Governance Arrangements For Sustainability: A Regional Perspective

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Abstract

Purpose

The article focuses on the preconditions for forging International strategies to deal with social and environmental sustainability.

Taking the Brundtland Report and its implied strategy based on inter-governmental conferences and treaties at the global level as a point of departure, this article suggests an alternative strategy which focuses on governance arrangements (GAs) rather than government agencies and at the regional rather than the global level.

The article argues that for these to function effectively, they must be perceived as legitimate by those affected by their decisions.

This article argues that this will depend on their conformity to certain generic principles regulating the chartering, composition and decision-making of such GAs. If these are successful in Europe, their norms may diffuse to other world regions.

Design/methodology/approach

This is a conceptual article which presents principles for international governance for sustainability based on current experiences with governance in the European Union.

Findings

The article points out that since the publication of the Brundtland report, among the most significant political/institutional changes with regard to policies for environmental sustainability have been the

expansion of the competences of the European Union (EU) and the emergence of a numerous and wide-ranging set of trans-national non-governmental organizations. The article indicate show this new institutional terrain may be used to forge new governance strategies for sustainability.

Originality/value

The originality/value of the article lies in its analysis of decision-making in the EU as a point of departure for global governance for sustainability.

Key words

Governance, EU, Sustainability

Introduction

At the time the Brundtland Report on Sustainable development was published (WCED; 1987) (), the obvious assumption was that this was the task of politicians acting in the name of sovereign national states who would enter into intergovernmental treaties with each other. Since the scope of most of the problems being addressed was global, it was further assumed that these treaties should be as comprehensive as possible and this implied a privileged role for the United Nations and its specialized agencies. And, indeed, the Report seems to have served as a stimulus for the convocation of a number of global conferences at which such treaties were drafted—and it continues to do so, (the latest being the Cop 15, the United Nations Climate Change Conference in Copenhagen in December 2009). The signatories to these draft conventions were supposed to ratify them promptly and implement them faithfully according to the well-established doctrine of *pacta sunt servanta*.

The ensuing 20 years have demonstrated that this strategy is flawed. Some countries sign treaties, but do not ratify them – including major countries like the United States. Others do ratify, but do not comply with their obligations. And not a few just sit on the fence until the treaty outcome has become clearer. Global summits and treaty negotiations continue to be held, but with reduced expectations.

Fortunately, world politics have changed dramatically since Brundtland. Features that were barely discernable in the mid-1980s have become major trends. A large number of autocratic governments have collapsed and been replaced by democratic ones. Non-state actors have grown in importance and now routinely transcend national confines; domestic publics have become aware of and are being mobilized around foreign issues as never before (Ruggie 2004); globalized corporations have acquired resources superior to all but a few sovereign states and are operating simultaneously and relatively autonomously in many of them; trans-national scientific communities have formed around a multitude of specialized issues and are exerting more influence on policy-making at all levels of territory; the cost of international communication and transportation has fallen precipitously; massive flows of persons across national and continental boundaries have revealed how difficult it has become for governments to control even a core element of their sovereignty; a permissive ideology of *laissez-faire* and *laissez-passer* in goods and services (but not people) has proliferated far beyond its previous Anglo-American liberal heartland. Finally, the multiple and complex issues involving sustainable development have become more salient to mass publics – and better supported within and across scientific communities. In other words, the generic argument in Brundtland that sustainability should be considered an urgent concern that transcends existing national borders and overwhelms present state capacities has been won. What is needed is a common strategy that takes into account the

complexity of the problem **and** the momentous political changes of the past twenty years.

The European Union EU) offers an interesting arena for sustainability oriented governance entrepreneurship. The EU cannot govern in the traditional sense of the hierarchic application of authority and punishment of violators, like a consolidated nation state.   To overcome this deficit, it has developed an elaborate practice and a normative justification for itself as a "**multi-layered and poly-centric system of governance**" that may contain interesting lessons for international governance for stustainability going forward.   None of the world's other regional institutions – MERCOSUR, ASEAN, CIS, OAS, AU and over a hundred other acronyms – deserve this label.   At best they are instruments for regional **cooperation,** not **integration.**

EU's multi-layered and poly-centric system of governance governance has several characteristics: it is governance rather than government; it is partial rather than comprehensive, and it is regional rather than global.

Governance rather than Government:

Governance works not through formal monopolistic institutions exercising ultimate authority over a specified territory, i.e. **states**, but through informal arrangements of actors exercising some degree of control over diverse

functions, i.e. **networks**. Such arrangements are open to participation by different types of actors – public and private, profit and non-profit, national and trans-national, expert and amateur, producer and consumer, large and small – who have been identified and have accepted each other as "stakeholders." What these actors have in common is an enhanced awareness of interdependence. They have conflicting objectives, but depend sufficiently upon each other so that no one can simply impose a solution on the other; and all would lose if no solution were found. They know that their respective contributions are needed to varying degrees if some problem is to be solved or some public good is to be produced. Moreover, they also know that the solution cannot simply be bought in the market or commanded by the government. These other two mechanisms of distribution would normally be preferred on practical or ideological grounds, but thanks to either market failure or state failure (or both), "second best" more complex governance solutions becomes the best ones.

It is precisely their informality in both composition and operation that makes governance arrangements so much more appropriate as a starting point for tackling sustainability issues. They can be "chartered" initially by virtually any level of government or even set of private institutions, but what is especially important is that membership in them is not contingent on the formal (and illusory) equality of inter-governmental organizations and decision-making proceeds by negotiated consensus – not by unanimity or

voting. Moreover, actors in such arrangements can collectively set standards and set up monitoring systems without having to go through formal processes of ratification. Ideally, such arrangements should be 'self-enforcing', but in the real world their role is always circumscribed by both market and state mechanisms. In order to reach consensus in the first place, 'stakeholders' often depend on their mutual fear that, if markets were to distribute goods or states were to impose solutions, they would all be worse off. The implementation of choices made by governance may be even more problematic. Markets can offer powerful incentives to defect from them and, thereby, gain short-run competitive advantage. Lack of official support from governments can mean that monitoring devices will be weak and sanctions impossible to apply.

In other words, governance arrangements in Europe may fit the political conditions of a world "Post-Brundtland" that has lost its clear demarcations of national sovereignty, that has to cope with problems cutting across entrenched functional specializations, that has generated a wide variety of actors insisting on their right to participate, and that has not yet produced a regional system of government. They are not, however, the definitive response to the challenge of sustainable development. For the foreseeable future, such arrangements will still ultimately have to face the test of market competition and to rely ultimately on the legitimate coercion of national state authorities. They cannot stand alone.

Partial rather than Comprehensive:

Sustainable development demands nothing if not comprehensiveness. It requires that multiple and relatively autonomous domains of human endeavour have to be coordinated. The problem is that governance arrangements work best when they are partial, i.e. when the stakeholders involved are relatively few in number and highly dependent upon each other. These arrangements may be useful in overcoming the 'intergovernmental' limits imposed by national sovereignty, but how effective can they be in bridging the differences in knowledge and interest embedded in distinct functional domains?

The simple answer is that we do not know. Only innovation and experimentation will inform us. Can stakeholders in one domain – owners, employees, experts, interest representatives and civil servants – learn from what others have accomplished? Will participants engaged in solving their problems of sustainability even perceive the positive and negative effects that their efforts have upon others? Will entirely new scientific specialties emerge to deal with the interstices between different governance arrangements? Can one even imagine something like 'mergers and acquisitions' in the future in which initially separate governance arrangements combine to deal with more comprehensive issues?

History at the national level in most developed societies suggests that this was possible. 'Spill-Overs' routinely occurred across scientific specialities and administrative functions. Some policy arenas proved more strategically important than others and incorporated less innovative or weaker ones. What made an especially significant contribution to these processes of diffusion and expansion was the existence within each national state of something called a 'civil society.' The participants in most governance arrangements have not been individuals but organizations. And these scientific societies, business and professional associations, trade unions, social movements, community organizations, and so forth have to relate to each other across levels and arenas. They often compete for member affiliation and financial support, and have to form alliances for broader purposes. One special peculiarity of this process at the national level, however, is virtually absent at the trans-national level – namely, the existence of a system of competing political parties. With their ideological appeals, electoral campaigns and comprehensive role in forming governments, these parties - in the context of a nation state - provided a powerful incentive for connecting the "partialities" embedded in separate policy domains. As we shall see below, only in a very few trans-national regions does anything equivalent to this yet exist.

Relying on the governance of functionally differentiated policy domains to accomplish sustainable development is definitely paradoxical. It proposes to use a partial instrument to reach a comprehensive objective. At best, it

offers the promise that dispersed efforts at functional problem-solving by isolated groups of stakeholders will not only not interfere with each other, but eventually lead to a more encompassing approach. However, un-sustainability is increasing at rapid pace and something has to be done sooner rather than later. Of course, a more comprehensive multi-sectoral system for assessing risks and allocating responses would be preferable. Alas, it will not be available in the foreseeable future.

Regional rather than Global:

Not only should sustainable development be comprehensive in functional substance, it should also be global in territorial scope. Its most basic principle is that the world has become one. There exists only one eco-system and an increasingly integrated economy. Awareness of this has grown, but the world is no closer to possessing a political mechanism at the global level for identifying policy priorities, setting relevant standards, raising necessary resources, supporting collective efforts and, when all else fails, punishing defections from the common good. National states still try to do this and they necessarily do so in a highly unequal and self-regarding way.

But they are no longer alone. One of the most significant of the changes that have occurred since Brundtland has been the emergence of 'trans-national regions.' Between the global and the local in some parts of the world – and nowhere more so than in Europe – there now exist complex 'multi-layered'

political systems in which the responsibility for using public authority is shared across different territorial levels and the implementation of policies requires constant cooperation among them. We are convinced that, given the disappointing results of trying to reach global agreements and empower global intergovernmental organizations, this intermediate 'regional' level provides us with another 'second-best' strategic alternative.

And the fact that the European Union – now expanded to include 27 countries – is in the vanguard of such developments is especially encouraging. This world region has the collective resources – material and human – to make a highly significant contribution on its own. The existence of a supra-national organization with a proven capacity to generate benefits for all of its members and of a population that is more aware than almost any other of the costs involved in 'un-sustainable development' are more than coincidental. The citizens of the EU uniquely expect their regional organization to do something about these risks (Schmitter 1996). Another significant factor is that Europe – within and beyond the EU – already possesses the key elements of a continent-wide civil society that can play a crucial role in identifying priorities, diffusing best practices, and pressuring for 'spill-overs' from one domain to another. This region does not yet have a distinctive supra-national party system, but such a system could emerge in the near future and sustainability issues could well determine its configuration.

Students of international relations have long recognized that voluntary and peaceful change at this macro-level requires the exercise of leadership (they call it "hegemony").[1] Some actor has to take the initially greater risks and pay originally higher costs. Empire allows for the imposition of such changes by force; major policy shifts within national polities typically follow from changes in the party or alliance in power. Regional organizations are in a unique position to play this role constructively, precisely when they are not simply a façade covering domination by the most powerful national state, the largest private firm, the momentarily hegemonic political party, or the best funded NGO. The European Union has repeatedly demonstrated its independence from the hegemony of its largest member states and its capacity to exert influence outside its own territorial sphere. No other trans-national regional organization can (yet) make that claim, which is why at this point in time the European Union offers to the world its best strategic alternative for advancing politically sustainable development.

While it is conceivable that other world regions might eventually imitate its institutions (in fact, the EU has dedicated considerable resources to efforts to clone itself and meets regularly with its "counter-parts" in Asia, Latin America and Africa), the best one can expect in the near future is that individual national states will chose to adopt the regulations and standards developed by EU governance arrangements. Needless to say, this is most likely in

"neighbouring" states to its South and East where such "Euro-compatibility" may enhance their prospects for eventual membership.

Combining Governance and Legitimacy in the European Union

Governance arrangements must ultimately combine performance with legitimacy. With its White Paper on Governance, (2001) the EU literally proclaimed its intention to stake its future legitimacy on the successful application of governance arrangements to solve interest conflicts among its member states and to satisfy normative expectations across its national publics. In so doing, it also implicitly recognized that it could not compete on the standard criteria of legitimacy with national democracies. Whatever modifications might be introduced in its rules and practices – including those in the draft Constitutional Treaty and its abridged Lisbon Version – they would not suffice to convince most of its citizens that the EU could function as a 'real-existing' liberal-representative-parliamentary-electoral-constitutional-democratic regime. Something else had to justify why the decisions of this unavoidably complex and remote trans-national regional polity were legitimate and worthy of being obeyed. And 'governance' was chosen to fill this bill of particulars.

However, much of what is happening within the EU on a regular basis is more the result of expediency, pragmatic tinkering, time pressures, the diffusion of 'best practices,' *ad hoc* and even *ad hominem* solutions than of shared principles and explicit design. It is still my (untested) presumption that, if the EU were to

elaborate and defend a number of clear principles and to design its governance arrangements accordingly, this would improve the legitimacy of their decisions in the long run and, just maybe, convert the EU from a consumer of national legitimacy into the producer of a new type of supra-national legitimacy that could be applied to the tasks of ensuring ecological and social sustainability at the regional level.

The following sections outline some core design principles for governance arrangements, with a focus on both legitimacy and efficiency. This includes chartering, composing and decision-making.

Design Principles for Governance Arrangements

If one accepts the following generic definition: governance is a method or **mechanism for dealing with a broad range of problems or conflicts in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating with each other and cooperating in the implementation of these decisions**, then there are three tasks that should be accomplished if such arrangements are to be regarded as legitimate by those who are going to be affected by their decisions: (1) they have to be established by some recognized and pre-existing authority and be given a specific mandate within which to operate (**chartering**); (2) the actors who regularly participate in them and who are presumed to represent wider publics have to be chosen (**composing**); and (3) these actors have to be instructed how they are to negotiate, reach consensual agreements on policies and go about implementing them (**decision-**

making). What is critical about these three dimensions is that the solutions they require do not correspond to the norms that prevail in most 'real-existing' liberal democratic governments. Governance arrangements are not self-established "by the will of the people;" they are not open to the participation of all citizens, but only to a selected and privileged sub-set of them; and they do not make their decisions on the basis of majority voting, or even voting at all. Even more unconventional is the fact that these regional governance arrangements can be poly-centric and, therefore, not be subject to the hierarchic or sovereign control of a single institution such as the parliament or the executive power.

<div align="center">Chartering Governance Arrangements</div>

First, one should start with the notion of chartering, i.e. of how a governance arrangement (hereafter, a GA) gets established at the regional level to deal with a particular task. This question of "why are these actors making decisions on this issue?" should be resolved through an explicit delegation of authority from a legitimate pre-existing institution, i.e. by means of a charter.

This notion of a charter rests on the presumption that a particular issue or policy arena is 'appropriate' for such an arrangement, *ergo,* it is not better handled by good old-fashioned market competition or government regulation, and that (*subsidiarité oblige*) it should be tackled at the supra-national level. What has to be demonstrated and defended is the notion that some particular set of actors, each acting autonomously, is thought to be capable of making decisions that will

resolve the conflicts involved and provide the resources necessary for dealing with the issue pre-designated by its charter. Moreover, these decisions once implemented will be accepted as legitimate by those who did not participate and who have suffered or enjoyed their consequences. And, if this were not enough, a successful GA would also have to demonstrate that its capacity to resolve conflicts and provide resources is superior to anything that a national or sub-national arrangement could have done. Looked at from this perspective, there may not be that many policy arenas that should acquire "their" respective GAs!

Six Principles for Chartering GAs:

1. The principle of 'mandated authority': No GA should be established that does not have a clear and circumscribed mandate that is delegated to it by an appropriate institution. Any EU institution should be entitled to recommend the initial formation and design of a GA, i.e. its charter, its composition and its rules, but (following the provisions of the Treaty of Rome) only those approved by the Commission should be actually established, whether or not they are subsequently staffed, funded, "housed" and/or supervised by the Commission. Those who do not participate but are affected by a GA should be confident that it has been established by an authority they recognize as legitimate and its mandate is publicly proclaimed and justified.

2. The 'sunset' principle: No GA should be chartered for an indefinite period, irrespective of its performance. While it is important that participants in all

GAs should expect to interact with each other on a regular and iterative basis (and it is important that the number and identity of participants be kept as constant as possible), each GA should have a pre-established date at which it should expire. Of course, if the EU institution that delegated its existence explicitly agrees, its charter can be renewed and extended, but again only for a definite period. Again, citizens who are at best indirectly and unevenly represented should be confident that these arrangements among privileged decision-makers will not perpetuate themselves in power beyond the period necessary for accomplished their mandate. Moreover, since GAs often arrogate to themselves a role in monitoring the subsequent implementation of their decisions, the temptation for self-perpetuation can be especially strong.

3. The principle of 'functional separability': No GA should be chartered to accomplish a task that is not sufficiently differentiated from tasks already being accomplished by other GAs and that cannot be feasibly accomplished through their independent deliberation and decision. Here, in Europe, the issue is that of 'poly-centriciity.' The European Union has no constitution or democratically accountable mechanism for preventing the proliferation of its GAs (Banchoff, Thomas F. & Mitchell P. Smith 1998). Indeed, with so many "sovereign" member-states and so little centralized authority, there is an inevitable tendency to resolve conflicts through compromises that produce additional institutions to be distributed accordingly. Some principle has to be

inserted to resist this temptation, although how it can be enforced and by whom is not evident.

4. The principle of 'supplementarity': No GA should be chartered (or allowed to shift its tasks) in such a way as to duplicate, displace or even threaten the *compétences* of existing regional institutions. European governance arrangements are not substitutes for European government, but should be designed to supplement and, hence, to improve the performance of the Commission, the Council and the Parliament. Again, the root of the matter is that the EU is not a state and does not (yet) have a constitutionalized regime and therefore it lacks the legal means for sanctioning the intrusion of governance arrangements upon governing institutions. Moreover, in an established national democracy, competing political parties might be expected to raise such issues of intrusion – especially upon the prerogatives of parliaments – but the EU lacks such a system and the European Parliament has virtually no powers to regulate or limit the powers of its GAs.

5. The principle of 'requisite variety': Each GA should be free – within the limits set by its charter – to establish the internal procedures that its participants deem appropriate for accomplishing the task assigned to it. Given the diversity inherent in these functionally differentiated tasks, it is to be expected that GAs will adopt a wide variety of distinctive formats for defining their work program, their criteria for participation and their rules of decision-making –

while (hopefully) conforming to similar principles of general design. One of the most compelling arguments of early functionalist thinkers such as David Mitrany is that the representatives and experts who are made responsible for resolving the particular problems that transcend national states should be autonomous in choosing the organizational means and strategies for doing so – within the mandate given to them initially. It, therefore, follows from the variety of issues that have to be dealt with at the regional level that the rules and resources for doing so should be correspondingly varied.

6. The 'high rim' or 'anti-spillover' principle: No GA should be allowed by its mandating institution to exceed the tasks originally delegated to it. If, as often happens in the course of deliberations, a GA concludes that it cannot fulfill its original mandate without taking on new tasks, it should be required to obtain a specific change in its mandate in order to do so. According to the neo-functionalist theory of regional integration, one has every reason to suspect that the functionaries, experts and interest representatives that cluster around a given GA will make every effort to expand its tasks, both in scope and, as we have seen above, in time. If they did not, the process would stagnate into a set of "self-encapsulated" institutions making little or no contribution to the general process of integration. Paradoxically, for the sake of legitimacy, the design of GAs should resist these efforts at 'log-rolling' and 'package-dealing.' Decisions involving the negotiation of such tradeoffs across circumscribed issue areas should be the purview of other regional institutions, i.e. the

Commission, the Council of Ministers, the European Council and, hopefully in the future, the European Parliament in the case of the EU – not a highly specialized GA.

Composing Governance Arrangements

Now that the GA has been chartered, it must be composed, i.e. those who are to entitled to participate in it must be selected (and not elected). Whether specified *ex ante* in the charter or chosen *ex post* by some authoritative body, these persons (or, better said, organizational representatives) should have some justifiable reason for being included in the negotiations and deliberations and for entering into the (anticipated) consensus. This code-word in the present discussion surrounding the concept of governance is **stakeholders**. Unlike democratic government where all **citizens** are presumed to have an equal right to participate, in governance arrangements only some subset of these citizens, i.e. those who have expressed a greater concern or are deemed to be more likely to be affected, can participate. The calculation seems to be that if stakeholders can reach a consensus on what is to be done and, even more, if they can continue to agree on how to implement what has been chosen, their fellow citizens will conform as if they themselves had had the opportunity to participate.

Four Principles for Composing GAs

1. The 'minimum threshold' principle: No GA should have more active participants than is necessary for the purpose of fulfilling its mandated

task. It has the autonomous right to seek information and invite consultation from any sources that it chooses,; however, for the actual process of drafting prospective policies and deciding upon them, only those persons or organizations judged capable of contributing to the governance of the designated task should participate. Decision by consensus requires, at a minimum, three things: (1) a restricted number of participants since agreement becomes exponentially more difficult to reach as the number of participants increases; (2) those who do participate should possess some type or degree of 'asset specificity' which means material, intellectual or political resources that are apposite to the tasks to be accomplished; and (3) as persons or organizations, the participants should have the capacity not just to represent relevant categories but also to deliver their conformity to whatever decisions are made. Restricting their number is a prerequisite for the other two.

2. The 'stake-holding' principle: No GA should have, as active participants, persons or organizations that do not have a significant stake in the issues surrounding the task assigned to it. Knowledge-holders (experts) specializing in dealing with the task should be considered to have a stake, even if they profess not to represent the interests of any particular stakeholder. This follows from the discussion above about 'asset specificity.' Needless to say, defining what degree or type of asset constitutes 'a stake' and who controls that stake is bound to be politically

contested since -- thanks to the growing interdependence of policy domains -- the number of representatives and experts who can make such a claim is potentially unlimited. As an approximate guideline, a relevant stake-holder could be defined as a person or organization whose participation is necessary for the making of a (potentially) binding decision by consensus and whose collaboration is necessary for the successful implementation of that decision. In practice, this is likely to be determined only by an iterative process in which those initially excluded from the governance arrangement make sufficiently known their claims to stake- and knowledge-holding so that they are subsequently included.

3. The principle of 'European Privilege:' All things being equal, the participants in a governance arrangement attached to the EU should represent Europe-wide constituencies. Granted that, in practice, these representatives may have to rely heavily on national and even sub-national personnel and funding and may even be dominated by national and sub-national calculations of interest, and granted that the larger the constituency in numbers, territorial scale and cultural diversity, the more difficult it may be to acquire the asset specificity that provides the basis for stake-holding, nevertheless, the distinctive characteristic of a **European** governance arrangement is contingent on privileging this level of aggregation in the selection of participants. This follows from the initial argument that only regional rather than global governance arrangements

are viable at this point in time. Given the 'unfinished' nature of European integration, there may be significant stake- and knowledge-holders in prospective member-states and even in those that have explicitly chosen not to join the EU but are strongly affected by its policies.

4. The 'adversarial' principle: Participants in a GA should be selected to represent constituencies that are known to have diverse and, especially, opposing interests. No GA should be composed of a preponderance of representatives who are known to have a similar position or who have already formed an alliance for common purpose. In the case of 'knowledge-holders' who are presumed not to have constituencies but ideas, they should be chosen to represent whatever differing theories or paradigms may exist with regard to a particular task. To respect this principle, it may be necessary for the designers of such arrangements to play a pro-active role in helping less well-endowed or more dispersed interests to get organized and sufficiently motivated to participate against their 'privileged' adversaries. This element of 'sponsorship, while intended to encourage a greater balance in adversarial relations, can conflict with the subsequent principle of 'putative' equality of treatment and status. It can also generate serious questions concerning the autonomy of such 'sponsored' organizations. What is crucial, however, about this aspect of GA composition is that non-participants are confident that its deliberations and negotiations include a sufficiently wide range of actual participants

and opinions. Only then will these outsiders believe that they have been represented vicariously in its activities and accord legitimacy to its decisions.

Decision-Making in Governance Arrangements

Now that the GA has been chartered and composed, it must take and implement decisions. As we have seen above, the usual rules dominating inter-governmental organizations (unanimity) or democratic federations (simple or qualified majority) are not appropriate. Rather, a deliberately vague "meta-rule" should apply, namely, consensus. But what are the operative principles that frame this process of consensus formation?

Seven Principles for Decision-Making in GAs

1. The principle of 'putative' equality: All participants in a GA should be considered and treated as equals, even when they represent constituencies of greatly differing size, resources, public or private status, and 'political clout' at the national level. No GA should have second and third class participants, even though it is necessary to distinguish unambiguously between those who can participate and those who are just consulted. GAs are not 'democratic' – at least, not as conventionally defined. They do not have competitive party systems, regular elections or voting mechanisms – but there is one way in which they can acquire something approximating democratic legitimacy. If their participants treat

each other as equals – as quasi-citizens – this should improve the quality of their deliberations by encouraging a more honest expression of preferences and the development of relations of mutual trust among them. If and when an eventual consensus is reached, it will be much more likely to be respected voluntarily by both insiders and outsiders.

2. The principle of horizontal interaction: Because of the presumption of equality among participants, the internal deliberation and decision making processes of a GA should avoid as much as possible such internal hierarchical devices as stable delegation of tasks, distinctions between "neutral" experts and "committed" representatives, formalized leadership structures, deference arrangements, etc. and should encourage flexibility in fulfilling collective tasks, rotating arrangements for leadership and *rapporteurship*, extensive verbal deliberation, along with a general atmosphere of informality and mutual respect. Here, the logic is similar to that for presumptive equality. The weaker a given stakeholder is in the society or polity, the stronger should be his or her role within the GA – at least, relatively speaking. In the EU, this has been resolved through the systematic over-representation of small member states in such arrangements and the demonstrated willingness of the larger ones not to assert their hegemony.

3. The principle of consensus: Decisions in a GA should be taken by consensus rather than by vote or by imposition. This implies that no decision can be taken against the expressed opposition of any participant, although informal mechanisms usually allow for actors to abstain on a given issue or to express publicly dissenting opinions without their exercising a veto. In other words, consensus need not mean unanimity. Needless to say, the primary devices for arriving at consensus are deliberation (i.e. trying to convince one's adversaries of the *bien-fondèe* of one's position), compromise (i.e. by accepting a solution somewhere between the expressed preferences of actors) and accommodation (i.e. by weighing the intensity of the preferences of actors). Regular and iterative interaction among a stable set of representatives is also important, since this would allow for the making of "trade-offs" across a succession of controversial issues. Perhaps, the most important aspect of consensus formation is the prevention of cumulative domination that might emerge within a GA via repeated votes in which the same participants are regularly on the winning side. Moreover, decision-making by consensus is a powerful incentive for actors to 'stay in the game' rather than defect after losing.

4. The 'open door' principle: Any participant should be able to exit from a GA at relatively modest cost and without suffering retaliation in other domains – either by other participants or by national or regional authorities.

Moreover, the ex-participant has the right to publicize this exit before a wider public (and, the threat to do so should be considered a normal aspect of procedure), but not the assurance that, by exiting, he or she can unilaterally halt the process of governance. This provides the complement to the incentive noted above to stay in the game. If a single stakeholder or a minority of stakeholders persistently disagrees with the decisions that have emerged consensually among the others, low cost exit can be an important alternative to what Albert Hirschmann (1970) has called 'voice' or 'loyalty.' This prospect of exercising this option should keep the dominant group in line – with, however, completely impeding its capacity to move ahead on a given issue.

5. The proportionality principle: Although it would be counter-productive for influences to be formally weighed or equally counted, it is desirable that across the range of decisions taken by a given GA there be an informal sense that the outcomes reached are roughly proportional to the specific assets that each participant contributes (differentially) to the process of resolving the inevitable disputes and accomplishing the delegated tasks. A more orthodox way of grasping this principle would be to refer to "reciprocity" – although this seems to convey the meaning of equal shares or benefits across some set of iterations. "Proportionality" is similar, but allows for the likelihood that stable inequalities in benefit will emerge and be accepted as legitimate on the grounds of differential initial assets and

contributions. In the EU context, this notion is supplemented by that of 'convergence,' namely, that over time and across a range of issues, the performance of participants should become increasingly similar to that of the one with the best performing assets.

6. The principle of 'shifting alliances': Over time within a given GA, it should be expected that the process of consensus formation will be led by different sets of participants and that no single participant or minority of participants will be persistently required to make greater sacrifices in order to reach that consensus. Another way of describing this condition is 'pluralism.' Provided its composition is properly 'adversarial,' even the most specialized GA should have multiple and rival interests within it. Ideally, these lines of cleavage should cut across those of national interest, opening up possibilities for the formation of trans-national coalitions. But even if that is not the case and representatives of the same 'monolithic' countries face off against each other time and again, it is to be hoped that the same ones always win or lose. And, if this becomes the case, there is still available the relatively low cost 'open door' option to prevent the appearance of domination or hegemony by the better endowed participants.

7. The principle of 'checks and balances': No GA should take a decision binding on persons or organizations not part of its deliberations unless that

decision can not be explicitly disapproved by another institution that is based on different practices of representation and/or of constituency. This one of the main reasons why GAs are so unlikely to be successful in other regions or at the global level where there exists no such higher order authoritative institutions. In the Europe, the EU performs this function and it normally and in the first instance will be that EU institution which "chartered" the GA initially that will serve as an external check on its decisions. Eventually, one can even imagine that the European Parliament through its internal committee structure could be accorded an increased role as co-approver of GA decisions. Checks and balances are a very important legitimating feature of the territorial units in all federalist and de-centralized polities and their activities is usually overseen by yet another layer of decision-making, namely, an independent Supreme or Constitutional Court such as the European Court of Justice.

Concluding with some doubts

Establishing a set of governance arrangements to deal with functionally differentiated issues related to ecological and social sustainability at the level of Europe is no panacea. It will not work to resolve all of the policy issues surrounding sustainability and it will not work unless it is firmly based on political as well as administrative design principles. And that means that difficult choices involving their charter, composition and decision-rules cannot be indefinitely avoided or finessed. Unless the GAs within the EU are 'properly' designed, there

is no reason to be confident that their decisions will be more sustainable or more innovative than those taken by national governments or embedded in international treaties. And, as emphasized above, governance arrangements never work alone but only in conjuncture with community norms, state authority and market competition.

Two key dilemmas must be addressed – even if progress is made on the difficult choices involved in designing GAs:

(1) The proliferation of regional GAs tends to occur within compartmentalized policy arenas (and even more so in the EU than in its member states) and leaves unresolved the large issue of how eventual conflicts between their decisions are going to be resolved. Multiple 'governance arrangements' at the micro- or meso-levels no matter how participatory, innovative and sustainable on their own, may end up generating macro-outcomes that were not anticipated and that no one wants!

(2) The criteria for the inclusion of participants and the making of decisions in regional GAs are not generally compatible with the standards for democratic legitimation used within national and sub-national polities – although experimentation with governance arrangements is occurring at all levels of aggregation. Before GAs can

be reliably deployed and generate a sense of obligation among broader publics, it may be necessary to spend a good deal of effort in changing peoples' notions of what democracy is and what it is becoming.

At the present moment only the European Union offers a politically sustainable alternative to the environmental policies of national states and to treaties between them. The twenty or so years since the Brundtland Report have revealed the limits to reliance on national and international politics, at the same time that the EU has issued an impressive number of directives on these issues. It has reached these decisions through very complicated, little understood and often improvised processes of 'governance.' Despite a good deal of grumbling about the legitimacy of the EU itself, these decisions have by-and-large been accepted by European citizens and implemented by European governments – and there are more in the offing.

There is no equivalent trans-national regional organization in rest of the world. If my speculations about design principles are correct, it is even less likely that some arrangement for 'global governance' would produce legitimate and, hence, politically sustainable decisions. The best one might hope for would be the adoption of EU directives by national governments and, eventually, their implementation in other world regions – but only once these regions had built up an institutional capacity for dealing with other common economic and social

problems. One cannot completely discard the possibility that national governments will be driven by dire necessity or impending catastrophe to endow some 'global governance instrument' with the powers to make and implement binding resolutions, but at the present moment and for the foreseeable future solutions to our global 'un-sustainability' are largely in the hands of competing private producers, unevenly distributed across national polities, variable according to industry and sector, and still in dispute between different technologies. The only viable political strategy that I can foresee is to proceed incrementally (and insufficiently) at the partial and regional levels according to relatively simple principles of chartering, composing and deciding within governance arrangements.

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