

Multi-level Governance: More Accountability, Less Democracy?

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Definitions

Accountability (relation between A and B)

A is accountable to B when A is obliged to inform B about A's decisions and actions, to justify them, and to suffer punishment if B is not satisfied with A's performance and justification.

In some cases A may be also positively rewarded by B if she is satisfied : typically this happens when politicians are reelected.

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Multi-level governance in the EU

Cooperative relations (deliberation, bargaining, and compromise-seeking) between:

- Distinct government levels (local, subnational/regional, national, European, transnational, etc: multi-level *government*).
- Public and non-public actors: public policies are formulated or implemented by *networks and partnerships* involving public actors (politicians and administrators) that belong to different decisional levels, together with non-public actors of different nature (firms, interest representatives and stakeholders, experts).

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Examples

Structural and regional policies: cooperation of public actors across levels, and cooperation with non-public actors in partnership forms.

Committee governance: in the framework of "Comitology" or the Open Method of Coordination.

Networks involving the Commission administration and national agencies.

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The problem of the limited democratic anchorage of MLG

Probably a necessary shift for policy effectiveness, also considered to be a promising one in terms of broadening participation.

However, the democratic anchorage of MLG is insufficient, and this is linked to a lack of democratic accountability.

Such a deficit in democratic accountability finds its origins in several characteristics of MLG.

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Weak visibility of governance networks

Decisional procedures in MLG are often deliberately informal and opaque : this is deemed to facilitate the achievement of compromise, but impedes public scrutiny.

Responsibility is diluted among a large number of actors, e.g. public-private partnerships are propitious to « blame-shift games ».

Divorce between the sphere of problem-solving – dominated by governance arrangements – and the arena of party competition. In the EU "policy without politics" (Schmidt 2006), unless if politicisation of the public opinion occurs through referendums.

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Even if the problem of weak visibility is attenuated through provisions for transparency and access to information, the latter are no substitute for traditional accountability mechanisms. Only with transparency (and even with public debate) there is no guarantee for sanctions: accounts may be given, discussion may follow, and then nothing happens.

Although transparency and publicity are often cited as a remedy to accountability problems, they are a necessary but not a sufficient medication (besides accountability « forums » such as the media are seldom interested in day-to-day policy practice in MLG).

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Uncoupling of networks from the democratic circuit

Governance networks are often to a large extent uncoupled from the official representative bodies: legislative and control functions of parliaments are weakened.

"Meta-governance", i.e. the governance of networks (their design, the framing of issues on their agenda, and their management) is largely delegated to the administration. When the chain of delegation is lengthy, representation and accountability become fictitious.

Parliaments do have the formal right to overrule decisions formulated in networks. It is questionable however if this represents a credible menace : doubts on the capacity of parliaments to exert effective oversight (lack of information).

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Empirical variation:

- It probably matters if decisions are formulated by networks, or if they are implemented by them:
- In the first case it is more likely that the opinion of elected politicians will count as they are the target group to be ultimately convinced.
- In the second case it is the administration (frequently at the local or regional level) that cooperates for implementation with non-public actors, both being remote from the world of elected politicians that formally took the decisions.
- Oversight of the EU agenda by national parliaments is subject to considerable cross-country variation (Auel & Benz): parliaments who exercise high control over national executives on EU matters have to do it informally. Trade-off: parliaments thus gain information, but cannot disseminate it (lack of transparency and new informational asymmetry at the prejudice of the citizenry).
- It seems (Raunio) that parliaments play an even weaker role in "new" modes of governance (Open Method of Coordination).

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Composition of MLG networks

Policy networks are largely composed of administrators and other policy experts on the one hand, of interest representatives, NGOs, and purely private actors on the other. Elected politicians are not frequently at the core of networks.

Members of the bureaucracy: they are only indirectly accountable to the citizenry due to a lengthy chain of delegation (this is even more the case in the administrative structure of the European Commission, or in the case of the blossoming regulatory agencies).

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Experts: in order to claim credibility they have to convince about their independence, and are only morally accountable to their professional community.

Representatives of interest groups and NGOs are accountable to limited constituencies: to the rank-and-file, and to donors. This is partial accountability, neither to the general public, nor to the populations affected by their actions. Also such organisations may not escape problems of elitism that reduce internal accountability too.

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Accountability is further inhibited by the multi-level aspect of governance

- Lesson from cooperative federalism: in order to avoid policy blockade informal cooperation between executives from different levels is required, at the expense of transparency.
- Even in the absence of non-public actors, MLG often rests on mechanisms operating along an intergovernmental logic that exacerbate problems of delegation and of dilution of responsibility.
- The lengthy chain of delegation makes the policy processes visible only to those who are familiar with them.
- In principle democratically accountable actors (governments) are only fictitiously accountable for intergovernmental policy coordination, because of lack of information on their positions and decisions.

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- Several intergovernmental negotiations are made or at least prepared by administrators who can enjoy considerable discretion.
- Shared responsibility : decisions are taken by government representatives in processes involving many of them.
- Consequently : blame-shifting and prevalence of mutual ("peer") accountability among participants over public accountability.
- Even actors who are directly subject to the control of their electorates are subject to a "two-level" accountability: they must account for their actions not only to their constituencies, but also to their negotiation partners.
- Participants in MLG are caught in an accountability dilemma : they must satisfy multiple "forums" with different preferences.

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«Peer» or « interdependence » accountability

- "Peer" accountability: *"based on mutual monitoring of one another's performance within a network of groups, public and private, sharing common concerns"* (Goodin: 2003: 378). Example: Open Method of Coordination (benchmarking, best practices).
- Remoteness from the democratic circuit combined with proximity to peers is likely to lead to the resolution of the accountability dilemma at the cost of accountability « at home »
- Participants are then primarily accountable to their negotiation partners: the fear of "naming and shaming" should yield disciplining effects because unreliable actors risk loss of reputation, and their partners will not trust them.

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- For peer accountability to operate at the profit of the common good, policy networks must be sufficiently representative and pluralist. They should not exclude weaker interests, or actors whose preferences do not coincide with the network's "mainstream" orientation.
- However for strategic reasons network members are likely to oppose the entrance of newcomers, and networks may be prone to « group-think » (cognitive homogeneity).

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Conclusions

- On the one hand the democratic accountability of policy-makers is weakened in EU-MLG: the question of accountability is largely uncoupled from the question of democratic representation.
- If uncoupling and remoteness of multi-level governance from representative government, risk of *attribution errors* in accountability : decisions are made in reality by actors other than those (the most visible: elected politicians) regarded as authorised decision-makers by the people or the affected communities.
- The effectiveness of democratic feedback procedures is undermined: the *retrospective* evaluation of office holders on the grounds of their policy achievements, and the *prospective* evaluation of candidates on the grounds of their pledges become to a large extent *fictitious*.

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- On the other hand we observe in EU-MLG a multiplication of control mechanisms: for instance, accountability mechanisms adapt to network governance with the creation of *accountability networks* (of courts, of ombudsmen).
- These mechanisms of (political, legal, financial, administrative) accountability are composite and diffuse, leading "to a more diversified and pluralistic set of accountability relationships" (Bovens 2007: 110).

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- However, in such a set accountability mechanisms may lose efficiency for lack of coordination. Accountability forums are dispersed and do not form a coherent and comprehensive accountability system. This would necessitate that forums communicate to coordinate action and divide tasks.
- Part of the accountability mechanisms at work are of the "light" or "soft" type: not institutionalised or weakly codified, through moral commitments and social pressure, etc. What is the efficiency of « soft » sanctions? Are these mechanisms toothless?
- « Peer » accountability mechanisms lack transparency themselves.

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The implications for *democracy* of accountability in EU-MLG are:

- These accountability mechanisms perform a different control function than mechanisms of democratic accountability, which allow citizens to be confident that their preferences (input) will be mirrored in decision-making (output): responsiveness.
- Actors in accountability forums may have a distinct agenda from citizens with whom policy-makers are in a relation of delegation and representation.
- Those who control ex-post are not necessarily the same as those who formulate democratic mandates ex-ante.

Accountable governance is no substitute to democratic government!

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Even if accountability mechanisms are pluralist or participatory (which should not be taken for granted), even if they ensure fairness, they are no substitute to the weakening of accountability via the electoral circuit of representative democracy.

These mechanisms often privilege particular accountability to stakeholder groups, whereas general accountability to the citizenry is weakened.

Stakeholders are authorised to act as account-holders if they can persuade that they have *intense* preferences on policy issues: the egalitarian component is absent.

Actors are sometimes selected as legitimate « stakeholders » by those who should account to them: top-down process.

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With the uncoupling of multi-level governance from the circuit of democratic representation:

- The disciplining effect of the right of the ruled to sanction the rulers through their *vote* is reduced.
- Other trends in contemporary governance such as judicialisation, agencification, or administrative reform further weaken that effect.
- Being an influential actor in MLG requires resources, and this also applies to the exercise of one's right to hold decision-makers accountable (expertise, finance, organisation):
- "Votes count (less), resources decide (more)" (S. Rokkan)