

II. Civil Society Contribution to Democratic Governance: A Critical Assessment

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Civil Society Contribution to Democratic Governance

The deepening of European integration along with globalisation is said to bring about a slow but profound transformation of the European nation state. The nation states are becoming part of a system of multi-level governance which brings a multitude of actors into a diverse system of decision-making arenas. In the emergent polyarchy, state controlled hierarchy is on the decline and with it the legitimation of political authority by elections and party politics. Citizens, however, do not just withdraw from politics but turn to different forms of political participation. In this changing environment, civil society is attributed a prominent role in legitimising and shaping politics. But what role can we attribute to civil society in the multi-level and multi-national system of the EU? Whereas Research Group 5 set out to explore the chances and conditions for the emergence of a trans-national civil society that adequately reflects the diversity of civil societies in Europe, Research Group

4 focused on the relation between civil society and EU institutions. Researchers and practitioners joined forces to explore the involvement of citizens and civil society organisations in EU governance. They made a systematic inventory of newly established rules and procedures and resulting patterns of interaction. Civil society actors are well represented in the maze of policy networks and negotiation systems, but it is not evident if they also qualify as a political force that sets the political agenda, gives input to policy formulation and is participating in the implementation and evaluation of policies. In 2001, the 'White Paper on European Governance' signalled a new approach which was translated into a more participatory 'consultation regime'. How did the European Commission translate the high principles of good governance – openness, participation, transparency, and accountability – in strategies and instruments? Does it effectively support weak interests and enhance citizens' input to European governance? And does the interaction of EU institutions with civil society organisations live up to the expectations of democratic participation nourished by normative political theories?

Changing images of civil society

Civil society ranks high in academic and political discussions on democracy. It is perceived as a remedy to the legitimacy crisis of national systems and as a promise to turn international governance more democratic. But civil society is an illusive concept and contending conceptual frames govern the normative reflections and political recommendations which give legitimacy to civil society engagement. Therefore, researchers in RG 4 set out to exploit existing research comparing theoretical and methodological approaches intended to justify and measure the democratic value added by civil society participation. Furthermore, they engaged in comparative research to analyse

the rise and metamorphosis of civil society in different parts of the world and compared it with the incantation and uses of civil society in the EU. (Jobert/Kohler-Koch 2008)

The positive image of civil society has many roots: In Europe's collective memory civil society takes a prominent place in the peaceful transformation to democracy in Central and Eastern Europe. In well-established democracies, civil society organisations stand up for weak interests and both at home and abroad they act as advocates of general values and of rights based interests. Civil society conveys the image of grass-roots activism and the voice of the people in global governance. Political discourse and also normative theories of democracy attribute civil society a key role in rejuvenating democracy.

Comparative research scrutinised the use and misuse of civil society concepts.¹ The findings document the varieties of concepts and support the hypothesis that the recourse to civil society is more often than not a response to profound legitimacy crisis while also having an instrumental value. The EU is no exception: The discourse on civil society draws, mostly implicitly, on many divergent concepts and, consequently, promises the cure of all kind of deficiencies. Thus, the involvement of civil society as propagated by EU institutions, above all by the Commission, is meant to foster both, input and output legitimacy. However, institutional factors and the reality of associational life in Europe channel how these ideas are put into practise. (Finke 2007; Kohler-Koch/Finke 2007)

It is widely acknowledged that the diversity of political cultures, languages and national allegiances in Europe are obstacles to the emergence of a trans-

¹ Papers addressing these issues are published in Jobert/Kohler-Koch 2008.

national civil society. Less noticed are the effects of civil society changes at member state level. Even in Scandinavia, which used to be a model of association based democracy, the organisation of civil society has been moving from mass member based associations, which served as transmission belts of collective interests to government, to a more pluralist associational life serving individual interests (Selle 2008). As the Scandinavian model is even in decline in the countries of origin, we can hardly expect its re-invigoration in the EU. Rather, the EU is faced with a pluralist system of highly professional organisations in which value and rights based civil society organisations compete with a wide range of social and economic interests groups.

The Institutional Shaping of EU-Society Relations²

The participatory discourse has clearly raised the awareness for the need of input legitimacy. The huge number of interest groups and the pluralist composition of the intermediary political space surrounding EU-institutions were not considered to be satisfying in terms of democratic input. Rather, the Commission got engaged in ‘participatory engineering’ setting up norms and standards of consultations and designing new instruments and procedures of interaction with citizens and civil society organisations. Thus, a new generation of EU – civil society relations emerged which culminated in the establishment of the principle of ‘participatory democracy’ in the Draft Constitutional Treaty.

The engagement of EU institutions in participatory engineering is not a singular phenomenon. Interventions of political institutions which provide citizens with more opportunities to participate effectively in policy-making

² Papers addressing these issues are published in the Journal of Civil Society 2007 3/3 and in this volume.

have mushroomed in recent years (Zittel 2008). A ‘user workshop’ and an online-forum yielded insights into the variety of approaches, the different uses of instruments and the divergent effects at different levels of government. Since the instruments of participatory engineering are mostly developed for local democracy, the transposition to the EU level is not without risks. It has been argued convincingly that the distance from grass roots levels and the central position of the Commission might undermine the credibility of a top down strategy of ‘giving people a say’.

Systematic research and continuous exchange of experience with practitioners from EU institutions and civil society organisations provided a full picture of the broad range of instruments and procedural reforms aimed at ‘good governance’. The Commission succeeded in widening participation by lowering the threshold of access; it has increased transparency and has lent support to the representation of weak interests. Feed-back mechanisms have increased responsiveness and the readiness of some General Directorates to subject their communication with stakeholders to scrutiny by an external peer review group is a first step towards political accountability. (Quitkat/Finke 2008)

Comparative research explored and assessed the difference between policy areas. When comparing the first with the second pillar of the EU, it is manifest that civil society involvement in foreign and security policies is less in the spot light but it is, nevertheless, very present. Institutions and governance styles in the two pillars make a difference, but variations in policy issues and types of conflicts have a more discernible impact on the manner and degree of civil society involvement. When comparing civil society involvement in the EU and in International Organisations, the EU fares quite well in terms of openness, transparency and inclusiveness. Civil society organisations addressing the EU and IOs face the same problem entailed in a

multi-level system: success depends on the capacity to have continued presence on all levels, on the endowment with financial and human resources, the command of scientific expertise, and the ability to use insider lobbying strategies and to mobilize coherent issue frames.

Assessing the democratic value of civil society involvement

When trying to assess the democratic value of civil society engagement, we have to take into account that normative benchmarks vary with theoretical approaches (Hüller/Kohler-Koch 2008). Theorists of liberal democracy will put equal representation, effective participation and political accountability first. In this perspective civil society involvement will enhance the democratic quality of EU governance when it contributes to give citizens a voice, to redress biased representation and to exert a watchdog function so that citizens can hold decision-makers on account.

Notwithstanding recent efforts to become more open, inclusive and participatory, equal representation has not been achieved, neither in terms of types of interests nor in relation to territorial origin (Persson 2007). Also the representativeness and accountability of civil society organisations is put on trial; the direct link to members and constituencies is truncated by the multi-level character of EU governance and, in addition, suffers from the trend of forging large federations. Civil society organisations are pushed by the Commission to unite in embracing platforms or networks for the sake of reducing transaction costs. But it is also in their interest to join forces when they want to meet increased interest group competition. There are strong tendencies of an elite system of representation in the making. Last, not least,

communication with the average citizen is put under strain with the Commission's recent insistence on evidence based decision-making which gives preference to expert knowledge and puts political, value oriented debates second.

The picture looks different though not brighter when benchmarks relate to theories of deliberative democracy. In recent years, the discourse on EU-civil society relations was heavily influenced by normative theories advocating deliberative democracy for governance beyond the nation state. The benefits of increasing the deliberative input and the potential contribution of civil society organisations to enhance the epistemic quality of decisions are well argued in theory. Rather than expanding the theoretical argument, researchers in RG 4 set out to explore the validity of these assumptions through empirical research. The results, again, are sobering. The recourse to public campaigning, strategic behaviour and elitist professionalisation work to the detriment of deliberation. The plurality of voices which is still present in the stage of agenda setting is disappearing when it comes to later stages of policy formulation and decision-making. The justification of political positions with good arguments is supported by the commitment to evidence based decision-making, but the resonance of arguments across the layers of a multi-level system is evidently missing. Reciprocity and publicity in the policy discourse are the exception rather than the rule.³

³ Papers addressing these issues will be published in an edited volume by Beate Kohler-Koch in 2009.

The promotion and Europeanisation of national civil societies

In line with the pledge ‘to bring Europe closer to the people’ the Commission has reached out to national civil society organisations and decreed their inclusion in the formulation and implementation of sectoral policies. The way in which the demands and arguments of civic groups are taken into account evolves in the course of this interaction. It is heavily influenced by the regulatory object and by the regulatory public (O’Mahony/Coffey 2007). Furthermore, detailed case studies reveal a two way effect: civil society involvement changes the perception of the responsible General Directorate of its own role in such public participation exercises (ibid) and it contributes to the Europeanisation of involved interest groups. Europeanisation, however, does not result from the ‘teaching exercise’ of the Commission’s communication policy, nor does it follow the functional logic of shifting loyalties; it rather comes about as a ‘banal Europeanism’ caused by the ‘enhabitation’ of the EU at an every day level (Cram 2008).

The promotion of ‘good governance’ and democracy is a prime objective of the EU’s foreign policy in neighbouring European countries. The strengthening of civil society is considered both as an end in itself and as a device to bring about political reform. Research Group 4 took a top-down view exploring the strategies and activities of EU institutions, whereas Research Group 5 approached the topic from a grass roots perspective. A comparative investigation of the choice of instruments and partners revealed that the EU was often trapped by the dilemma of having to choose between societal organisations which are closely associated with government and

organisations in opposition to the (authoritarian) government. Apparently, this is a choice between, on the one hand, short term political stability and a possibly long-term transition to democracy and, on the other hand, a more conflict prone process that may bring about change more rapidly. Irrespective of all the differences that accrue from different national situations, democracy promotion through civil society support turned out to be a fly-by-night instrument that was used with ever greater hesitation over time.⁴

⁴ Papers addressing these issues have been published in the edited volume by Knodt/Jünemann 2007