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# No Synonyms: Global Governance and the Transnational Public

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## Abstract

*Building on the classical literature of the public, the article critically analyses the current literature on global governance. After briefly presenting the classical understanding of the public the author goes on to argue that in global governance the effectiveness of collective problem-solving is seen as a compensation for its lack of inclusiveness which in turn makes it impossible to equate global governance with (transnational) public. The author criticizes the substitution of the term “the public” by “stakeholders” since the notion of stakeholders allows for economically powerful voices to intervene in public decision-making processes. The article furthermore criticizes ideas on global governance as “strong publics” on the basis that even if the decision-making seen in global governance was to follow the ideal of rational deliberation, this would not make it equal to the transnational publics, since the deliberations of transnational “strong publics” are per definition exclusive in nature.*

## KEY WORDS:

*global governance, transnational communication, transnational public sphere, stakeholders*

## Introduction

In recent years, a new term has been coined to refer to the regulation of transnational public affairs: global governance. Finkelstein (1995: 369) defines global governance as governing - without sovereign authority - relationships that transcend national frontiers. Similarly, according to Dryzek (2000: 120), global governance is "the creation and maintenance of order and the resolution of joint problems in the absence of such binding decision structures". The Commission on Global Governance describes global governance as "the sum of the many ways individuals and institutions, public and private, manage their common affairs" (Report of the Commission on Global Governance 1995: 1)<sup>1</sup>. Global governance is thus presented as a process in which there is no central authority that would make binding decisions upon the global polity, yet the global community finds ways to resolve common problems. Such claims for global governance come very close to Dewey's classical understanding (1927/1954) of an organised public – a process in which members of the public come together in order to regulate public affairs.

This article critically analyses such optimistic, positive accounts of global governance. Specifically, we analyse four explicit statements in current scholarship on global governance that evoke the idea that a transnational public should be sought within the developing processes of global governance:

- a. in global governance, decision-making processes follow rational, deliberative practices (e.g. Lynch 2000, Eriksen and Fossum 2001, Kapoor 2005, Mitzen 2005);
- b. global governance represents the transnational public sphere since it involves inclusive, deliberative consultations (e.g. Dryzek 1996, Nanz and Steffek 2004, Eckersley 2007);

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<sup>1</sup> It is important to note here that this article does not address all understandings of governance theory, but only those that (a) address global or transnational governance and (b) extend governance from a private affair into a public affair. The private here means that the subjects are understood as owners who regulate their property, as for example in the case of Carver's conceptualisation of board governance theory which addresses "the direct process by which owners' agents exercise ownership prerogatives over the corporate enterprise" (Carver 2010, 150).

- c. global governance is an inclusive phenomenon since it includes stakeholders (e.g. Held and Koenig-Archibugi 2004, Bäckstrand 2006, MacDonald 2008);
- d. global governance is the process whereby transnational public issues are regulated and the effectiveness of this regulation provides it with legitimacy (e.g. Bäckstrand 2006).

By critically responding to these statements, we juxtapose the current literature on global governance with the classical literature on the public. The article is divided into five sections. In the first section we will present a classical, normative understanding of the public as a democratic ideal. Each of the following sections deals critically with one of the four statements presented above: (a) global governance as rational deliberation, (b) as deliberative consultation, (c) as including stakeholders, (d) as a process in which its effectiveness constitutes its legitimacy.

## The public in its classical understanding

The public in its classical understanding was not understood to be solely a national phenomenon. Kant (1795/1957) proposed that publicity should extend national borders and serve the cause of world peace. A good century later, World War I led Tönnies (1922/1998: 433-444) and Dewey (1927/1954) to express similar sentiments. Tarde conceptualised the public as being composed around the printing press, and proposed that journalism has not only nationalised but also internationalised the “public mind” (Tarde 1989/1969: 303-304). Blumer (1946/1953: 46) specifically stressed that the public is not necessarily the same as the citizenry of a nation-state, since its outer boundaries are defined by the issue at hand. In criticising current literature on global governance, I build primarily on this classical literature about the public, drawing on writings from the European Enlightenment in the 18th century (Kant 1784, 1795/1957, Bentham 1791/1843, Mill 1832), as well as early 20th-century German (Tönnies 1922/1988) and American thinking about the public (e.g. Dewey 1927/1954, Park 1924/2007, Mills 1956, Blumer 1946/1953).

This tradition conceives of the public as a democratic ideal with four dimensions: structural conditions, process, content, and efficacy. The first refers to the conditions under which the public is formed, the second to the conditions to which members of the public adhere while deliberating, the third to what the public is deliberating about and the fourth to the results of its deliberation.

(a) *Structure*: The public is a group of people who are confronted by a potentially public issue, are divided by their ideas as to how to address the issue and proceed to engage in deliberation (Blumer 1946/1953: 46). All those who are potentially affected are able to participate as peers in deliberations concerning the organisation of their common affairs (Fraser 2007: 20). The public is autonomous from and serves as a public check on public powers in authority (Bentham 1791/1843). Institutional authority, with its sanctions and controls, does not, therefore, penetrate the public (Mills 1956: 304). Nor could power and money influence its deliberation (Habermas 1996: 364). Finally, the information that members of the public need in order to become aware of some potential public problem and make the best decision possible is publicly accessible (in analogy with Bentham 1791/1843: n.p. Splichal 2002: 168, Gastil 2008: 20).

(b) *Process*: The public's deliberation proceeds in such a way that in the public as many people express opinions as receive them and everyone has the opportunity to respond to an opinion without internal or external reprisals being taken (Mills 1956: 302–304). Deliberators provide mutually justifiable reasons for their assertions (Gutmann and Thompson 1996: 129). The authority of deliberators is built purely upon their deliberative proposals and not outside sources of power (Cohen 1989: 21). Every member of the public can put issues on the agenda, propose solutions and offer reasons in support or criticism of proposals (Cohen 1989: 21). Deliberators acknowledge the value and dignity of all human beings - those with whom they deliberate ("politeness" as suggested by Papacharissi (2004: 262) and also others who are not participating in deliberation ("civility" as suggested by Papacharissi (2004: 267). Nothing is to be taken for granted; everything could be subject to argument and evidence (Carey 1995: 381).

(c) *Content*: Deliberators deliberate whether an issue is a matter of public affairs in that its potential consequences are extensive, long-term and serious (Dewey 1927/1954: 126-128). Members of the public thus realise how personal troubles relate to social problems and, conversely, how the community's problems are relevant to its members (Mills 1956: 318). Second, members of the public deliberate whether an issue is outside the realm of necessity, or, in other words, whether it is possible to make the social changes the issue calls for, where the public is the primary agent in the process of politicisation (Gamble 2000/2006: 7, Hay 2007: 79)<sup>2</sup>.

(d) *Effectiveness*: The first important result of public deliberation is that participants "hear the other side" and know the opinions of other deliberators and understand their reasons for holding these opinions (Mansbridge 1983: 78, Graham 2008: 30). Furthermore, deliberators come to a common decision or they agree to disagree but continue to seek fair terms of cooperation among equals (Gutmann and Thompson 1996: 53). The opinion of the public is finally effective in the shaping of decisions with powerful consequences (Mills 1956: 302–304, Fraser 2007: 22), either by influencing the majority opinion or by influencing the assessment of public opinion that those in power take into account in the decision-making process (Splichal 1999: 4). Public officials are representatives of the public and are accountable to the public so that the interests of the public are preserved and protected (Dewey 1927/1954: 15-16). Finally, public powers are able to implement public decisions (Fraser 2007: 22).

Classical thought on the public has been disrupted by the English translation of Habermas's (1962/1989) work on *Öffentlichkeit*<sup>3</sup> as "the public sphere", resulting in what Splichal (2010) terms the "eclipse of the public" in scholarly thought. Here, the term "public" refers to the agency of public deliberation - basically to the question of who deliberates. The public sphere refers to the question of conditions of deliberation. It is, however, difficult if not impossible to divide the normative conditions of

2 Gamble (2000/2006) sees the realm of the political narrowing, with diminished powers to imagine any alternatives to the current social position and the perception of social affairs as being subject to the influence of fate. The end of history, the end of the nation-state, the end of government and the end of the public sphere are presented as consequences of fate, as the end of the endeavour of humans to take their future in their own hands, according to Gamble. These modern "endisms" furnish visions of society in which people are seen as being held captive by the forces of modernity, trapped in the iron cages of the modern world: bureaucracy, technology and the global market (Gamble 2000/2006: 18).

3 See more on the consequences of this translation in Darnton (2000: n.p.), Kleinstüber (2001: 96 - 98) and Splichal (2006: 105).

public deliberation so that each would separately belong to either the public or the public sphere—which is probably why the public sphere and the public are nowadays used in a simultaneous and inconsistent fashion (see for example Fraser 1992). The ultimate defining characteristic of the public sphere is whether it actually serves the organisation of the public. The public is, by definition—to borrow Darnton's (2000: n.p.) words—"an active agent in history, an actual force that produces actual effects." The public sphere by itself, Darnton (2000: n.p.) continues, could not be ascribed with any such agency.

## **Rational deliberation on its own does not constitute the public**

There are a number of authors who identify the international public sphere with the rational deliberation of political representatives, such as state diplomacy (Mitzen 2005), the United Nations Organisation (Lynch 2000), the "strong publics" of the European Parliament and the European Union Committee (Eriksenn and Fossum 2001: n.p.). These authors argue that rational deliberation of public powers is a sufficient characterisation of the transnational public sphere (Lynch 2000, Mitzen 2005) and transnational publics (Eriksenn and Fossum 2001).

The ideas of the transnational "strong publics" reflect a broader, ongoing process of change in theoretical thought on the public, under the heading of deliberative democracy theories, in which the focus has been much more on rational deliberation than on inclusion (e.g. Habermas 1996, Gutmann and Thompson 1996, Bohman and Rehg 1997). The concept of "strong publics" was introduced by Fraser (1992: 134), who criticised Habermas's early conception of the public for promoting weak publics whose deliberative practices function as a critical discursive check on the state, and consist exclusively of opinion formation but do not encompass decision-making. Fraser provides an example of direct decision-making processes as they happen in parliaments, where both opinion formation and decision-making are present. Paradoxically, in contrast to her own

argument, which stresses that there should be as much inclusion as possible in decision-making processes, she terms the national parliaments as “strong publics” (Fraser 1992: 134). By doing so she creates a rupture in the critical tradition of theoretical thought on the public, whereby the public is conceptualised as sovereign over its public officials (Dewey 1927/1954), is autonomous from the public authorities it supervises (Bentham 1791/1843) and stands *in opposition* to institutional authority, which in turn does not penetrate the public with its sanctions and controls (Mills 1956).

In his later writings, Habermas (1996: 307) followed Fraser’s concept of “strong publics” and thus created a definition of the public in which rational deliberation and not autonomy and democratic inclusion became the most important defining concept of the public. Habermas argues for a distinction to be drawn between the “weak public sphere”, the sphere of opinion formation that is relieved of the need to achieve collectively binding decisions, and the “strong public sphere” of the political system. Yet the public, in its normative, classical understanding, is not “weak” – it is necessarily sovereign over its political representatives. By arguing for the distinction as a positive description of reality, Habermas himself retreats from the democratic ideals of combating political exclusion, as presented in his early work *Structural Transformations of the Public Sphere* (Habermas 1962/1998).

Writings that equate global governance to the transnational public sphere reflect this shift in theoretical thought on the public. Lynch (2000), for example, argues that since the public sphere exists when action is co-ordinated through a discourse focused on securing consensus, the international public sphere exists when states exchange interpretations and arguments in pursuit of international consensus. By applying Habermas’s (1981/1984: 284) distinction between communicative and strategic action, Lynch (2000: 317) thus sees the international public sphere developing in state diplomacy. If diplomacy as practised by the representatives of states is characterised by deliberation and communicative action and not the strategic pursuit of pre-defined interests, then this is, according to Lynch, the international public sphere. Similarly, Mitzen (2005: 402) borrows Habermas’s (1996: 307) distinction between “publics of parliamentary bodies” and the “weak public”. She proposes that governmental organisations and forms of deliberation between states are international

public spheres. Eriksenn and Fossum (2001: n.p.) argue that the European Parliament should be considered a “strong international public”, since parliaments are decision-making deliberative bodies: “They embody this combination better and more explicitly than any other political body: they are quintessential strong publics” (Eriksenn and Fossum 2001: n.p.). Similarly, the committees of the European Union could also be regarded as the strong publics Eriksenn and Fossum (2001: n.p.) propose, since they deliberate and make decisions which influence EU states.

Yet even if the decision-making of global governance were genuinely to follow the ideal deliberative process, this would still not make it the equal of the transnational public, since the deliberations of transnational political actors are exclusive in nature. International bodies such as the European Commission and the committees of the European Union are precisely the types of bodies that need to be confronted by a transnational public, not presented as equal to it. Describing the deliberative processes of political authorities as “publics” inevitably adds to the confusion surrounding questions of the autonomy, efficiency and accountability of government in relation to the public.

## **Transnational deliberative consultations: lack of inclusion and autonomy**

Global governance is said to be equal to the transnational public sphere when it involves top-down organised deliberative consultations, such as “discursive designs” (Dryzek 1990), “stakeholder democracy” (Backstränd 2006: 472) and “deliberative participatory publics” (Nanz and Steffek 2004: 315). Dryzek (1990: 106) argues that, at the international level, discursive designs promise authority based on consent and voluntary compliance and, as such, are ideally suited to the highly decentralised international system. Keane (2009: 695-747) optimistically argues that deliberative public consultations, together with the spread of a culture of voting, have become a new mode of “monitory democracy” – that since 1945 the world is in the form of the “deepest and widest system of democracy ever known” (Keane 2009: 698).



Nanz and Steffek propose that global governance should be accompanied by “deliberative participatory publics” which “stimulate an exchange of arguments in which policy choices are exposed to public scrutiny” (2004: 315). According to Nanz and Steffek the “appropriate public sphere” of global governance is the “institutionalized arena for deliberative political participation beyond the limits of national boundaries” (2004: 315). Such a global governance regime would, they argue, draw its legitimacy from the “deliberative quality of their decision-making process: it is not designed to aggregate self-interests, but rather to foster mutual learning, and to eventually transform preferences while converging on a policy choice oriented towards the public interest” (Nanz and Steffek 2004: 319). Such international deliberative forums would involve a variety of actors (e.g. national officials, scientific experts, NGOs) and cooperatively address a specific global problem. The main public actors would be the organised civil society organisations, who “can give voice to citizens’ concerns and channel them into the deliberative process of international organizations” and “can make the internal decision-making processes of international organizations more transparent to the wider public” (Nanz and Steffek 2004: 323). Deliberative public consultations are therefore considered to be the most important democratic innovation involved in global governance, since they follow deliberative principles and include a wide variety of stakeholders.

Eckersley (2007) positions the transnational public sphere within global governance institutions such as the World Trade Organisation (WTO). The WTO, according to Eckersley (2007: 331), represents a step in the direction of the transnational public sphere, since it includes a mechanism, “amicus curiae brief”, by which “non-state actors have found a new space for the display of ‘critical public reason’ within the organs of the WTO” (Eckersley 2007: 331). He takes a positive view of this mechanism as a link between civil society and decision-makers.

Similarly, Bäckstrand (2006: 427) argues for more diverse and hybrid forms of inclusion of a wider range of stakeholder interests in deliberative procedures, both at the level of policy decision-making (through advisory, top-down initiated and organised multi-stakeholder deliberations) and at the level of policy implementation (in the form of partnerships between governmental, private and non-governmental organisations).

The example of good practice that she provides is the 2002 United Nations World Summit on Sustainable Development.

Compared to the discourse on strong publics, the idea of transnational deliberative designs is a step closer to democratisation: it argues for greater inclusion of civic voices. On the other hand, compared to the classic ideal of the public as being autonomous from political and economic powers (e.g. Bentham 1791/1843, Dewey 1927/1954, Mills 1956), the proposals on discursive public consultations neglect the question of autonomy in relation to top-down organisation. These proposals explicitly assume that public authorities will organise and finance transnational deliberative consultations. Yet such top-down organisation is problematic, since it does not guarantee the autonomy, inclusion, transparency and effectiveness of public deliberation, but directly serves the interests of political (and economic) “sponsors”. The most serious danger inherent in top-down organised discursive designs may be, as Dryzek (1996: 42) recognises, the co-opting of potential troublemakers and the use of those designs to justify decisions already made. To illustrate: the common conclusion of research on e-government public consultations carried out by means of new media has usually been that the main problem lies not in technologies but political representatives' lack of will to listen (e.g. Jankowski and van Selm 2000: 158, Stanley and Weare 2004: 511, Hyeon-Suk 2008: 55-57).

An argument against the comparison of the WTO's public consultations with the transnational public sphere is provided by Young (2001). In response to the criticism of the WTO as an exclusive forum dominated by corporate interests in the service of northern hemisphere economies, some of its officials, Young (2001: 680-681) reports, organised a meeting for the day before the official WTO meeting, to which representatives of non-governmental organisations were invited. Many protesters, Young claims, considered this gesture an absurd attempt to co-opt and dampen opposition to the WTO's proceedings, and therefore chose not to attend. Some of the NGO representatives who decided to attend, however, found the agenda already decided and that they were passively listening to the WTO director-general, the US political authorities and other powerful figures, with only minimal time available to question their speeches or make speeches of their own.

A similar critique can be applied to Bäckstrand's (2006) suggestion that the 2002 World Summit on Sustainable Development is a model of good practice for the transnational public sphere. Inclusion in the World Summit was decided on by the UN Commission on Sustainable Development, who picked "focal organisations", those whom it regarded as "obvious leaders" among the nine major groups (Bäckstrand 2006: 485): business, farmers, indigenous people, local governments, non-governmental organisations, the science and technology community, trade unions, women and youth. Bäckstrand does not question this decision, neither regarding the nine groups, nor regarding the "obvious leaders", but merely assumes it to be a good example of inclusion on the transnational level. Regarding the nine groups selected, Willetts (2001: n.p.) claims that the choice of these groups was the arbitrary and incoherent outcome of negotiations at the 1992 *United Nations Conference on Environment and Development*. He argues that it is arbitrary since it singles out women but not men; the young but not the elderly; indigenous people but not other minorities etc., but he stresses that, above all, "it is analytically inconsistent to have NGOs as one of the nine major groups, when all other eight are represented in the UN system via the ECOSOC arrangements for consultation with non-governmental organisations" (Willetts 2001: n.p.). He claims that the selection was influenced by the personal concerns of the secretary-general of the *United Nations Conference on Environment and Development* and by the lobbying of NGOs who were accredited to the conference. According to Willetts, this incoherence came about because many of those in the other "major groups" participating did not wish to be labelled as NGOs and that by adding NGOs they met the requirement to have a special category which would encompass environmental and development NGOs.

How the process of inclusion to the World Summit on Sustainable Development operated was that "the CSD Commission on Sustainable Development Secretariat picks focal organizations, i.e. those whom it regards as obvious leaders among the major groups. Hence, the secretariat coordinates the dialogue process by identifying core organizing partners" (Bäckstrand 2006: 485). Bäckstrand (2006: 485) takes a positive view of the decision to include "obvious leaders" in the World Summit as a "bottom-up activity". The criterion of "obvious leadership" is, however, far from "obvious", since it could be interpreted in line with a large number

of different criteria (e.g. the number of members, access to the mass media agenda, the duration of existence, etc.). These criteria relate to differences in resources much more than to differences in legitimate representation. Various groups, for example, do not necessarily even have a specific leadership and work much more like a network among which there is cooperation *and* competition to secure a voice within the global governance system. Furthermore, the top-down selection of participants could hardly be named a “bottom-up process”.

Yet another critical conclusion regarding a transnational deliberative design is provided by Cammaerts and Carpentier (2006) and Hintz (2007), who analysed inclusion in the World Summit on Information Society (WSIS). They concluded that accreditation for the WSIS process was geared towards large NGOs – applicants either needed to be an entity officially recognised by the UN, or they had to prove their credentials as formally established organisations with a headquarters, a democratically adopted constitution and annual reports (Hintz 2007: 4). Access for poorer countries and smaller NGOs was restricted due to the unequal distribution of resources (Hintz 2007: 4). Most importantly, some groups, such as Reporters Without Borders and Human Rights in China, were strategically excluded (serving the interests of powerful states) without any official explanation of why they were excluded. Similar measures were also put in place in respect of the opportunity to publish on the WSIS website (Cammaerts and Carpentier 2006: 30-31).

These analyses thus show that existing examples of transnational deliberative public consultations have fared badly in terms of autonomy and inclusion. As Young argues, participation in exclusive systems merely helps confer undeserved legitimacy on these processes and offers no representation to those who remain outsiders (Young 2001: 680). Merely thinking about financial support for non-governmental organisations from “developing” countries (e.g. Nanz and Steffek 2004: 335) is not enough. As long as there is no vibrant transnational public autonomous from political and economic powers, there is no legitimate way to extend inclusion in global governance, since there is no “base” from which inclusion can be secured.

## Stakeholders are not equal to the public

New actors, loosely labelled as “stakeholders”, are said to gain power as part of global governance processes. The United Nations Commission on Global Governance, for example, identifies four types of actors of global governance, in addition to national governments: “non-governmental organizations, citizens’ movements, multinational corporations, and the global capital market. Interacting with these are global mass media of dramatically enlarged influence” (Report of the Commission on Global Governance 1995: n.p.). Rosenau claims that, in the process of global governance, authority is relocated from the nation-state “upwards to transnational and supranational organisations, sideways to social movements and NGOs, and downwards to subnational groups” (Rosenau 1999: 293). The concept of global governance thus seems to describe a reality in which the regulation of public affairs has become more democratic, since new voices are said to have been empowered within the international arena: non-governmental organisations (NGOs), citizens’ movements, multinational corporations and private firms.

The main “break” that the notion of global governance represents with the Westphalian model for the regulation of transnational affairs is a critique of state-centrism. According to Rosenau (2002: 71), global governance neither posits a highest authority nor anticipates that one is likely to arise. “Global governance is a summarising phrase for all the sites in the world where efforts to exercise authority are undertaken” (Rosenau 2002: 71). It is “governance without government” (Rosenau and Cziempiel 1992/1998).

Dewey’s classical understanding (1927/1954) of the public as all those affected by indirect transactions to such an extent that it is deemed necessary to systematically regulate those consequences has been replaced within the discourse on governance by the concept of stakeholders. The term stakeholder is “imported” from management theories and theories of corporate responsibility to thoughts on globalisation (e.g. Jones and Fleming 2003), global sustainability (e.g. Steurer et al. 2005, Sharma and Henriques 2004, Pratt 2003), global stakeholder democracy (e.g. Backstränd 2006, MacDonald 2008) and “multistakeholder networks” (Held and Koenig-Archibugi 2004: 129). Although the stakeholder

concept appears to be similar to Dewey's understanding of the public, it is, nevertheless, different in an important way: the main subjects in the public are individuals and not corporations. Economic stakeholders' theory has been, "released from the burdens" that the concept of the public encompasses, inherently associated with democratic ideals.

Freeman, who introduced the concept of stakeholders in economic management, defines a stakeholder as "any group or individual who can affect or is affected by the achievement of the organisation's objectives" (Freeman 1984: 46 in Werhane and Freeman 2006: 502). In contrast to Dewey's position on the public as those affected by public transactions, Freeman takes into account not the moral definition of the public (as all those who are affected), but the position of power: all those who can affect the organisation's objectives. Freeman's understanding leaves enough space for an interpretation which argues that managers should be responsible – but only to those who have enough power to affect the outcome of their outputs. The emphasis on stakeholders as those who have the means to influence the organisation is, for example, clear from Clarkson's (1995: 106) differentiation between primary and secondary stakeholders. Judged from this perspective, the corporation should take into account stakeholders' claims only if they are primary stakeholders – if they manage to organize themselves in such a way to threaten with potentially "significant damage to the corporation" (Clarkson 1995: 107). While there is no risk of pressure, there seems to be no responsibility for the corporation either.

Furthermore, management stakeholder theory is "manager-centric". While the concept of the public emphasises democratic decision-making, the concept of stakeholders emphasises managers' decision-making. For Dewey (1927/1954), those who are seriously affected in the long term by the issue in question identify themselves as the public, while the stakeholders, on the other hand, are identified by those who affect (i.e. managers) and not those who are affected by their transactions. Mitchell et al. (1997), for example, identify stakeholders on the basis of the priority given to different groups by managers who take into account the perceived legitimacy, perceived power and perceived urgency of stakeholders' claims.

Dewey's focus was on final regulation by political authority (the state). The focus of stakeholder theory is on self-regulation between corporations and their social environment. Steurer et al. (2005: 264) argue that stakeholder theory gained momentum because relationships between corporations and societal groups are less likely to be the subject of active state interventionism than they were in the Keynesian era. According to Freeman, "creating value for stakeholders is important, if for no other reason than to avoid the folly of regulation and government expropriation" (Freeman et al. 2004: 366).

Finally, the concept of the stakeholder is "based on the idea that sustaining viable stakeholder-relations creates long lasting value for corporations" (The Global Stakeholder Strategies Program<sup>4</sup> 2009). As LaPlume et al. (2008: 1158) note, Freeman's approach was "unabashedly strategic in content because the consideration of stakeholder interests was seen as playing an instrumental role in enhancing firm performance". According to Jones and Fleming (2003: 434), stakeholder theory promotes, at best, more "enlightened" behaviour by firms (and other actors), but behaviour that remains fundamentally self-seeking.

Business ethics theories, according to Crane et al. (2004: 108), have successfully promoted the idea that corporations are citizens. Discussion of stakeholders and corporate responsibility is, according to Banerjee (2008: 51), an ideological movement that is intended to legitimise and consolidate the power of large corporations in global governance processes. Economic actors have been one of the loudest voices arguing for "global stakeholder democracy", since they present themselves as important stakeholders of global governance. The "multistakeholder networks" proposed by Held and Koenig-Archibugi (2004: 130-131) and Benner et al. (2004) argue for the inclusion of corporations. In the last decade, powerful economic players have gained a seat in global governance procedures, especially within the United Nations Organisation's conferences. To illustrate: the United Nations Global Compact has been proposed as a model of good practice for "harnessing corporate power" (Kuper 2004; Risse 2004; Zadek 2004). Similarly, at the World Summit on Information Society (WSIS), according to Hintz (2007: 5), corporations were represented both individually and through their respective business associations.

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4 [http://www.business.gwu.edu/icr/global\\_stakeholder\\_strategies.asp](http://www.business.gwu.edu/icr/global_stakeholder_strategies.asp), accessed 14 October 2009.

The transnational consequences of economic actors, such as the externalisation of costs (Wallerstein 2004: 47-48; 81), tax evasion (Burbach et al. 1996: 60, Sassen 1996: 8, Scholte 2005: 138), and evasion of responsibility by creating global “flexible accumulation” (Harvey 1989: 141-173), emphasise the need for a transnational public to emerge in response to economic actors. The reality, on the other hand, is that economic power provides resources which allow economic actors to be the most organised and “loudest” actors within existing global governance processes. The economic actors who have pushed for the economic globalisation that we know today are the same actors who push for representation as stakeholders in global governance.

## Effectiveness does not compensate for inclusiveness

Global governance “multisectoral networks” have developed, Benner et al. (2004: 192) argue, “in response to the failure of traditional governance mechanisms, and offered new and alternative ways of getting things done”. “Getting things done” is the implicit argument within conceptualisation of global governance as self-regulation of economic actors (e.g. Adobor & McMullen 2013), whereby those affected by self-regulation are understood to be only or primarily corporations. The main challenge for such economic global non-governmental regimes is according to Adobor and McMullen (2013: 11) their effectiveness while public inclusion is narrowed only to transparency by publicizing data on their operations.

The notion of global governance is implicitly interconnected with the idea that the effectiveness of regulation, not democratic inclusion, is the most important value of transnational organisation. Backstränd (2006: 473) identifies two types of legitimacy: “input” and “output” legitimacy. The first refers to inclusion in decision-making processes: it is “the participatory quality of the decision-making process and asks whether the process conforms to procedural demands, such as representation of relevant stakeholders, transparency and accountability” (Backstränd 2006: 473). The second refers to the effectiveness of the problem-solving capacity of the governance system (Backstränd 2006: 473).



Backstränd (2006: 473) proposes that “high output legitimacy in terms of effective collective problem solving can, on some accounts, compensate for low input legitimacy”, or, in other words, she claims that the effectiveness of problem-solving can compensate for inclusiveness. Such negation of legitimacy in terms of democratic inclusion is very much in line with the overall neo-liberal approach to global governance, what Higgot and Erman (2008: 5) term the “economic theory of global governance”. This approach promotes “output legitimacy” by means of “public-private partnerships” beyond public oversight, such as the examples of credit rating agencies and ICANN.

Effectiveness, however, can never compensate for legitimacy. The criteria of what is effective need to be set by the “input legitimacy” of all those potentially affected – those who are potentially affected by the issue at hand know their problems best and can therefore be the final judge on whether a specific problem has been solved effectively. However, the actors who constitute the broad arena of global governance are not democratically selected, nor are their operations transparent. Furthermore, they are not held accountable by the people whose lives they affect (e.g. Benner et al. 2004; Scholte 2004; Bexell et al. 2006; Gupta 2008).

Splichal (2010) argues that global governance is characterised by a global democratic deficit, because new forms of governance often escape traditional mechanisms of accountability, while the new accountability mechanisms lack efficiency. In a democratic nation-state, civil society and the economy are regarded as spheres outside the political system, having the potential to influence the state, but not to be involved in governance. The notion of governance, however, blurs this differentiation between the state, economy and civil society (Splichal 2007: n.p.) and thus also the notion of accountability and legitimacy of representation. It results in a situation in which it is “extremely difficult if not impossible to know who decides what, and how it is decided” (Splichal 2009: 396).

Consider, for example, the European Union. Starting out as an organisation for economic regulation, it has become an important regional actor entrusted with powers to deliver political regulation of much more than just economic transactions. EU nation-states have transferred their regulatory powers and re-delegated their sovereignty to the political bodies of the

EU in the process of denationalisation. The EU is criticised on account of its democratic deficit, most commonly for a lack of democratic mechanisms within the EU (Rumford 2003: 34) and thus a shortage of opportunities for its citizens to influence its decisions. As long as decisions within the EU are reached by experts who are not accountable to elected representatives, and the decision-making process has little transparency (e.g. Krašovec 2006), denationalisation within the EU will equate to depoliticisation (Hay 2007). In the face of such criticism, the EU has responded with highly public attempts to construct a European public sphere as a top-down process (e.g. Brüggemann 2005; Baisnée 2007). In 2001, the Commission of the European Communities issued a White Paper on European Governance, in which it argued for greater involvement and more openness with regional and local governments and civil society. Yet, as Höreth concludes in his analysis of the White Paper, this is not a means to reduce the EU democratic deficit, since the White Paper represents the expert-driven approach, where "participation and consultation can only be initiated and controlled by the institutions, should lead to enhanced governance capability, are limited to consultation and mainly directed to sectoral functional actors" (Höreth 2000: 13).

## Conclusion

In what she terms “activists challenges to deliberative democracy”, Young (2001: 688) provides an important guideline for modern democratic theory: it should keep a distance from democratic practices in existing structural circumstances and should understand itself primarily as a critical theory, which exposes the exclusions and constraints in supposed fair processes of actual decision making, which make the legitimacy of their conclusions suspect. The main thread that was guiding the analysis presented here was the critical stance that democratic theory should refrain from loosening the rules of classical democratic ideals, such as the public, but to defend them even more rigorously. Having such a critical stance in mind, we have drawn here upon the classic ideal of the transnational public as democratically inclusive and autonomous from political and economic power (e.g. Bentham 1791/1943; Dewey 1927/1954; Mills 1956).

If we are serious about democracy at the international and transnational level then one of the first steps towards this ideal is establishing clear conceptual differences in theories on transnational regulation, where global governance, stakeholders and the public are not concepts used as synonyms, nor are they used as concepts that freely overlap. Each of these three concepts has its own historical roots and with that not only explicit but also implicit meaning. In this sense the article is meant as a revitalisation of the “old” concept of the public since it normatively provides an important, albeit highly normative, “benchmark” for evaluation of democratic nature of global governance, both on a conceptual level, as was analysed here, and on an empirical level – which is left for future research.

At the policy level the main proposal taken from this paper would be that the term “the public” needs to be reinvigorated in policy discourse, both at the national and the transnational level – it has been all too easy to substitute it with the term “stakeholders” and thus with the economic “neospeak”. The term “stakeholders” has been employed in order to legitimise and consolidate the power of large corporations in global governance processes. Instead of supporting those who are affected by the transactions with grave and long term transnational consequences, the process of global governance – under the heading of stakeholders

– includes the perpetrators of such transactions in whose interests it is to oppose the transnational regulation of their activities.

The second conclusion for the policy level is the question of autonomy in relation to top-down organisation. Most global governance proposals assume that public authorities will organise and finance transnational deliberative consultations. Such top-down organisation is problematic, since it does not guarantee the autonomy, inclusion, transparency and effectiveness of public deliberation, but is prone to directly serve the interests of political (and economic) “sponsors” – as critical analyses of existing consultations have shown (e.g. Young 2001, Cammaerts and Carpentier 2006; Hintz 2007). The ideal of the public is that the public, whether transnational or national, becomes aware of the issues that affect it and starts to organise itself around these issues. In policy terms this means that the information structures for transnational publics to be informed, to organise and to communicate, need to be supported. At the national level these ideals were traditionally seen to be safeguarded by national public media. Similarly, if any talk about global governance is to be taken seriously in terms of its democratic potential, it should first be accompanied by talk about transnational public media.

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