeholders, along with interest groups, business, NGOs etc. The analytical distinction between internal and external dimensions of accountability is by no means 'wrong', but in a rather subtle way it undermines the idea that all democratic institutions of governance should be primarily accountable to citizens.

There also is empirical evidence to document that governments abuse their privilege as primary principals to prevent external accountability to the wider public. As Kahler argued with regard to the International Monetary Fund (IMF) advances in external transparency and accountability to a wider public were blocked by the internal principals (2004: 145/6). The same is true for the WTO in which governments are actively hampering increased public scrutiny of what is going on in the organization (). Principal agent theorizing is, of course, not causing these tendencies but the conceptual distinction between internal and (somewhat secondary) external accountability that it provides may be used to defend and justify them. This concern is not completely out of this world since PA theory has been demonstrably influential in shaping policies. It guided, for instance, public sector management reform in New Zealand (Scott et al. 1997: 359/60), which in turn has led to major concerns regarding public accountability and responsibility (Gregory 1998).

Public accountability as umbrella term

One of the key questions with regard to the concept of public accountability is how many dimensions or mechanisms it actually entails. The traditional notion of public as political or 'democratic' accountability is parsimonious in this respect. However, inspired once again by the management literature, it has become fashionable to use public accountability as an umbrella term covering numerous types of accountability relationships in the public domain. Bovens in an often-cited article argues that '[p]ublic accountability comes in many guises' (2007: 454) and subsumes five types of accountability under the umbrella: political, legal, administrative, professional (to peers), and social (to societal stakeholders) (455-7). Benner et al. distinguish five with regard to global public policy networks, crucially adding accountability to markets (2004: 199/200). Grant and Keohane in an article on accountability 'in world politics' count even seven (2005: 36). The term citizen has completely disappeared from their list and the public comes in as a 'diffuse public' that still has to divide its accountability mechanism of 'public reputational accountability' with peers. This testifies to the marginalization of the citizen and the public in recent discourses on the accountability of international governance. The danger associated with advent of new accountability techniques in the public realm is that the public in the sense of all citizens together gets lost out of sight (Haque 2001: 77).

The recent work by Harlow and Rawlings (2007) on new forms of network accountability in the EU can illustrate this problematic. The authors 'take accountability to be essentially a *public* procedure, sited in an open forum or at least

accessible to citizens' (Harlow & Rawlings 2007: 545, emphasis in the original). However, they move on to consider just two types of such public accountability in the European polity. First, legal accountability through the courts, in particular the European Court of Justice and the Court of First Instance. Second, they consider investigations by the European Ombudsman as a softer form of accountability that is more readily accessible to individual citizens. However, the ECJ is concerned with breaches of the law, and the mandate of the Ombudsman is restricted to inquiries into cases of maladministration by European institutions, such as capricious decisions, corruption, or inertia. I do not wish to argue against judicial accountability and critical review by an Ombudsman. But being held accountable by one citizen or one company at a time is different from being held accountable by the public as a whole. This version of network accountability cannot produce accountability for political agendas, programmes, and choices. And it thirdly does not resolve the 'government by stealth' problematic – remoteness, invisibility, and lack of public debate.

Neither is peer accountability within governance networks (Kickert 1993) likely to resolve this problematic. In the EU, the open method of coordination (OMC) was hailed as a novel democratic mode of policy-making due to its (allegedly) participatory and deliberative character. The OMC relies heavily on peer accountability, promising to stimulate a learning exercise and a cooperative strive for best practice. While this is clearly not the place to discuss the merits of OMC, some came to argue that it threatens public accountability by further weakening public debate and critical scrutiny by citizens and national parliaments (Benz 2007: 514-7). To put it provocatively: How publicly accountable is an OMC when '[a]part from those involved, there is little awareness of its existence' (De la Porte & Nanz 2004: 278)? By introducing and legitimating modes of accountability such as peer accountability in networks, the umbrella concept of public accountability obfuscates the relationship between public accountability and the public sphere. In the following paragraphs I will therefore try and rescue the public in public accountability and make the case for 'public accountability' as a specific type of accountability relationship that functions through critical debate in the public sphere.

Public accountability as accountability to the public

Public accountability, as should have become clear so far, is often used interchangeably with the term political accountability, which in turn might become redefined as democratic accountability. I wish to make the case for 'public accountability' as a specific type of accountability relationship that functions through critical debate in the public sphere and that contributes to the broader task of democratic accountability. The intention is to give public accountability a very clear and narrow meaning: 'Public accountability is understood as a more informal but direct accountability to the public, interested community groups and individuals' (Sinclair 1995: 225). Public accountability hence is the accountability of power holders towards critical questions and commentary arising from the public sphere. A similar understanding, through not always explicit, can be detected elsewhere in the literature (Papadopoulos 2007: 477).

Public accountability in this sense is not equal to democratic accountability but rather a necessary element of it that enables other accountability mechanisms, especially elections, to function smoothly. Public accountability here reinforces two other key

mechanisms of democratic accountability: electoral and legal accountability. Political accountability means that power holders are subject to regular approval by their constituency. In democratic countries, focal points of political approval are elections. When their terms in office expire, decision-makers need to face confirmation through competitive elections.

Accountability through elections, however, builds on the presumption that citizens have had the chance to form a political will based on information about the conduct and performance of office holders. As Walter Lippmann famously said, '[t]he world that we have to deal with politically is out of reach, out of sight, out of mind. It has to be explored, reported, and imagined' (Lippmann 1997[1922]: 18). For electoral accountability to function there needs to be an intermediate sphere of public communication that enables citizens to review what is happening in government. In turn, public debate enables office holders to observe and react to changing expectations of their constituency. This is why public accountability taking place through public discourse is central for the functioning of a democratic polity.

Another key mechanism of democratic accountability is juridical in nature. Power holders are accountable not only to voters and parliaments but also to courts. In most democratic political systems constitutional courts have the possibility to subject legislative acts of the executive to judicial review, upon a complaint filed by citizens or upon their own initiative. This form of accountability qualifies as democratic because one of its major purposes is to protect the fundamental rights of citizens against unlawful decisions of the executive and against a 'tyranny of the majority'. In addition, citizens can challenge administrative decisions that affect them in front of administrative courts. Legal accountability thus complements electoral accountability; and it has been argued that as 'new modes of governance' proliferate, which include private actors that are removed from direct political control, the mechanism of legal accountability has become even more important (Jensen & Kennedy 2005). The relationship between legal and public accountability is certainly less intense than the one between electoral and public accountability. However, legal action might well be triggered by public reports of misdemeanour. Box 1 below now summarizes the different mechanisms of democratic accountability as I conceptualized them here.

Electoral – accountability directly to citizens, or to political bodies elected by citizens. The default sanctioning mechanism is voting.

Legal – accountability to non-elected courts that protect the rights of citizens. The default sanctioning mechanism is judicial review.

Public – accountability to the public in the sense of the public sphere. The default sanctioning mechanism is a loss of reputation.

Box 1: mechanisms of democratic accountability

These three elements of democratic accountability function synergistically and mutually reinforce each other. In particular, the threat of elections or court proceedings lends power to public accountability. In fact, public criticism or shaming cannot ultimately enforce changes in behaviour in the same way as electoral defeat or a court sentence. Compared to the 'hard' sanctions of the electoral and legal sort the sanctioning mechanism inherent in public accountability is a 'soft' one, if taken alone. It can only target the reputation of power holders and most persons affected will feel

an urge to rectify, to clarify or to defend their position. In some cases, public challenges to a person's identity and self-esteem may be sufficient to bring about changes of behaviour without any threat of 'hard' sanctions. However, political office holders who face upcoming re-election should be particularly sensitive to public opinion. Therefore, public, political and legal forms of accountability are mutually reinforcing and effectiveness of public accountability is enhanced when electoral or legal sanctioning mechanisms are lurking in the background.

Public accountability and the public sphere

With regard to institutional requirements, a key condition for public accountability to function is transparency (Dyrberg 2002: 83). Democratic self-governance requires that citizens are duly informed about the political agenda, the decisions made and alternative options not chosen (Curtin 1996: 95, Heritier 2003: 824-5). However, access to such information alone does not guarantee effective public control over governance arrangements. Public accountability presupposes a functioning 'public sphere' of governance. The remainder of this essay is dedicated to an exploration of the public sphere in the transnational context.

Since the notion of a public sphere is so central in this respect, a clarification of this term and its political significance is in order. The public sphere is conceived here as 'a realm of our social life in which something approaching public opinion can be formed' (Habermas 1974: 51). It 'can best be described as a network for communicating information and points of view' (Habermas 1996: 360). In Habermas's work a crucial distinction is made between the centre of a democratic political system, and the periphery. Situated at the centre are the sites of democratic decision-making and judicial review, hence parliaments, governments and the court system. The periphery consists of processes of public communication that surround and 'besiege' the formal institutions of democratic decision-making. This communicative space, in which opinions on governance are formed and demands articulated, develops in civil society, beyond the state and the economy (Bohman 1998). The existence of a non-governmental and non-for-profit realm is therefore essential for the functioning of a democracy. It is here that new issues and concerns arise, and it is here that new political demands are formulated (Habermas 1996: 367, Peters 1993: 340).

The emphasis on a public sphere is not confined to deliberative theories of democracy, such as Habermas's. Rather, it has a systematic place in many variants of democratic theory. 'There is a close link between theories of the public sphere and democratic theory more generally. Democratic theory focuses on accountability and responsiveness in the decision-making process; theories of the public sphere focus on the role of communication in facilitating or hindering this process' (Ferree et al. 2002: 289). The existence of national public spheres is rather uncontroversial and usually taken for granted. However, a public sphere conceived as a communicative space is not *a priori* defined by national boundaries but by the boundaries of communication flows. Those can, in theory, transcend national borders, although in practice they may do so only to a limited extent. Nancy Fraser gives a superb account of the challenges posed by the undeniable transnationalization of political power and communication flows.

'In general, then, public spheres are increasingly transnational or postnational with respect to each of the constitutive elements of public opinion. The 'who' of communication, previously theorized as a Westphalian-national citizenry, is often now a collection of dispersed interlocutors, who do not constitute a demos. The 'what' of communication, previously theorized as a Westphalian-national interest rooted in a Westphalian-national economy, now stretches across vast reaches of the globe, in a transnational community of risk, which is not however reflected in concomitantly expansive solidarities and identities. The 'where' of communication, once theorized as the Westphalian-national territory, is now deterritorialized cyberspace. The 'how' of communication, once theorized as Westphalian-national print media, now encompasses a vast translinguistic nexus of disjoint and overlapping visual cultures. Finally, the addressee of communication, once theorized as a sovereign territorial state, which should be made answerable to public opinion, is now an amorphous mix of public and private transnational powers that is neither easily identifiable nor rendered accountable' (Fraser 2007: 19).

The account given by Fraser raises a bundle of normative and empirical questions that cannot be addressed in the framework of this essay. Yet the task of this essay is much less ambitious than Fraser's who seeks to spell out problems of a normative democratic theory of post-national governance, such as democratic equality of access to processes of public opinion formation (many of which are far from being resolved in the national context). My question is more limited and essentially empirical: to what extent does a transnational public sphere already provide for the critical monitoring and review of governance?

Some authors, such as Bohman (1999), Eckersley (2007), Germain (2004), and Payne and Samhat (2004) already see such communicative arenas at work in international politics. It is beyond doubt that important challenges to international governance have arisen from these communications. Since the 'battle in Seattle' in 1999 many international organizations such as the World Bank, the World Trade Organization (WTO) and the International Monetary Fund (IMF) have become subject to critical public review (Kaldor 2000, Steffek 2003, Woods 2000). Public campaigns have at least contributed to the failure of the negotiations of the Multilateral Agreement on Investments (MAI) in 1998. In addition, public pressure has been evidently brought to bear in cases of maladministration and abuse of power by officials in international organizations. The resignation of the Santer Commission in the EU in 1999 and of Paul Wolfowitz as President of the World Bank in 2007 have shown that mechanisms of scandalization that are part and parcel of public accountability can function on the transnational level. Indeed, the Santer case, which is well researched, has shown that alleged nepotism and corruption in the Santer Commission were debated in the media throughout Europe in very similar terms (Meyer 1999, Trenz 2000, 2002). Similar phenomena have been observed in the European discussion about the participation of Jörg Haider's party in the Austrian government (van de Steeg 2006). Thus, the media public may still be segmented along national and functional lines but in critical cases transnational mobilization seems to work. International governance can be exposed to public scrutiny and hence public accountability does exist, at least as ex-post review of office holders' conduct.

What is much less clear is whether or not the transnational public sphere can also generate a discourse in which 'something approaching public opinion' is formed on issues of much less salience. Empirical evidence is available only for the EU whose

public sphere has attracted quite some scholarly interest. Koopmans and Erbe (2004) report that the 'Europeanization' of media communication varies considerably among policy fields.² They argue that media reporting quite accurately reflects the Europeanization of policy making, with an emphasis on policy fields in which a significant transfer of competencies to the supranational EU level has taken place. In a comparative study of newspaper contributions in five member states, Sifft et al. (2007) find an increase in the monitoring dimension, that is, media reporting and comment on political events at the European level. However, they do not find evidence for an increase in what they call 'mutual observation' and 'discursive interaction' between national public spheres in Europe. This is what a strong, normative conception of a public sphere would require.

Most researchers on the European public sphere locate it in the mass media, because this is 'what the general public gets to see' (van de Steeg 2002: 507). Is, however, mass media reporting the only place where we might find an emergent transnational public sphere? Splichal has powerfully argued that equating the public sphere with the mass media is too restrictive and misleading (Splichal 2006). Historically, the emergence of the modern public sphere began in a culture of discussion in the public spaces of salons and coffee shops (Habermas 1962: 90-107). In the age of electronic communication we may be on the way back to forms of public communication that do not take place in the mass media (Bohman 1998, Fraser 2007). Weblogs, for instance, are turning into a locus of political criticism and societal debate that needs to be taken seriously. Weblogs are not just vehicles of private chatting and ranting. There is evidence that journalists use them as a source, link their online publications up to them, and that weblogs in turn link back to the content of professional media sites (Schmidt 2007: 25). There is an emerging electronic public sphere out there that seems to play an increasingly important role in flagging issues of political relevance which may in turn be taken up by the mass media and thus reach citizens as ultimate rule-addressees.

Another insight that needs to be stressed in this context is that public spheres, whether national or transnational, come in the plural. Habermas introduced the idea of a network of various public spheres as overlapping discursive arenas that taken together constitute the public sphere of modern societies (1996: 373). An emergent transnational sphere may hence not a unified, or general, public sphere but rather a segmented patchwork of sectoral publics that are interwoven (Eriksen 2005, Nanz & Steffek 2004). Sectoral publics converge around issues of interest to certain constituencies and to the extent that these issues are tackled by international governance arrangements, may become genuinely transnational in character. Next to individual activists, such as bloggers, these spheres are inhabited by organized civil society. The work of civil society, especially of NGOs and transnational social movements, is crucial for the emergence of a public sphere in global politics. The above-mentioned public scrutiny of international monetary institutions was in fact triggered by civil society and in turn publicized through the media. The empirical evidence suggests that non-governmental actors play a key role in triggering transnational public debates on global governance, thus rendering international governance more transparent and accountable (Scholte 2004: 217). Organized civil

² There is quite some debate on what an Europeanization of public spheres should actually mean. Eder and Kantner have argued that we would need to find a common European 'frame of reference' (Eder & Kantner 2000). Others think that we would need to find an intensified 'discursive interaction' between different countries (van de Steeg 2002).

society is instrumental in creating public accountability in at least three different ways that will be discussed in the following:

- (1) Monitoring public governance;
- (2) Translating highly technical discourse;
- (3) Flagging issues, framing issues, and formulating alternatives.

Monitoring

Monitoring the conduct of power-holders is one of the key problems associated with democratic accountability. Most citizens do not have the time, the capacity, and the specialized knowledge in order to follow the conduct of their policy-makers first hand. They therefore typically need to rely on the media to report problematic decisions and denounce misdemeanours of office holders. Media coverage alone, however, will hardly be sufficient for a close supervision of office holders. In addition, we rely on a broad variety of social actors, from social movements to religious congregations and organized interest groups to flag problematic topics and decisions. These organizations communicate either directly to their membership base or seek to feed information and critical comment into the media channels. Therefore, a lively and attentive third sector is an asset to monitoring. Non-state actors act as watchdogs and thus expose power-holders, both political and administrative, to wider public scrutiny. The need for them is even more pronounced in the realm of internationalized policy-making, as media coverage is sluggish and many of the issues discussed at the European level are of a highly technical character.

NGOs do more than just briefing their members or journalists about events in international politics: they also directly publish conference reports or newsletters that expose the proceedings of diplomatic negotiations to wider public scrutiny. For example, the Canadian NGO *International Institute for Sustainable Development* (IISD) since 1992 has published an electronic newsletter to cover international negotiations related to environment and development, called the *Earth Negotiations Bulletin*.³ The initiative was launched by three activists during the preparatory meetings of the United Nations Conference on Environment and Development (UNCED) and continued since then. The Bulletin is published in two ways. A one-page, two-sided leaflet is distributed each day to participants directly at the site of the conference. In addition to the hard-copy, the *Earth Negotiations Bulletin* is available in electronic format on IISD website and distributed by electronic mail. At the conclusion of each conference session, the *Earth Negotiations Bulletin* team writes a 10-18,000-word summary and analysis of the meeting, which is circulated in electronic format. The editors estimate that electronic distribution has expanded the readership of the *Earth Negotiations Bulletin* to an estimated 35,000 people worldwide.⁴

Another excellent example for the publicity-creating function of NGOs is the *International Centre for Trade and Sustainable Development* (ICTSD), established in Geneva in 1996.⁵ The ICTSD aims to contribute to a better understanding of development and environment concerns in the context of international trade. It

³ <http://www.iisd.ca/volto.html> (accessed 20 April 2007).

⁴ Source: <http://www.iisd.ca/enbvol/enb-background.htm> (accessed 20 April 2007).

⁵ See <http://www.ictsd.org/> (accessed 20 April 2007).

publishes a variety of periodicals on related issues, most notably the newsletter *Bridges* that comes as a weekly news digest and as a monthly review. While the weekly newsletter contains up to date information on ongoing negotiations, the monthly review focuses on analysis and background stories. In order to reach readership in developing countries, in particular in Africa and Latin America, there are also editions in French, Spanish, and Portuguese.

To be sure, these specialized publications do not have an outreach comparable to the mass media. They cater to specialists all over the world, rather than lay people. However, many of these recipients most likely disseminate this information further by using it in their own publications, seminars or public speeches. In reporting and commenting on developments in international governance expert NGOs thus perform the function of journalists. They fill the void of a detailed reporting that most professional journalists of the mass media would not care about, as space available in their general interest publications is too limited.

Translating

As mediators linking the global with the local, social movements and grassroots NGOs with transnational connections are an important interface between states, international institutions and local communities (Randeria 2003: 11). They are especially important as translators between experts and citizens. Much of regulatory policy-making taking place in governance networks is extremely technical in character and definitely too technical for lay people to comprehend what is really at stake. A good example to illustrate this phenomenon is Ferretti's recent study of citizen participation in the authorisation of GMO products for marketing in the EU (2006). Ferretti analyses comments in an online forum in which citizens are invited to contribute their opinions on the authorisation of GMO products, finding that citizens' comments are routinely dismissed by the authorities. They are regarded as 'not pertinent' to the authorisation process because they are not formulated in the highly technical jargon of scientific risk analysis. As a consequence

'[t]he *Gmoinfo* forum has been progressively colonised by specialised non-profit organisations, whose aim is to facilitate public participation, and to overcome the obstacles to people's engagement with questions relating to GMOs, namely the difficulty in collecting the necessary information from the various European Institutions involved (DG Environment, DG SANCO; EFSA etc.), in translating the technicalities of the official documents into a language widely accessible, and to voice potential citizen dissatisfaction about the ways in which the institutionalised spaces for participation are managed' (Ferretti 2006: 17).

Citizens often need an intermediary agent that is able to explain the relevance of issues and decisions for the daily lives of average people, and in turn translate the concerns voiced by citizens into the technical jargon of international governance.

Flagging issues, framing issues, formulating alternatives

Social movements and NGOs obviously not only pass on information to their constituencies. They also critically discuss current political developments and highlight their own position on the subject. Civil society is thus instrumental in flagging and framing issues, and in formulating or highlighting political alternatives.

Flagging issues means to draw public attention to problems and thereby creating pressure on policy-makers to deal with them. There is a vast literature on the role of individuals, social movements and NGOs in world politics that underscores and illustrates precisely this function (Finnemore & Sikkink 1998: 896-9). For example, individual members and organizations of civil society were crucial in triggering transnational concern with and eventually political action against anti-person landmines (Price 1998: 619). Transnational activism was equally crucial in the abolition of slavery and the discreditation of apartheid in South Africa (Crawford 2002, Klotz 2002). As especially the events of the 1990s have shown, efforts by NGO activists and transnational social movements have been quite successful in bringing the adverse consequences of globalization and global governance into the media and onto the political agenda (Kaldor 2000, Tarrow 2005). Public protests triggered an unprecedented media debate on the defects and limits of globalization. The critical reappraisal of global political institutions, and more generally the neoliberal tendencies underlying global governance and European integration, would just not have been thinkable without civil society actors. The flagging of issues, the articulation of grievances, and contestation of political and social practices is exactly the function that Habermas would assign to civil society. These strategies function through the mobilization of public communication about them.

Framing is a discursive process through which meaning is constructed and many of these processes take place in civil society (Benford & Snow 2000). Framing is strategically employed by the campaigning parts of civil society, domestic or transnational, in order to change the public perception of certain issues and to trigger political action on it. Strategic framing thus is a way of demanding political action on marginal topics or suggesting alternatives to current policies. For example, Joachim (2003) has shown how activist NGOs have reframed the issue of violence against women as a human rights problem which proved to be a powerful frame for mobilizing an international constituency.

To summarize, there certainly is a transnational public sphere in the making that consists of two elements. A transnational civil society that formulates and promotes new political demands and thus triggers the emergence of sectoral transnational public spheres that centre on a quite narrow range of issues; and a media sphere, still mainly organized along national lines, that may take up and further disseminate information and challenges regarding these issues. The boundaries between transnational sectoral and more general national public spheres are permeable and allow for the passage of information between the two. Both, the informal and the media public, are important for holding international governance networks to public account. There is good evidence to suggest that at least critical monitoring and scandalization can already function transnationally. There is much less evidence for a transnational exchange of views among citizens, as envisaged by emphatic normative conceptions of the public sphere in political theory. Compared to an ideal public sphere in which all citizens have equal access to public opinion formation existent transnational public spheres are clearly deficient.

However, and this is the concluding point of my discussion, the existing transnational public sphere seems to be capable of exposing international governance arrangements to public scrutiny. They can effectively urge policy makers to justify and critically review their conduct and may indeed switch the operation of the political system from a 'routine mode' into the 'crisis mode' (Peters 1993: 348). In the crisis mode,

issues and problems that have been consciously sidelined, or simply forgotten, move into the focus. There is, as Peters emphasized, no guarantee that such a crisis will bring about political change, but it at least opens up an avenue for it. In fact, the question of change brings us back to a critical question that Fraser raised in the transnational context. In comparing the transnational to the 'Westphalian' public sphere, Fraser worried about the efficacy of public challenges and the capacity of governance arrangements to respond to them. 'According to the capacity condition, the public power must be able to implement the discursively formed will to which it is responsible' (Fraser 2007: 22).

In the context of international governance the capacity problematic is a very sensitive point. As multilateral bargaining systems work under unanimity rule and include numerous veto players, change is much harder to achieve there than in national politics. Moreover, in the international setting there is no mechanism of electoral accountability in the background by which the public could force unresponsive power holders out of office. The synergies between public and electoral accountability that were outlined in section two above are significantly weakened. Therefore, transnational public accountability remains a rather soft mechanism of holding international network governance to account. Nevertheless, it is indispensable for international network governance to approach at least some minimum version of democratic self-governance.

Conclusion

The premise of this paper was that the key problem of international governance is not a lack of accountability but a lack of accountability to the wider public. This problematic, it was argued, is obscured by tendencies to re-define the 'public accountability' of governance as an umbrella term that covers a multitude of accountability mechanisms. In particular, the increase in managerial notions of accountability and respective instruments tends to relegate the public to the rank of one stakeholder or principal among others. This is a worrying tendency because academic accountability discourse is not just an observation of accountability practice but a potential source of inspiration for such practices. In this context, it is worth recalling an observation made by Broadbent and Laughlin with regard to British public policy. They argue that 'pressure on governments can change the level of specificity of the nature of political/public accountability in a manner that mirrors managerial accountability. Nevertheless this change still cannot provide the electorate with direct control of the day-to-day activities of government' (Broadbent & Laughlin 2003: 24). The proliferation of new accountability instruments in governance beyond the state may lead to similar results. It may increase control by peers, courts, markets, and ombudsmen without enhancing the possibilities of public scrutiny and oversight.

In this paper I defended a notion of public accountability as accountability of governance through the public sphere. Public accountability in this sense means that the choices of decision-makers are exposed to public scrutiny and become debated and criticized in public. I defended the view that this specific kind of accountability is indispensable for citizens to form an opinion about international and European governance, and that only if this kind of accountability is present we can reasonably speak of democratic accountability. Public accountability and a public sphere are therefore a precondition for the democratization of global and European governance.

The second half of this paper took issue with the transnational public sphere, in which public accountability takes place. The crucial question in this respect was whether the transnational communicative infrastructure is already functioning. Research on the public sphere in Europe has shown, on the one hand, that the emerging transnational public sphere does not fulfil the high standards of political theorists who would demand universal and equal participation of citizens in a process of collective opinion formation. On the other hand, it is certainly capable of putting pressure on governance institutions in case of massive maladministration, and it is also capable of generating and promoting new political concerns and demands that in turn are taken up by the institutions of governance. Thus, we can rely on the transnational public sphere to switch the operation of internationalized policy-making from routine to the crisis mode and trigger processes of reflection and change. The weakness of public accountability at the transnational level is not an inability to mobilize criticism and resistance but rather the lack of complementary mechanisms of electoral accountability, or equivalent instruments of robust sanctioning. As electoral democracy beyond the state is not within sight, the challenge for the future is to ingenuously strengthen established instruments of accountability so as to make them responsive to demands and criticism arising from the transnational public.

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