



EU Governance: Where do we go from here?

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Abstract

How can students of the European Union get from describing recent advances, to speculating about what are possible new directions and research agendas? How promising are terms such as “governance” and “the new governance” for improving the understanding how the Union is governed and whether, and to what degree, there is a transformation in its system of governance? This essay holds that improved theoretical understanding requires the ability to overcome four impediments in the literature: tidying up the conceptual morass, amending the inconclusive evidence, ousting the ghost of “the state” as a major frame of reference, and getting beyond the tyranny of dichotomies. It is acknowledged that the “governance turn” in EU-studies is an important one, yet it is far from obvious that dichotomies such as “government” vs. “governance” and “old” vs. “new” modes of governance – treated as exclusive alternatives – are the most useful analytical tools for improving the understanding of EU developments.

The main argument is that the analysis of the EU system of governance can benefit from being better related to some enduring and recurrent themes in the theoretical study of democratic governance and thereby to the long history of ideas about how societies can and should best be governed. This implies a reappraisal of how systems of governance may be conceptualized and what are the key characteristics that differentiate among modes of governance. It also implies a reappraisal of the achievements and significance of different modes of governance.

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Recent advances into new directions

A stock-taking exercise of research on patterns and trends in the governance of the European Union naturally leads to the questions: How can students of the EU get from describing recent advances, to speculating about what are possible new directions and research agendas? How promising are terms such as “governance” and “the new governance” for improving the understanding how the Union is governed and whether, and to what degree, there is a transformation in its system of governance?¹

This epilogue holds that improved theoretical understanding, *first*, requires the ability to overcome four impediments in the literature. The challenges are: tidying up the conceptual morass, amending the inconclusive evidence, ousting the ghost of “the state” as a major frame of reference, and getting beyond the tyranny of dichotomies. *Second*, it is acknowledged that the observation of a “governance turn” in EU-studies (Kohler-Koch and Rittberger 2006) is an important one, including the assertions that the “new governance” involves a transformation of, and a new perspective on, the European Union’s system of governance (Kohler-Koch and Eisinger 1999), a new theoretical and normative agenda (Hix 1998), and a new form of political domination (Schmitter 1996). Nevertheless, it is far from obvious that dichotomies such as “government” vs. “governance” and “old” vs. “new” modes of governance – treated as exclusive alternatives – are the most useful analytical tools for improving the understanding of EU developments.

The main argument is that the analysis of the EU system of governance can benefit from being better related to some enduring and recurrent themes in the theoretical study of democratic governance and thereby to the long history of ideas about how societies can and should best be governed. This implies a reappraisal of how systems of governance may be conceptualized and what are the key characteristics that differentiate among modes of governance. It also implies a reappraisal of the achievements and significance of different modes of governance. To what degree, and under what conditions, are systems of governance likely to have independent and enduring implications and what kinds of political phenomena do they impact? Furthermore, there is a need to make explicit the normative assumptions different modes of governance are based upon, their assumed virtues and claims to legitimacy, and their assumed causal effects upon relevant values, goals, interests, norms

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and values. Finally, it is necessary to reappraise how can the occurrence of, and shifts in, modes of governance – their emergence, ups and downs, transformations, disappearance – be understood.

Transcending four impediments

The popularity of the term “governance”, as a way of describing, explaining and justifying how the common affairs of political communities are, and should be governed, has been unquestionable over the last few decades. The term has been used in analyses of states and New Public Management reforms, world politics, international law-making, and how private corporations are governed (Rhodes 1996, 1997, Rosenau and Czempiel 1992, Boyle and Chinkin 2007). “Governance” has even been dedicated its own encyclopaedia (Bevir 2006). Nevertheless, the popularity of the term has not led to a consensus on its precise meaning, purpose, utility, or how it can best be studied.

Tidying up the conceptual morass

“Governance” implies a process oriented approach to influence and control. It has been argued that a new language is needed in order to capture changes in the real world, involving a transformation from an old mode of governance to a new mode (Rhodes 2003). The “new” mode is characterized by civil society involvement in public policy-making and by an extensive use of informal networks. The Open Method of Coordination (OMC) is also often mentioned as an example of “the new governance” in the European Union. The OMC is a “soft” method featuring agreed-upon standards, goals, guidelines, benchmarks, “best practice”, indicators, monitoring arrangements, and time tables, yet the member states are free to choose how they meet the requirements. There is some control through processes of blaming and shaming, but the Union has no legal enforcement capacity.

The term is, however, contested. While suggesting that “governance” involves “the continuous political process of setting explicit goals for society and engage in their implementation and enforcement”, Kohler-Koch observes that “no consensus concept has emerged” (Kohler-Koch 2008a: 104, also Rhodes 1996, 1997, Pierre and Peters 2000). The problematic conceptual ambiguity of “governance” is also aggravated because there is a similar lack of clarity when it comes to other key concepts in the study of the EU, for example, “integration”, “Europeanization”, and “democracy”. In none of these cases has

there over time been a clear trend towards clarification and consensus about a single meaning, or a small set of competing meanings. As long as there are many and often ambiguous answers to what is “governance” and what makes certain modes of governance “new”, students of EU governance are likely to address different empirical phenomena using the same term. A result is that it becomes difficult to agree upon what is actually happening in the Union.

Inconclusive evidence

In spite of a rapidly growing body of empirical studies, there is inconclusive evidence when it comes to key aspects of EU governance. Among the many contested issues are: How new is the “new mode of governance” and how significant is this mode in the EU? How important are private actors from civil society associations, industry and private enterprises compared to governmental actors, and how important are informal networks compared to formal organizational arrangements? Have new modes of governance replaced or complemented the original mode of EU governance, the Community Method? What are the impacts upon member states (Börzel and Risse 2006, Citi and Rhodes 2007, Börzel 2008, Dehousse 2008a, b, Kohler-Koch 2008b)?

Attention is here primarily focused upon the inconclusive evidence when it comes to three major claims made by advocates of the “new mode”: that it is giving rise to “good governance” by improving (a) the functional performance and problem solving capabilities of the Union, (b) the democratic quality of the Union and reducing its “democratic deficit”, and (c) its flexibility and its ability to learn, adapt, and reorganize itself.

Explanations of the emergence and success of the “new” modes also vary. While some see such modes as the OMC as post-modern innovations and improvements, others interpret the use of “soft” modes as a result of weakness and conflict. That is, their use reflects the member states’ unwillingness to grant European level institutions authority, power and resources in specific policy areas. It is also suggested that modes such as the OMC may represent a transitional episode in a development dominated by traditional forms of governance, as a prelude to legally binding rules (Eberlein and Kerwer 2004). One factor contributing to these different interpretations is whether “the state” is used as the key frame of reference or not.

Ousting the ghost of “the state”

The assumed shift in modes of governance from “old” to “new”, like the assumed shift from “Old Public Administration” to “New Public Management” (Dunleavy and Hood 1994), is often interpreted within a framework where the ghost of “the state” plays a key role. “The state” is portrayed as organized on the basis of overarching public authority and a monopoly of coercive power, hierarchy, command and enforcement of laws. This “traditional form of government” is then contrasted with the “new governance”, including private actors (“stakeholders”) and bargaining within informal, decentralized, flexible and non-hierarchical networks. No one is in command or controls all relevant resources. The central government is no longer supreme. It is “hollowed out” and replaced by more diffuse systems of governance and control (Rhodes 1996).

This interpretation has a flavor of an ideal-model, the sovereign and autonomous territorial state that is able to make and enforce binding decisions for a territory and a population. Weber, for example, argued that “in the end, the modern state controls the total means of political organization, which actually come together under a single head” (Weber 1970: 82). In contrast, Bendix saw “the state” as an historically delimited term that implied “not only a transition in the early modern period but sooner or later a transition to new and yet unrealized or unrecognized institutional patterns in the future” (Bendix 1968: 9). This interpretation of the state as a dynamic historical phenomenon, developed and developing in the European context, is reflected in the writings of Rokkan (1999) and Bartolini (2005). They also document the precarious and shifting role of the political center and public authority and resources, the variety of state-society relations, and the many different mixes of majoritarian and non-majoritarian institutions that have existed historically in Europe.

Identifying the “old” mode of governance solely with formal political institutions, hierarchy, and coercion requires a weak disciplinary memory. Among students of politics, the belief in the importance (and explanatory power) of politics and government for the flow of history has varied over time. Liberalists and Marxist have usually given primacy to economic structures, forces and actors, viewing political actors as administrators of the great necessities or the instruments of the ruling, capitalist class. The behavioral revolution in political science was a reaction to a one-sided focus upon formal-legal institutions and actors. In the heydays of the welfare state, a growing agenda emerged together with participation of non-state actors that could

provide information, other resources and legitimacy, involving corporate pluralism (Rokkan 1966), integrated organizational participation in government (Olsen 1981) and “private government” (Streeck and Schmitter 1985). Generally, the limits of governing solely through coercion are well-known and the command theory of control has never been wholly valid (Goodin, Rein and Moran 2006: 12, 15). In modern democracies, including European states, consensus and support have been political achievements, not givens, and compliance has usually been based upon a mix of consent, incentives and sanctions.

An implication is that using “the state”, as portrayed in some state theories, as the backdrop for studying and assessing transformations in EU governance may lead to false interpretations of what transformations have actually taken place. It may be more promising to compare the Union with state practices and their many different modes of governance and political organization. Analyses of the functioning, developments, and effects of the EU’s system of governance, then, have to take into consideration that what is called “states” in everyday language involves a variety of actors, institutional structures, agendas, and public-private boundaries. States use complex repertoires of socio-political processes and structures, such as anticipation and autonomous mutual adjustment, voluntary exchange within the frameworks of markets and price systems, persuasion, bargaining and negotiations, majority voting based upon political competition and accountability to citizens, and command and hierarchies (Dahl and Lindblom 1953). Bureaucratic organization and processes are still an important part of these repertoires. Yet, as all other organizational forms and modes of governance, bureaucracy over time has had its ups and downs (Olsen 2008a). In this perspective, the EU may look less like a unique phenomenon than when the Union is compared to the ghost of “the state”. It may also be argued that EU governance has become too complex to be captured by simple dichotomies.

Beyond the tyranny of dichotomies

The claim that there is a novel mode of governance in the EU is based upon a series of dichotomies. Examples are “governance” vs. “government”, “new” vs. “old” modes, bottom-up governance vs. top-down government, soft-law and legally binding law, self-governing and renewing networks vs. hierarchies and bureaucracies, Enlightenment-inspired informed debate, reason-giving, and voluntary acceptance vs. formal authority, command and coercion, private vs. public actors, power-sharing and Pareto improvements (creating no losers) vs. redistribution based upon majority decisions, flexibility, learning

and adaptation vs. institutional rigidity with little room for variation and experimentation.

There have been periods and settings where a single form of governance has come close to being dominant, for example absolute monarchies in Europe from the 16th to the 18th century. Yet, mixed political orders, that is, orders blending different forms of governance and organization are also well-known. European history involves mixed and shifting modes of governance and institutional arrangements, and contemporary systems of governance normally function through a mix of co-existing, partly inconsistent organizational and normative principles, patterns of participation, behavioral logics, standard operating procedures, and legitimate resources (Orren and Skowronek 2004, Olsen 2007). Both in the EU and in nation-states, political order is created by a collection of institutions that fit more or less into a coherent system.

In the EU different modes of governance and institutional arrangements are interdependent and interacting. Bargaining and deliberation over “soft” laws take place in the “shadow” of hierarchies, majority institutions and law-making. The Convention worked in the shadow of the forthcoming Intergovernmental Conference. Hierarchies function within a context of strong consensus norms. Competitive markets are embedded in complex frameworks of laws and regimes, for example related to property-rights and private contracts. Different modes then compete with, and complement each other and they operate in different and shifting mixes, variations that are unlikely to be captured by simple dichotomies seen as providing exclusive alternatives. When it is argued that it would be foolish to claim that the new governance has simply replaced old governance, or that the transition from one dominant mode to the other might be smooth and without obstacles, it is also necessary to discuss how the old and the new fit together (Eberlein and Kerwer 2004, Dehousse 2008a).² Can, then, a return to the general literature on democratic governance, and stronger links to the more enduring and recurring issues and theoretical ideas around which the study of politics and governance has been organized historically help in transcending the impediments and improve the understanding of EU governance? Can such a return at least help in getting the core questions right?

² Weiler makes a similar observation when it comes to international governance and law-making: “the contention is not that international governance – and community – has replaced the older paradigm, but that they provide a new layer in a multilayered international system” (Weiler 2008: 2).

Back to basics: Understanding democratic governance

The “new” governance literature has been a reminder that governing in contemporary democracies involves more than formally organized political institutions and office-holders. The term has been central in a theoretical approach that has challenged intergovernmentalist conceptions of national executives as the powerful actors who drive European integration (Hooghe and Marks 2001), and it has been linked to the debate about how unique is the EU. While non-uniqueness facilitates comparison with other systems of governance (Börzel 2008), it has been claimed that the advocates of the “new governance” agenda tend to conceptualize the EU as a *sui generis* phenomenon (Hix 1998).

The basic ideas behind the “new” governance, however, are not really new. It is more a question of reactivating and re-emphasizing ideas that have deep roots in Europe and the West, including anarchism’s emphasis on individual liberty and the doctrine that human beings can live together in a civilized manner without any overarching center of coercive power, and neo-liberal and conservative doctrines of economic laissez-faire and non-interference in the economy except for protecting private property, private enterprise and contracts. Historically, competing ideologies have expressed (excessive) faith in the benevolence or the problems of government as well as competitive markets and civil society. There have been struggles over government’s role in society, for example, how much, and what, government should be responsible for, how it should be organized and work, how much authority and power should be endowed in public actors and institutions, how individual and public rights should be balanced, how much power should follow from numbers and numerical superiority, to what degree government should be neutral among life-projects and societal visions, and how citizens can and should control their rulers.

Now, such issues are again activated in Europe, and efforts to theorize EU governance can possibly benefit from taking into account the history of competing ideas and agendas of governance and the history of successive forms of government, pathways and performances (Finer 1997). Therefore, in order to clarify the particular features of the EU system of governance, this essay holds that the Union could fruitfully be compared with the practices of other systems of governance, and not with “the state” as a theoretical ghost. Rather than relying on dichotomies, there is a need to attend to the variations within both “new” and “old” modes governance, including their different histories, formats, procedures and rationales (Citi and Rhodes 2007). Then the

claims made by the advocates of competing modes of governance can be related to some well-known questions: Who governs? Within which institutional settings? With what agendas and with what impacts?

Who Governs?

Since Aristotle, systems of governance have been classified in terms of the number (a single person, few and many) and the types of individuals (the wise, virtuous, rich, mediocre etc.) who are involved in governance. Yet among students of the EU there are different opinions about who the key actors are.

Analyses and doctrines of new forms of governance, characterized by private participation, public-private partnership and informal networks have often been based upon assumptions about the limited capacity of contemporary governments to steer societies. Governments are facing increasingly complex problems and they have become more and more dependent upon resources held by societal groups: expertise, information, technologies, and legitimacy. "Participatory governance" is seen as a challenge to the authority of office-holders and efforts to open up public policy-making and administration to society have been interpreted as a "reconquest of political authority by societal actors" (Andersen and Burns 1996: 228). As societal groups are regaining control, the distinction between government and society becomes blurred.

Such issues have also been raised in the EU, often linked to an assumed democratic deficit and the hope that civil society and participatory governance will provide a remedy and contribute to "good governance" (Kohler-Koch 2008b, c). Nevertheless, while there may be frustration with political rulers and institutions, there has hardly been a revolt of the masses. The EU, furthermore, is not an example of "governance without government". Government actors are still the most central participants in EU governance, often filling "double-hatted" roles in the interface between the European and the national level of government (Egeberg 2006), generating hybrid models and making it less easy to separate levels of governance. There are a variety of public actors (elected representatives, bureaucrats, experts, judges, diplomats, military personnel) as well as private actors representing private enterprises and civil society organizations. While civil society participation has contributed to debate and some improvement of the democratic quality of the Union, the Union's system of governance does not live up to democratic normative standards (Kohler-Koch 2008b, c). In sum: the complex patterns of participation in the EU can hardly be captured by the public-private

dichotomy. Nevertheless, while there are strikingly different patterns of participation, for example across policy areas, some combinations of participants are more common than others, as documented in Gornitzka and Sverdrup's (2008) study of the EU Commission's expert groups.

Future studies have to consider who has formal access to different arenas of governance in the EU, who is actually mobilized, in what ways and mixes, and with what results. "Who governs" has to be related to competing perspectives on human action, including assumptions about what those who govern are motivated to do, what they are capable of doing, and what behavioral logics they follow. On what basis is it claimed that human actors seek the truth, justice, power, or material benefits; that they act on the basis of calculation of self-interest, the interests of some group or the public interest; or that they follow rules of appropriate behavior as defined for a specific identity or role by a specific culture or sub-culture? Future studies also have to ask, what is the relevance of formally organized institutions of governance compared to informal networks for "who governs"?

Institutional Settings

Governance in contemporary democracies is (to some degree) ordered by rules and norms; and according to Dahl and Lindblom, the first problem of politics is how citizens can provide rulers with the discretion and resources needed to fulfil their tasks and at the same time prevent them from becoming tyrants (Dahl and Lindblom 1953: 272-3). Historically, "government by men" has often been seen as arbitrary rule, in contrast with government by laws, institutions, and constitutions. Yet systems of governance institutionalize action and interaction to different degrees and on the basis of different normative and organizational principles and behavioral logics.

In everyday language, "institution" may refer to a physical entity as well as an abstract idea. Here, institution refers to an organized system of behavioral rules, meaning, and resources (March and Olsen 1989). Institutionalization is both a process and a property of organizational arrangements. As a process institutionalization implies increasing clarity, agreement and formalization of (a) behavioral rules, including allocation of formal authority; (b) how behavioral rules are to be described, explained and justified; and (c) what are legitimate resources in different settings and who has access to, or control over, common resources. Corollary, *de-institutionalization* implies that existing rules and practices; descriptions, explanations and justifications; and resources and powers are becoming more contested and possibly discontinued. There is

increasing uncertainty, disorientation, and conflict. New actors are mobilized. Outcomes are more uncertain, and it is necessary to use more incentives or coercion to make people follow prescribed rules and to punish deviance. *Re-institutionalization* implies either retrogression or a transformation from one order into another, constituted on different normative and organizational principles (Olsen 2008b).

How, then, is governance organized in the EU? To what degree are there publicly recognized institutional arrangements that make it democratically legitimate to make and enforce decisions on behalf of citizens? According to what normative and organizational principles, behavioral logics, and forms of coordination are systems of governance organized and how are actors differently enabled or constrained? How are decisions made, implemented and enforced - what procedural mechanisms, processes and instruments are used? What resources, authority and power do EU systems of governance command? These are elementary questions to be raised in efforts to test claims about the importance of civil society involvement and informal networks, and the assumed reduced importance of public office holders and hierarchical political institutions. The significance of multi-level and polycentric structures, non-hierarchical informal networks, "soft" instruments such as the OMC, public-private partnerships, independent non-majoritarian agencies, civil society participation and power-sharing, have to be held up against the significance of formally organized European-level and national institutions for legislating, executing, adjudicating and enforcing policies, the increased use of qualified majority voting in the Union, the strong tradition of constitutional and public law at the European continent, and the emergence of an autonomous and hierarchical European legal system. However, this essay argues that focus should be upon how the different modes of governance are mixed, interact and supplement each other, and how the mix of modes of governance change over time, rather than seeing the different modes as dichotomies and alternatives excluding each other.

Generally, institutions of governance have been described as instruments of command, coercion and dominance, as tools for collective problem-solving helping societies to reach shared purposes and goals, as arrangements for regulating and facilitating exchange and helping citizens to fulfil their private desires, and as vehicles for constructing meaning and defining appropriate behavior, helping society to construct individual and collective identities and accounts. In the EU all of these are present, and again it may be argued that simple dichotomies are unlikely to capture the complexity of the EU institutions, where hierarchies, networks and markets are supplementing each

other in different combinations. The task of institutional approaches to governance is to improve somewhat our understanding of how the various aspects can be made to fit together in democratic contexts (March and Olsen 1995: 245-6). Therefore, a challenge for the competing institutional approaches to EU governance is to figure out the relative autonomy and explanatory power of different EU institutions. That is, what is the explanatory power of properties of institutions, compared to properties of individual actors; broad global and European socio-economic and cultural forces; and chance events and garbage can processes where the explanatory logic is temporal coincidence and not human intentions or environmental determinism (Cohen, March and Olsen 2007). As a prelude to such analyses it is also necessary to ask, what do policy makers aspire to achieve through different modes of governance; what are their agendas?

Agendas of governance

The “new governance”-debate within and outside the EU has fed on shifts in normative climate, ideologies and doctrines about how authority, power and control should be distributed in society. The renewed emphasis upon private enterprise and civil society participation in informal networks came together with an “ideological shift from politics towards the market” (Pierre and Peters 2000: 55). Reform agendas included attempts to push back the state and make it leaner and less costly, using market and quasi-market mechanisms in the public sector, and introducing the principles of New Public Management. However, reforms also involved attempts to find a “third way” between hierarchies and markets, giving primacy to civil society involvement in public policy making.

The reform agendas have been contested within the EU as well as within nation-states, reflecting opposing understandings of “governance” and the office of government. Such contestations can be related to four stylized agendas of governance (March and Olsen 1995: 242-45), ideas that historically have been carried by individuals and groups and been embedded in different institutional arrangements. A *minimalist* agenda take human beings as they are, with preferences and resources determined exogenously, and aspire to regulate their interactions and exchanges through a set of rules. Governance is a specific and limited activity, i.e. to administer the rules of common affairs and enforcing general rules of procedure. Power concentration is to be avoided and so is any large-scale vision and design of society. The regulating rules and principles are a result of spontaneous historical processes, evolving conventions and traditions, and not of imposed majority decisions.

Three other agendas open for more ambitious roles for governance. A *redistributive* agenda emphasizes substantive outcomes and the need to secure a more equal distribution of life-chances in society. Governance involves taking responsibility for the welfare of all citizens through reallocating resources and capabilities, an ambition that requires considerable taxation capabilities. A *developmental* agenda involves not only changing the environments of actors or their resources, but changing the actors themselves, their identities and sense of belonging. Governance includes improving citizens intellectually and morally through political participation and education. Citizens are collectively supposed to develop common purposes and projects and creating and sustaining a shared culture, including shared concepts of good governance and the good society. A *structuralist* agenda gives primacy to governance through deliberate institution-building and reform, where societal impacts are achieved through designing, maintaining and developing institutions and organizational capacities for debate, analysis, and action.

While rhetorical battles usually give primacy to the purified stylized types, political practice involves finding acceptable balances among the four agendas, i.e. how much and what type of regulation, redistribution, education/socialization, and institution-building to pursue and in what mixes. In the EU-literature the term “governance” has been linked to the (re)emergence of “the regulatory state” (Majone 1996, Armstrong and Bulmer 1998). It has been commonplace to argue that the Union does not have the resources required by the redistributive agenda or the control over education and socialization required by the developmental agenda. The Union’s record when it comes to governing through institution-building is more mixed. Nevertheless, all four aspirations are present in the EU, even if their significance in policy-making and their societal impacts is different. Modes of governance that have flourished in some policy areas have been seen as “unthinkable” in other policy areas (Scharpf 2002) and a challenge is to understand variations and their impacts over policy areas as well as over time.

Performance

Advocates of the “new” governance have made several claims concerning the superiority of this mode compared to other and presumably older modes. “Improvements” and “good governance” have been linked to policy effectiveness, democratic quality, and adaptive capacity through experimentation and learning. Yet, these claims have often been programmatic

statements with modest documented evidence in their support, creating a need for comparative studies of the actual performance of different modes of governance in different contexts (Citi and Rhodes 2007).

Policy effectiveness

Governance as policy making involves effective problem-solving and the ability to avoid sub-optimal solutions. It also involves conflict resolution capacities and distributional issues: Who gets what, when and how? Which and whose interests and values are accommodated and how are public and private interests balanced? A standard claim has been that civil society involvement and soft methods such as the OMC involve expertise and truth-seeking through deliberation, with appeals to reason and consent. Such methods are thought to create policy convergence in the EU by spreading “best practice” through decentralized, informal networks. Yet, in practice, end results depend on to what degrees and in what ways agreed-upon standards and benchmarks are implemented at the national level (Börzel and Risse 2006).

Effective cooperation between public and private actors may, for example, demand both strong public authorities and strong civil society organizations, reliable partners with the ability to deliver what has been promised and take responsibility. Such arrangements seem to work best in systems combining some autonomy for both public authorities and civil society associations, combined with a tradition of cooperation rather than state authoritarianism. This has been so in the EU (Kohler-Koch 2000, Börzel 2008) as well as in the expanding welfare state (Olsen 1981). A growing agenda came together with increased participation from “affected parties” (now: “stakeholders”), a development that raised concern about possible cooptation of civil society organizations and capture of public agencies. The integration of resourceful societal organizations in public policy making in the EU, like elsewhere, has also raised concern about the real influence of different kinds of interest groups and their possible impacts upon substantive policy outcomes (Dür and De Bièvre 2007), as well as the impact upon democratic accountability, the principle of one-person-one-vote, and the distribution of power in society (Benz, Harlow and Papadopoulos 2007).

Democratic legitimacy

What then are the moral doctrines and standards against which modes of governance are assessed and legitimated in the EU, so that citizens may become convinced that it is normatively acceptable that some have authority to make decisions about common affairs and others have an obligation to

obey? In democratic polities legitimacy depends on properties of both substantive outcomes and properties of the procedures used to make decisions. That is, legitimacy depends not only on showing that actions accomplish appropriate objectives, but also that actors behave in accordance with appropriate procedures ingrained in a culture; and in complex societies there is no guarantee for a perfect positive correlation between political effectiveness and normative validity (Merton 1938).

Because democratic governance involves the development, maintenance and change of normative standards legitimating institutions, behavior, identities, meanings and resources, there is a special need to explore empirically how different modes of governance may impact definitions and interpretations of “democracy” and “democratic deficit”. In polities with democratic aspirations, such as the EU, there is also a need to understand how different modes of governance may help or hinder a transformation of individuals into law-abiding, consensus- and compromise-seeking citizens. Likewise, there is a need to explore how modes of governance affect how elected representatives, bureaucrats, diplomats, military officers and judges may be turned into office-holders with an ethos of self-discipline, impartiality and integrity; and how different modes of governance may generate different balances between the requirements of public offices and individual calculated interests.

Adaptive capacity

Why are systems of governance what they are? How do they emerge, how are they maintained and changed, and why do processes of institutionalization, de-institutionalization, and re-institutionalization take place? It has been claimed that historically “Europe has been much, much more protean, changeful, and innovative than any other part of the globe” (Finer 1997: 14), and in the EU the ability to engineer institutions to match shifting circumstances and policy demands has often been assumed in spite of well documented reform difficulties (Olsen 2007). The Union has, on the one hand, been more successful in developing supranational institutions than any other region in the world, and this development has to some degree been a result of deliberate decisions. For example, the Open Method of Coordination was launched by the Lisbon European Council in March 2000 and the OMC and other “soft” methods were seen to increase the EU’s ability to experiment, learn and reform itself. On the other hand, the a-political language of improvement through diffusion of “best practice” stands in contrast with the fact that EU-actors are usually wary of upsetting the balance of power between levels of governance and between institutions at each level of

governance, a fact often turning major reform-efforts into rather tortuous processes.

In practice the EU's ability to learn and adapt has been far from perfect and new modes of governance and institutional forms have often been supplementing, rather than replacing old ones; generating composite systems of governance and accountability with layers of co-existing, interdependent and interacting institutions (Héritier 2003, Benz, Harlow and Papadopoulos 2007, Olsen 2007, Dehousse 2008a). For example, the Community method, with its legally binding and enforceable decisions is still important in the Union (Dehousse 2008b) and there are now fewer bold statements about the withering of the nation-state than some years ago.

Like other polities, the EU faces a balancing act between continuity and change, *Rechtsstaat* values and majority government, and between exploitation and exploration (March 1991, Olsen 2008b, Sabel and Zeitlin 2008). Exploitation involves using rules, routines and knowledge that are known to work. Exploration involves willingness and ability to experiment with rules, routines and knowledge that might, but often do not, provide improvements. Purification of exploitation will make a system of governance obsolete in a dynamic world that requires continuous adaptation to shifting circumstances and priorities. Continuous experimentation will prevent the organization from realizing the potential gains of new discoveries. What is less obvious is how to balance the two (March 1991).

The dilemma is observed in the EU, for example in struggles over treaty revisions. Intergovernmental Conferences (IGC) have often created "leftovers" to be dealt with by future IGCs. This has been so in particular when it comes to institutional reorganizations, reflecting that member states hold conflicting views of what Europe should look like in the future. Those who want to deepen European integration and develop efficient institutions in an increasing number of policy areas usually claim that current amendment procedures are "excessively rigid" and they want to simplify revision procedures. Those who defend status quo and member state sovereignty are more inclined to look for adequate protection and guarantees against undesired revisions of the treaties that involve transfer of authority and power to "Brussels". They give priority to intergovernmental bargains that require unanimous consent and protect member states' veto in treaty revisions, and they struggle to avoid change through (re)interpretations and every-day practices in the Court of Justice and other EU institutions.

A possible implication is that students of the EU should hold models of change that assume easy equilibria through adaptation or competitive selection up against models that assume “historical inefficiency”. That is, adaptation to deliberate reform efforts and environmental change are more slow and imprecise than assumed by equilibrium models (March and Olsen 1989). Another implication is that students of EU dynamics may fruitfully ask not only why policy-makers choose one specific mode, but rather to what degree and under what conditions forms of governance (practices, not blueprints) are the result of deliberate and informed choices. How important is governance as institution-building compared to other standard processes of change? To what extent are shifting modes of governance artifacts of attempts to cope with shifting problems, priorities and circumstances through a series of loosely coupled political compromises? If there is an increased use of civil society involvement in informal networks, is this due to their perceived superior performance, or is it due to member states defending their sovereignty and refusing to delegate authority and power to European-level institutions and actors? Is the OMC likely to be a transitory phenomenon that will disappear in policy areas when member states are able to agree on the Community Method, or is its use likely to increase in importance because the level of conflict increases in an expanding Union?

The need for synthesis

The argument of this essay is simple. The “governance turn” in EU-studies has called attention to some important political phenomena, changes in “the real world” that require observation, analysis and interpretation. Nevertheless, there is disagreement among policy-makers, citizens and scholars concerning how the EU system of governance works and how it has changed over time. It is also questionable how useful dichotomies such as “government” vs. “governance” and “old” vs. “new” modes of governance, as exclusive alternatives, are for capturing these phenomena. The EU is certainly not a case of “governance without government” and the old/new dichotomy is too crude (there is too much variation within each of the two categories) to provide precise insight into the degree and direction of change in the Union. This is in particular so when the ghost of “the state” is used as a measuring stick for understanding ongoing transformations. Then, where do we go from here? Arguably, the “new” governance may be interpreted as an approach supplementing, rather than replacing older approaches. Adding new modes, therefore, can be understood as contributing to an increasingly complex,

multilayered and multicentered European system of governance, rather than to one institutionalized system of governance replacing an older system.

As a start, there is a need to get the core questions right. It has been argued that rather than seeing the EU as a unique entity, the study of EU governance can benefit from attending to standard questions about democratic governance: Who governs? To what degree and according to what normative and organizational principles are modes of governance institutionalized? What do the rulers aspire to achieve and what do they do when they govern? What are the effects of different modes of governance upon policy efficiency, democratic legitimacy, and change in systems of governance? Rather than seeing change towards the “new” mode of governance as general improvement and a development towards “good governance”, it has been suggested that it is necessary to take into account that historically the organization of systems of governance has been contested, involving confrontations, power-struggles and efforts to find a democratically acceptable balance between competing conceptions and agendas.

Contemporary polities have repertoires of modes of governance and all the basic modes known from studies of democratic governance elsewhere are, more or less, present in the Union. The EU is to a large extent based upon legal integration. It is an experiment in building markets and formally organized political institutions, as well as informal networks with participation from civil society and private enterprises. There are complex and shifting patterns of co-existing actors, structures, behavioral logics, processes, agendas and resources, within a larger and shifting international environment. The coherence of the EU system of governance has varied over time through a variety of processes, rather than a single, dominant process of change. Yet the shifting mixes of processes and their outcomes are not well understood.

Efforts to explore to what degree and under what circumstances the EU systems of governance are likely to have independent and enduring impacts, and upon which political phenomena they have such impact, cannot feed on an existing set of shared theoretical ideas. Unsurprisingly, different approaches give explanatory primacy to different factors (agency, institutions, chance events, macro functional and normative environments), and much work is needed in order to specify the scope conditions of different modes of governance, the factors that drive shifts in these modes, and the utility of competing analytical frames. The grand theoretical challenge, however, is to work towards possible syntheses between the competing approaches. That is, to figure out whether and how different modes of governance - including their

possible institutionalization, de-institutionalization and re-institutionalization - may be comprehended within a single theoretical framework. Beyond all question, this is a tall order to which this epilogue is a prelude.

References

- Andersen, S.A., Burns, T.R. (1996) 'The European Union and the erosion of parliamentary democracy: A study of post-parliamentary governance', *Contemporary Developmental Analysis* 1 (2): 33-66. Reprinted 1996 in S.A. Andersen, K.A. Eliassen (eds.): *The European Union: How Democratic Is It?* London: Sage.
- Armstrong, K. and S. Bulmer (1998) *The Governance of the Single European Market*, Manchester: Manchester University Press.
- Bartolini, S. (2005) *Re-Structuring Europe. Centre Formation, System Building and Political Structuring Between the Nation State and the European Union*, Oxford: Oxford University Press.
- Bendix, R. (1968) 'Introduction', in R. Bendix (ed.) *State and Society*: 1-13, Boston: Little, Brown and Company.
- Benz, A., C. Harlow and Y. Papadopoulos (2007) *European Law Journal*, Special issue, 13 (4): 441-446.
- Bevir, M. (2006) *Encyclopedia of Governance*, Thousand Oaks CA: Sage.
- Börzel, T. (2008) European governance – negotiation and competition in the shadow of hierarchy, Berlin: Freie Universität Berlin: Manuscript.
- Börzel, T. and T. Risse (2006) 'Europeanization: The domestic impact of European Union politics', in K.E. Jørgensen, M.A. Pollack and B. Rosamond (eds.) *Handbook of European Politics*, London: Sage.
- Boyle, A. and C. Chinkin (2007) *The Making of International Law*, Oxford: Oxford University Press.
- Citi, M. and M. Rhodes (2007) 'New modes of governance in the European Union: A critical survey and analysis', in K.E. Jørgensen, M.A. Pollack and B. Rosamond (eds.) *Handbook of European Union Politics*, London: Sage.
- Cohen, M.D., J.G. March and J.P. Olsen (2007) 'The Garbage Can Model', in S. Clegg and J.R. Bailey (eds.) *International Encyclopedia of Organization Studies*, London: Sage.
- Dahl, R.A. and C.E. Lindblom (1953) *Politics, Economics, and Welfare*, New York: Harper.

- Dehousse, R. (2008a) (in preparation) *The Transformation of EU Policies? EU Governance at Work*, Connex Report Series, No. 8.
- (2008b) 'The Community Method: Chronicle of a death too early foretold', to appear in R. Dehousse (ed.) *The Transformation of EU Policies? EU Governance at Work*, Connex Report Series, Vol. 8.
- Dunleavy, P. and C. Hood (1994) 'From Old Public Administration to New Public Management', *Public Money & Management* 14: 9-16.
- Dür, A. and D. De Bière (eds) (2007) 'Interest group influence on policy making in Europe and the United States', *Journal of Public Policy* 27 (1): 79-101.
- Eberlein, B. and D. Kerwer (2004) 'New governance in the European Union: A theoretical perspective', *Journal of Common Market Studies* 42 (1): 121-42.
- Egeberg, M. (ed.) (2006) *Multi-level Union Administration. The Transformation of Executive Politics in Europe*, Houndsmill: Palgrave MacMillan.
- Finer, S.E. (1997) *The History of Government* (3 volumes), Oxford: Oxford University Press.
- Goodin, R.E., M. Rein and M. Moran (2006) 'The public and its policies', in M. Moran, M. Rein and R.E. Goodin (eds) *The Oxford Handbook of Public Policy*, Oxford: Oxford University Press.
- Gornitzka, Å. and U. Sverdrup (2008) 'Who are the experts? The informational basis of EU decision making', Oslo: Arena, University of Oslo: manuscript.
- Héritier, A. (2003) 'New modes of governance in Europe: increasing political capacity and political effectiveness?', in T. Börzel and R. Chichowski (eds) *The State of the European Union. Law, Politics, and Society* Vol. 6 : 105-26.
- Hix, S. 1998, The study of the European Union II: 'The "New Governance" agenda and its rivals', *Journal of European Public Policy* 5 (1): 38-65.
- Hooghe, L. and G. Marks (2001) *Multi-level Governance and European Integration*, Lanham, MD: Rowman and Littlefield.
- Kohler-Koch, B. (2000) 'Framing. The bottleneck of constructing legitimate institutions', *Journal of European Public Policy* 7 (4): 513-31.

- (2008a) 'New modes and new promises of European governance', in U. Sverdrup and J. Trondal (eds) *The Organizational Dimension of Politics*, Bergen: Fagbokforlaget.
 - (2008b) 'Civil society contribution to democratic governance: A critical assessment', in B. Kohler-Koch, D. Bièvre and W. Maloney (eds) *Opening EU-Governance to Civil Society – Gains and Challenges*, Connex Report Series, Vol. 5: 9-18.
 - (2008c) 'Does participatory governance hold its premises', in B. Kohler-Koch and F. Larat (eds) *Efficient and Democratic Governance in Multi-Level Europe*, Connex Report Series, Vol. 9.
- Kohler-Koch, B. and R. Eising (eds) (1999) *The Transformation of Governance in the European Union*, London: Routledge.
- Kohler-Koch, B. and B. Rittberger (2006) 'Review article: the "governance turn" in EU studies', *Journal of Common Market Studies* 44: 27-49.
- Majone, G. (1996) *Regulating Europe*, London: Routledge.
- March, J. G. (1991) 'Exploration and exploitation in organizational learning', *Organization Science* 2: 71-87.
- March, J.G. and J.P. Olsen (1989) *Rediscovering Institutions*, New York: Free Press.
- (1995) *Democratic Governance*, New York: Free Press.
- Merton, R.K. (1938) 'Social structure and anomie', *American Sociological Review* 3: 672-682.
- Olsen, J. P. (1981) 'Integrated organizational participation in government', in P.C. Nystrom and W.H. Starbuck (eds) *Handbook in Organizational Design*, Vol. 2, Oxford: Oxford University Press.
- (2007) *Europe in Search for Political Order. An Institutional Perspective on Unity/Diversity, Citizens/their Helpers, Democratic Design/Historical Drift, and the Co-existence of Orders*, Oxford: Oxford University Press.
- (2008a) 'The ups and downs of bureaucratic organization', to appear in Margaret Levi (ed.) *Annual Review of Political Science* Vol. 11. Palo Alto, CA: Annual Reviews.

- (2008b) 'Change and continuity. An institutional approach to institutions of government', submitted to *European Political Science Review*.
- Orren, K. and S. Skowronek (2004) *The Search for American Political Development*, Cambridge: Cambridge University Press.
- Pierre, J. and B. G. Peters (2000) *Governance, Politics and the State*, Basingstoke: Macmillan.
- Rhodes, R.A.W. (1996) 'The new governance: governing without government', *Political Studies* 44: 652-667.
- (1997) *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability*, Buckingham: Open University Press.
- (2003) 'What is new about governance and why does it matter?', in J. Hayward and A. Menon (eds) *Governing Europe*, Oxford: Oxford University Press.
- Rokkan, S. (1966) 'Norway: Numerical democracy and corporate pluralism', in R.A. Dahl (ed.) *Political Oppositions in Western Democracies*, New Haven: Yale University Press.
- (1999) *State Formation, Nation-Building and Mass Politics in Europe. The Theory of Stein Rokka*, edited by P. Flora with S. Kuhnle and D. Urwin, Oxford: Oxford University Press.
- Rosenau, J. N. and E-O. Czempiel (1992) *Governance Without Government: Order and Change in World Politics*, Cambridge: Cambridge University Press.
- Sabel, C. F. and J. Zeitlin (2008) 'Learning from difference: The new architecture of experimentalist governance in the European Union', *European Law Journal* 14 (3): 271-327.
- Scharpf, F. W. (2002) 'The European social model: coping with the challenges of diversity', *Journal of Common Market Studies* 40 (4): 645-70.
- Schmitter, P. C. (1996) 'If the nation-state were to wither away in Europe, what might replace it?', in S. Gustavsson and L. Lewin (eds) *The Future of the Nation-State*, London: Routledge.
- Streeck, W. and P. C. Schmitter (eds) (1985) *Private Interest Government. Beyond Market and State*, London: Sage.

Weber, M. (1970) 'Politics as a vocation', in H. H. Gerth and C. Wright Mills (eds) *From Max Weber*, London: Routledge and Kegan Paul.

Weiler, J. H. H. (2008) 'The turn to governance: The exercise of power in the international Public Space', New York: New York University, The Straus Institute for the Advanced Study of Law and Justice: Orientation paper.