Globalization and Democracy – Lessons from the field of Internet regulation

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In the first part of my talk I will briefly point out why the relationship between democracy and globalization has become rather problematic in recent years. In the second part I will present a practical example of transnational democracy to illustrate some of the problems that occur when we try to apply traditional democratic procedures outside of the nation state.

My favorite notion of democracy stems from **Abraham Lincoln**:
"Government of the people, by the people, for the people". What a powerful and demanding concept to this day!

So far, democracy proves to be the only form of political decision making, we regard as legitimate and trustful. It makes us even accept political decisions we don't agree with. Democracy derives its overall acceptance from a small set of general principles:

1. The principle of congruence: those who are affected by policy outcomes should have a right to participate in the decision making

2. The principle of accountability and transparency: we can hold politicians responsible for their actions and replace them by means of general elections if deemed necessary.

3. The principle of individual autonomy, freedom and equality, which include fundamental human rights such as freedom of expression, freedom of religion, privacy, protection of minorities, etc.

These principles lend majority ruling - the central tool of democratic decision making - its legitimacy. In other words, these principles are meant to ensure that political decisions are regarded to be more or less fair and acceptable to most people.

All in all, democracy is certainly the most successful form of government today. While in 1950 no more than 22 democratic governments existed, now 120 or about 60 % of all states world wide are based on democratic constitutions.

Despite the democracy's impressive success across the planet, the societies' rights of self determination seems to decline. Democracy is expanding externally but seemingly shrinking domestically. Lincoln's "government by the people" is a popular concept, to be sure, but it might be losing its practical relevance. Now, why is that? As you may suspect, the answer has to do with globalization.

Globalization means, among other things, a growing integration and interdependence between once sovereign states. More and more political decisions are negotiated at an international or transnational level, a sphere beyond the reach of national electorates. In other words, the locus of political authority is gradually moving out of the nation state into the global realm while the basic concepts and procedures of democracy remain tied to the nation state.

All principles and procedures of democratic organization are designed for territorial entities with clear boundaries. In its current form, democracy works only within national borders – not least because majority rulings such as elections depend on clearly defined constituencies and electorates.

The sphere of international politics has never lived up to national standards of democracy. Intergovernmental bodies such as the United Nations reflect as their primary goal the prevention of war. What really counts in international relations is official, nation-based delegation – not democratic representation. Usually, we don't even know the diplomats who represent our respective countries, nor are we aware of their political opinions. And we certainly cannot vote them out of office. International bodies are, at best indirectly accountable to those who are affected by their policies. As a consequence, the so-called chains of legitimation between individual citizens and their international representatives become longer and longer.

To be fair, we have to concede that international NGOs (non-governmental organizations) don't meet traditional democratic standards either. Neither do they represent the public will nor can they be held accountable by anyone but their members.

Although transnational problems and politics are increasing, there are as yet no rules and routines, institutions and principles that would enable cross border government *by* the people. Thus, to the extent that political authority creeps out of the nation state, democratic legitimacy and the people's right to self determination are seriously weakened. Globalization accounts today for a growing democratic deficit.

Now, the crucial question is whether anything at all can be done and if so what should be done about the lack of democracy in transnational politics. Should we regard democracy as an inevitable victim of globalization or is it possible to adjust democratic procedures to the emerging world society?

II Not surprisingly, scholars of International Relations are divided with regard to this question.

According to the traditional school of thought, democracy can function only within its national framework. Democracy, the skeptics say, requires a common history, a common culture and identity, and enough of a common language to enable a public sphere. Without a collective identity, critics point out, solidarity and trust between the people are not possible. As *Robert Dahl,* one of the most prominent members of this camp, holds "the incentives to act for the benefit of the distant others when it may be to their own cost or disadvantage are weak or non-existent." "Altruism is uncommon", "beyond the boundaries of one's own intimate attachments." In other words, even if we are willing to share to some extent our wealth with other citizens of the same state, we are not generous enough to do so with people from other countries or continents.

Another argument against transnational democracy refers to the broad diversity of values and believes. As Robert Keohane puts it, "On a global scale, common values are lacking. The Taliban did not try to emulate the social organization of western society, and in fact rejected much of it, such as the practice of enabling women to live public lives. Many fundamentalist religious people do not share indeed, reject secular ideals such as those of pluralist democracy.

We must unfortunately conclude that the vision of a universal global society is a mirage. There is indeed a global society: common values and common institutions are not geographically bounded. But the global society in which we live is not universal: it does not include members of al-Qaeda, suicide bombers, etc. etc. Thus, in "the absence of a universal global society, cosmopolitan democracy is very unlikely to occur. "

To sum up, international organizations are not democratic today, and never will be. In the view of the traditional thinkers, democratic legitimacy of transnational politics will only be achieved through strict control by the nation states.

However, one emerging school of thought sets out to reconsider our territorial, nation based understanding of democracy.

The Italian researcher Daniele Archibugi makes the interesting point that democracy should not be understood as a fixed or static model but rather as an unfinished and endless journey: "The journey towards democracy has not been completed in any country, including those in which the principles of democracy are most consolidated and developed. Democracy is a conquest and, like all conquests, is the outcome of conflict. In this sense, it may be more appropriate to speak not so much about plain democracy as about the democratic route, that is progressive evolution of political systems to meet individuals' demands for participation."

A potential case for such a conquest is, of course, the scope of democracy. As the proponents of a cosmopolitan democracy predict, global integration will sooner or later force the political establishment to make concessions in form of new channels and fora for public participation. Otherwise movements against globalization and riots as those in Seattle, Genova or Gothenburg might become more frequent and powerful.

Now, if we recall the aforementioned objections against the idea of a cosmopolitan democracy, we are facing the practical question of implementation: How should we envisage new forms of cross border democracy. How could a transnational public be constituted? How would people form opinions and ultimately participate in decision making?

Admittedly, there are as yet no easy and convincing answers to these questions. Although the number of international NGOs is increasing considerably and a growing number of researchers deal with these questions, the suggestions at hand are at best explorative. One of the more popular proposals explores the so-called tripartite model consisting of governments, industries and civil society. These three groups of stakeholders who represent different interests and goals would have to negotiate solutions that are truly consensus based.

The current buzzword for such consensus based models is "deliberative democracy". The concept of deliberative democracy suggests that majority ruling should be replaced by reasoning, compromise, and consensus. Deliberative procedures are regarded as particularly suitable for global policy frameworks because majority decisions, as we have seen, don't work well outside the nation state.

Some observers expect that new schemes of deliberative democracy will develop along the lines of given industries, policy fields, and regulatory agencies. The transnational public sphere would be structured primarily by issues or problems rather than by language and regions.

While the nation state attaches rights of individual participation to citizenship, the post-national model would grant those rights to *affected stakeholders*.

Well, what is an affected stakeholder, you might ask, and even more important, who does not belong to this group - who on earth cannot claim to be an affected stakeholder when it comes to environmental, health or fiscal policies? As I will show you in a minute, there is no obvious, natural answer to this question outside of the nation state. On the contrary, conflicts about membership, participation and voting rights may end up in deadlocks or similar fatal problems.

Regardless of the theoretical observations on globalization and democracy, which I have tried to outline here, social movements have already set out some decades ago to conquer and change international organizations. A current example are the contributions of 100s of international NGOs to the upcoming UN summit on Information society.

While UN organizations and World Summits maintains a long tradition of being involved in civil society, the World Summit on Information Society clearly marks a new step in the interaction between international treaty organizations and social movements. First, civil society groups present themselves as remarkably well organized participants, capable of producing over night alternative versions to the official governmental drafts of the declaration. Civil society groups are thereby successfully participating in the agenda setting process. The "right to communicate", a message pushed by NGO's during the last preparatory meeting in Paris last month has become quite popular. This claim pushes a broadened bill of human rights and adds rights of access to communication infrastructures. What is more, several governments, among them those of Switzerland, Denmark, Canada and

recently also Germany, have included representatives of civil society organizations as members of the formal government delegation.

All in all, there seems to be some progress regarding communication and cooperation between civil society and governments. More and more countries accept NGOs as a well informed and legitimate voice in the international negotiation of declarations and action plans. However, the overall acceptance of civil society in transnational politics does not necessarily imply substantial changes of policies. The world summit on information society's most current declaration more or less ignores the civil society groups' suggestions. In other policy fields similar experiences have been made: While civil society groups eventually succeed in becoming accepted participants, the interests and claims they represent remain marginalized. As a result, people become frustrated and the legitimacy of international bodies suffers.

Due to the difficulties in modifying long established power structures, newly founded organizations might provide better opportunities to explore democratic procedures. ICANN, the Internet Corporation for Assigned Names and Numbers, represents an example of a recent body that has experimented with new transnational forms of democratic decision making. What follows now is a brief outline of the attempt to build a tripartite organization consisting of civil society, industry and governments.

III ICANN

First of all: what is ICANN: ICANN is responsible for the political coordination and oversight of the Internet's Domain Name System and the Internet addresses.

Until the mid 90s, the Net's names and numbers were administered by the so-called fathers of the Net, a group of engineers who once had developed the Internet. However, when the Internet's infrastructure became privatized, its loose and informal management system lost its overall acceptance. Governments as well as Internet industry called for an institutionalized control of domain names and addresses.

After much discussion and backroom negotiations, a new authority was founded in 1998. ICANN was incorporated as a not-for-profit company under Californian law and as such acknowledged by the US Government.

International infrastructures such as the telephone system or communication satellites are usually administrated either by governmental treaty organizations or by private trade associations. ICANN, however, was designed to explore a new path between traditional trade and treaty bodies.

The US government had devised a set of principles and goals for ICANN. The most important thereof was to integrate *all* groups and geographical regions currently present on the Internet.

Needless to say, the most numerous group present on the Net are individual users. As you know, individual users are usually excluded from the management of infrastructures. Users don't have a say in the operation of power stations, railways or water supply. Compared to traditional management structures, ICANN promised to be a most unusual and amazing

organization. According to ICANN's bylaws, individual Internet users would determine 9 of 19 directors of the board. Internet users were expected to constitute the counter balance to the Internet industry, which would fill the other half of ICANN's board seats. In other words, users were granted the important role of representing the public interest in the Internet's future development.

Governments on the other hand, the traditional regulators of communication infrastructures, had *n o   s i n g l e   s e a t* on the board. Governments were granted a mere advisory function without any substantial power. Many governments still don't accept what they see as a deprivation of the only representative voice of the public will.

ICANN was supposed to be an experiment in *global, consensus-based self-governance*. Users, Internet industry and engineers were meant to develop consensual policies through open, transparent and therefore legitimate procedures. Due to the procedural legitimacy, all affected parties worldwide would comply with ICANN's policies.
That at least was the plan. In practice, things worked out a bit differently.

One of the first problems ICANN had to cope with concerned the question of user representation: What kind of role should ordinary Internet users play in ICANN? And how should millions of Internet users pick candidates for the ICANN board? (Just imagine, the library users worldwide were asked to select some individuals as representatives for IFLA's board. What would you do, how would you proceed?)

During its first 18 months, ICANN explored several options for building a user-based membership organization. In order to create a democratic, bottom-up organization, all stakeholder groups were supposed to form membership structures, which then would elect their own representatives. While organizations for the Internet industry and technical standard setting bodies were quickly formed, much ado delayed the founding of an at large membership organization for Internet users.

The prospect of a membership organization for users evoked lots of concerns among the other stakeholders in ICANN. A widespread fear was that users would be too incompetent for bearing any responsibility and participating in policy decisions. Users' involvement became associated with fraud, manipulation and capture. What if individual companies or countries would try to capture the users' membership organization? In fact, Internet users raised suspicion even before they were allowed to form a membership organization (and had a chance to do something wrong).

Finally, the US government became impatient and asked ICANN to make some progress with regard to representing users on ICANN's board. Despite its suspicions, ICANN obliged and established an at large membership organization in early 2000. The members of this body would hold the first transnational elections on the Internet, provided that a minimum of 5000 users worldwide would join. Given the fact that ICANN was a totally unknown organization by that time, 5000 members were seen as quite a challenge.

For the sake of geographic diversity, ICANN divided the world into 5 world regions: (1. Africa, 2. Asia, Australia and Pacific, 3. Europe, 4. Latin-America and Caribbean, 5. North-America and Canada). Each world region would elect one representative. And each region was expected to organize its own membership campaign.

The ICANN election broke new ground. First, because the election took place on the Internet. Second, because the users were expected to act and to vote as members of world regions. African members were asked to agree on an African candidate for the ICANN board. Likewise, Asian members were to pick an Asian candidate.

As it turned out, Asia, Europe or Africa are geographical labels - geographical labels, which don't correspond with social or cultural identities. There is no unifying Asian, European, African or Latin American identity. There were not even common languages enabling users to communicate about candidates and their goals.

What might now look like a trivial observation came as quite an unpleasant surprise back in summer 2000. ICANN's election committee had been under the assumption that Internet users would think and feel as transnational as the communication network they were using. Instead, national sentiments and competition took over the election process.

After a rather slow start, ICANN's membership recruitment gathered momentum when ICANN began to publish national break downs of membership figures. All of a sudden, people could follow the national distribution of their region's membership. It didn't take long before national outreach campaigns were initiated. These campaigns aimed at increasing national membership shares in order to win the election. The more members, the better the chances to determine the ultimate winner.

During a period of 5 months, 177.000 users registered as ICANN members. Interestingly enough, half of all registrations took place during the last 8 days of the registration period. Break-downs of the registration servers towards the end of the registration phase prevented higher membership figures.

The exploding growth of membership registration was caused by a few overly ambitious countries: Japan, China, Germany and Brasil. 60% of all European members were German. Consequently, Europe elected a German candidate to ICANN's board. About 40% of Asia's members were Japanese, 34 % Chinese. Obviously, Asia elected a Japanese candidate. Likewise, a Brasilian won in Latin America.

National campaigns formed the crucial factor in all world regions except for the US. The North American election campaigns focused on political issues instead, probably because there were only domestic candidates. Canada didn't play any role in the ICANN election.

After 8 long months of election campaigns, 20% of the members finally cast their votes.

Soon after its completion, ICANN made it known that the elections should be regarded as an undemocratic disaster. As ICANN's president stated, "the number of actual votes, 34.035, is equal to 1/100ths of a percent of all 350 million Internet users. These are not numbers which meet any test related to democratic legislative elections."

While ICANN regarded 5000 members an adequate minimum before the election took place, the election results were discredited as undemocratic because 34.000 voters don't represent all Internet users. "National capture" was another popular verdict against the elections.

Soon afterwards it had become common wisdom within ICANN that the elections were a failure and should better not be repeated. In fact, ICANN has not only given up on elections but on the whole idea of user representation at board level. Today, individual users have no say anymore in ICANN's policies. Self governance of the Internet is defined as consensus among industry and some governments.

Now, are there any lessons to be learned from ICANN's experiments in transnational democracy?

At first glance, the sad story of ICANN confirms all doubts and objections that have been brought forth against attempts to democratize international organizations. ICANN provides ample evidence for the assertion that there is neither solidarity nor trust in the field of International Relations. Each group of ICANN stakeholders tries to enforce its claims and block those of others. There is little care about the overall structure and legitimacy of ICANN.

What is more, ICANN suffers from typical weaknesses ascribed to international organizations: a lack of proper representation and accountability. ICANN doesn't even protect its own minorities, the interests of individual users. A majority of board members succeeded in expanding its power at the expense of those elected by users. As a result, decline of trust in ICANN is accelerating.

Nonetheless, more than one conclusion can be drawn from ICANN's failure. It is not obvious that other experiments in cosmopolitan democracy will fail too. Unsuccessful efforts might provide important lessons for future attempts to democratize transnational bodies. I will mention just a few aspects gained from studying ICANN.

Lesson 1: General elections are an inadequate means for building transnational legitimacy. Moreover, democracy on the transnational level cannot be achieved by imitating nation-based democratic procedures. In the case of ICANN, voting rights should have been tied to participation. Elections on the Internet would assume a different character if membership organizations were defined by specific tasks and duties.

Lesson 2: Transnational solidarity and identity need time to grow. While transnational solidarity cannot be assumed, an organizations' design may encourage it. The protection of minority rights is central to this approach.

Lesson 3: It is a difficult endeavor to institutionalize democratic control in the transnational sphere. There are hardly any mechanisms beyond national law to hold private organizations accountable. This is why national governments' good will is essential for developing new cross-border mechanism of democratic decision making. Transnational democracy requires the support of governments.

Personally, I think that globalization will require sooner or later to reconsider and adjust national concepts of "Government of the people, by the people, for the people". And I am optimistic enough to believe that democratic decision making beyond the nation state is indeed possible.