



Conference Report

CHALLENGING GLOBAL GOVERNANCE (January 6-8, 2003)

Organized by the research network CPOGG
in co-operation with the German Foreign Ministry
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INTRODUCTION

The research network ‘Critical Perspectives on Global Governance’ (CPOGG) and the German Foreign Ministry organized the 2003 Berlin Conference *Challenging Global Governance* in the German Foreign Ministry from January 6-8, 2003. In the following report we will briefly describe CPOGG, lay out the goals of the conference, and summarize the main findings of the various workshops and panels.

Researchers from the Free University Berlin, the Ludwig-Maximilians-Universität Munich, and Harvard University initiated CPOGG (www.cpogg.org) in 2002. Meanwhile the research network has more than 50 members coming from about 15 countries. The conference in Berlin was the second part of a conference series which started at the beginning of November 2002 at Schloss Amerang in Bavaria and will finish at Harvard University in September 2003. CPOGG plans to publish the best contributions of all the three conferences in the *Challenging Global Governance Reader*.

For the *Challenging Global Governance* conference in Berlin we invited academics, policy makers, the private sector, and representatives of civil society to focus on the challenges of and the challenges to global governance in a number of issue areas. The participants were in particular asked to focus on the following points of interest:

- To clarify the usage of the concepts of global governance.
- To focus critically on the existing practice of global governance.
- To assess the actual outcomes of global governance processes, assigning successes and failures to specific policies and specific political decision makers.
- To offer concrete policy recommendations.

The first day of the conference featured the keynote speech by Ernst Ulrich von Weizsäcker, a general plenary, and a reception. The second day comprised ten workshops on specific issues of global governance where the concepts and the politics of global governance were discussed with relevant participants of the global governance discourse. Academics, policy makers and representatives from civil society or the private sector provided for introductory statements. On the third day, we reflected on the various debates which took place and incorporated the discussed issues within the general CPOGG debate on global governance. The third day was also used for “author’s workshops” in which draft papers for the book project were discussed.

SUMMARY

1. The conference was a success. It was so successful because the idea of exposing CPOGG to the ‘real’ world challenging policy makers as well as representatives of NGOs and of the private sector as well as being challenged by them did work very well. The discussions were lively, often controversial, and very fruitful. We thus believe strongly that the format of the conference was worthwhile pursuing. In this respect it turned out to be a very good idea to ask the Foreign Office to co-sponsor the event. The Task Force for Global Issues – our direct link with the Ministry – did not only provide some of the necessary infrastructure, it also was very thoughtful and helpful in recruiting non-academic panelists and in challenging some of CPOGG’s ideas on the way.
2. The event nicely continued the discussions that were started at our first workshop in Amerang and helped to develop the CPOGG community personally and academically. The fundamental problem that there is no single definition and no common understanding of Global Governance could of course not be solved, but the majority of participants did not perceive this as a problem any more. Instead the perception of the discussion of global governance being a battleground on which concepts, ideologies, and political acts clash and sometimes can be reconciled or will forever stand in antagonistic opposition became a often quoted catchword during the panels. The third day of the conference did not simply repeat the contributions made in Amerang. The panels rather showed that, although we do not have a single idea, methodology or theory that could unite the very heterogeneous group of our twelve authors, there are many common points of interest, some shared critiques of traditional views, and rather surprisingly a few common policy recommendations. The organizers of CPOGG are very convinced even stronger than before that the great strength and virtue of the project is its polyphony.
3. The conference could have been even better. As many of the participants noticed the time between our first workshop and the Berlin conference was only two months long. It is very likely that if we had had more time, the event would have benefited greatly. One could have included a more diverse spectrum of non-academics, e.g. more policy-makers from other Ministries and from other capitals, especially from Brussels or from the UN headquarters. Furthermore, the private sector could have been involved more; however, here we faced the greatest inflexibility of all those we approached. Finally, it would have

possible to distribute the challenging papers not a week or two, but rather a month or two before the event. However, doubts arise whether this would have forced the panelists to answer to the posed challenges any better.

4. CPOGG will continue almost as planned. We have changed the time schedule of our third conference at Harvard, which will now take place in September, in order not to repeat the time pressure the Berlin conference faced. We have started to write an introduction for the planned publication and we are asking all our authors to have a first draft of their complete chapters ready by the end of April. We will then have five months to prepare for Harvard and to find a publisher.

REPORTS OF THE PANELS AND WORKSHOPS

1. Monday, January 6: Keynote speech and main panel, “Challenging the Concepts and Practice of Global Governance”

The first day of the conference started around three o'clock in the Europasaal of the German Foreign Ministry with the keynote speech by Ernst Ulrich von Weizsäcker followed by an open panel discussion. Afterwards a reception, sponsored for by the German Foreign Ministry, took place.

Otto Lampe, German Foreign Ministry: Head of Department, Global Questions, opened the conference welcoming all participants. He was followed by Mr. Daerr, German Foreign Ministry: Head of Division for Global Issues, United Nations, Human Rights and Humanitarian Assistance, who gave the official welcome speech of the German Foreign Ministry. In his remarks, Mr. Daerr introduced the work of the Foreign Office in the area of Global Governance and stressed the necessity of having a dialogue with outside actors. Mr. Daerr asked the participants not to engage in an abstract debate, but to be as concrete as possible to assure that the results of such a conference will be implemented.

Professor Thomas Risse, Freie Universität Berlin, introduced all participants in the name of the research network CPOGG and shortly described what CPOGG is and what aims the conference has. He pointed out that Global Governance is a contested concept and that the term itself can be used either as a analytical tool, a field of inquiry, or as a political project. According to Risse, Global Governance is not a natural phenomenon and especially in times of transformative change, important aspects of politics take place on the level where we imagine the world; therefore, a common definition of Global Governance cannot be achieved. Professor Risse nevertheless pointed out that CPOGG wants to uncover the political underpinnings of how the concept is used by different political actors.

The keynote speech of the conference was presented by Professor Ernst Ulrich von Weizsäcker, MP for the SPD and Head of the Enquete Commission on Globalization, whose final report left a strong mark on the debate about globalization and global governance in Germany. In his speech Professor Weizsäcker began by identifying the problem of the growing income gap between the rich and the poor world as the major obstacle of the globalization process. Professor Weizsäcker

then stated that only a process of Global Governance could alleviate this situation as well as related problems, such as environmental degradation. In his understanding, global governance was meant as the solution to the problems of globalization, as only a process of global rule-making could provide common public goods. In particular, Professor Weizsäcker pointed out that multilateral or at least regional coordination is necessary in such issue areas as human rights or sustainable development. Such cooperation, however, has truly global characteristics and should not discriminate against developing countries in the way the current WTO structure does. Professor Weizsäcker also highlighted the role of national parliaments and in this context he briefly introduced the main findings of the Enquete Commission on Globalization. At the end of his speech, Professor Weizsäcker stressed the role of the state as the classical defender of public goods and he warned that too much reliance either on representatives of civil society or of the business sector will not be enough to counter the challenges of global governance.

The main panel, Challenging the Concepts and Practice of Global Governance, was chaired by Professor Risse and had as members Professor Elmar Altvater, Freie Universität Berlin; Professor Jennifer Clapp, Trent University Toronto; Professor Heikki Patomäki, Nottingham Trent University; and Doctor Otto Lampe from the German Foreign Ministry. All speakers agreed that in absence of a better alternative, Global Governance is a useful concept. They however disagreed fundamentally on the political impact of global governance. Professor Altvater and Patomäki were the most critical, stressing that contemporary global governance is primarily a neo-liberal project which partly hides underlying power structures. Professor Altvater in his remark pointed out that the tendency of the governments of the US but also of others to pursue a unilateralist agenda is detrimental to any effective and just cooperation on a global level. Professor Patomäki argued for a politicization of Global Governance along the perspective of democratization. This process would allow not only immanent critique but would also create alternative strategies, such as the strategy of tackling financial dependency first by means of setting up (with a coalition of like-minded states) a democratic currency transactions tax organization and a fair rule-of-law based debt arbitration mechanism, and secondly by working for democratic and pluralising reforms in the WTO, which is in principle based on one country - one vote principle and thus potentially changeable (unlike the Bretton Woods -institutions or the UN Security Council). Although Professor Clapp shared the underlying critique of Altvater and Patomäki, she was nevertheless much more pragmatic and optimistic about global governance. She acknowledged the mixed results global governance has achieved, for example in the area of

environmental protection, and argued that the balance sheet could become much more positive if the understanding of global governance would become more dynamic. Dr. Lampe reminded the panel not to mix up global governance and globalization, pointing out that the latter is thought to cure the problems of the former. He furthermore criticized an uncritical use of the term ‘neo-liberalism’ and pleaded not to forget the benefits developing countries like China can ensure when they open up their economic systems. Before expanding the debate, Professor Risse identified two main controversies: On the one hand he saw no consensus on what global governance really means, and on the other hand he claimed that we do not even agree on the diagnosis of what aspects of globalization should be cured by measures of global governance.

The first panel thus represented a highly sophisticated debate about the concept and the practice of global governance. The differences in the contributions showed that there is no common definition of the term nor a common understanding of the policies thought necessary. This once again underlined CPOGG’s characterization of global governance as a “political battleground.” Such an understanding became also apparent in the following debate in which various members of the audience challenged the panel on issues such as whether the poor are really worse off than before globalization of the economy started, whether global governance is all talk but no decision making, and whether the European Union can really be taken as a blueprint for global rule-making.

2. Tuesday, January 7: Workshops¹

On the second day of the conference, ten workshops took place in various rooms of the German Foreign Ministry. Almost all workshops consisted of an academic, a policy maker, and a representative of civil society or the business sector. The panelists were asked to reflect upon so-called “challenging papers” which the Heads of Panels had written beforehand. These papers did not only provide some background information on the issues discussed, but they also introduced several theses which were often the products of the discussions from CPOGG’s first meeting in Amerang in November, 2002. The papers were distributed as a small conference reader at the beginning of the conference. The reader can be downloaded at www.cpogg.org.

Workshop 1: Global Governance and Security

Konrad Späth, University of Munich, managed the first workshop. The panelists were Georg Witschel, German Foreign Ministry: Federal Government Commissioner for Combating International Terrorism; Anna Leander, COPRI Copenhagen; Christoph Zürcher, Freie Universität Berlin.

The basic ideas promoted at the workshop on global governance and security were the following: First, all the presentations and the following debate were concerned with the relationship between global governance and the state in the field of security. The state as an intermediary between the local or substate sources of insecurity and the global supply of possible solutions was problematized regarding its changing role and problem-solving capacity. Second, the different perspectives on security led to an increased awareness of the problématique of naming certain phenomena as something and the adequate interpretation of facts, be it terrorism, rebels, internal wars, conflict or global governance itself. This problématique gave the impetus to the third strand of reasoning of the workshop, namely the question of the place and legitimacy of the respective authorities to interpret situations of (in-)security and to be held accountable for their interpretation and decisions.

The workshop brought to fore a wide range of diverse perspectives on the global governance of security. The three panelists as well as the audience confronted the subject from very different angles and greatly contributed to the richness of the discussion. It was impressive to see how the examination of global governance and security gave way to very different, even diverging angles of reflection on the subject. However, due to the lack of time to engage with the respective interpretations of security and global governance, there were great difficulties in finding a common denominator of discussion not exclusively concerned with a specific topic of the field. Although the great variety of issues subsumed under the heading and the given time constraints impeded a further and deepened exchange of practical and theoretical knowledge, the engaged debate on the topic by the panelists as well as the audience stressed the importance of the subject and may serve as a springboard for a more comprehensive understanding of the field.

¹ The workshop reports and the reports of the author workshops are all based on summaries the heads of panels provided. For further information concerning the individual sessions please contact them directly. The email

Workshop 2: Global Governance and the UN system

The Panel Leader of the second workshop was Matthias Finger, Swiss Federal University of Technology, Lausanne. The representative policy maker was Wolfgang Stöckl, German Foreign Ministry: Head of Department, United Nations: Economics and Development Issues. The NGO representative was Beate Wagner, DGVN Germany and the workshop's academic was Basak Cali, Assistant Professor at University College London.

The main ideas of this workshop were (1) to highlight the that over the past 20 years the United Nations system had considerably evolved into some kind of global governance system, now including actors from civil society, as well as transnationale corporations, (2) to identify the main challenges which have resulted for the UN system as a result of such globalization, and (3) to show how the UN, along with other inter- and multilateral organizations, is adapting to these challenges.

The workshop was successful in identifying the changes and the challenges, but somewhat failed to come to an agreement as to how the international system in general and the UN in particular were adapting to these challenges. It was interesting to see that all panelists were very aware of their own ambiguity of what they want the UN to be and of what the UN is or does at the moment. As one of the major problems of the contemporary system, Mr. Stöckl identified the lacking coherence of the member states' bureaucratic apparati which often leads to sub-optimal outcomes. Similarly Professor Cali stressed that different NGOs make alliances with different parts of the bureaucracies of member states or of the UN administration and therefore many issues are not only hotly debated among such lines as rich states vs. poor states, but also along such cleavages which arise from the topic itself, such as whether human rights should have universal applicability or not.

The traditional actors – especially state representatives – were particularly challenged by this approach. It would be useful for a future workshop on this topic to include substantive representation from both more NGOs and TNCs.

Workshop 3: Global Governance and the Private Sector: increased privatisation: for better or worse?

Stephanie von Hayek, Bridges Berlin, headed this workshop. The panelists were Ulf Jaeckel, Federal Ministry of the Environment, Nature Conservation, and Nuclear Safety; Peter Wahl from the NGO World Economy, Ecology, and Development (WEED); and Professor Stefan Voigt, Universität Kassel.

The main three ideas developed within the workshop were the following. First, the discussion turned mostly around the question why companies stepped out of a dialogue process set up by the Ministry of Environment. The process tackled the issue of setting environmental standards for foreign direct investments (FDI). The objective was to sign a non-binding agreement to which all stakeholders committed themselves. Stakeholders of this process included the Bundesverband Deutscher Industrie (BDI) as well as NGOs like World Ecology, Economy and Development (WEED). This 18 month long dialogue process failed as the industry sector stepped out. Why did this occur? Different reasons were named. The BDI stepped out because of one sentence NGOs wanted to include in the text, namely that other documents with higher standards exist than this non-binding agreement. Another reason stated that the BDI did not want this agreement to be a success in Johannesburg for chancellor Schröder. This might have supported the current red-green coalition in Germany and contributed to winning elections in Germany, which were held in September soon after the Johannesburg summit. This demonstrates that cooperations between public actors, business as well as NGOs, are complex issues, and reasons for success or failure must be explored in detail.

The second issue addressed was the question whether environmental standards contributed to increasing production costs or whether companies indeed do not have an image increase at home by committing themselves to transparent standards. The third idea concerned the aspect of an “efficiency myth” of the private sector and the current “social economic paradigm.” It is commonly held that the private sector delivers more quality by being more efficient; however this is often not the case.

As the workshop developed, it became clear that it would have been useful to invite someone from the Ministry of Economy on the panel to state her perspective of why the FDI initiative

failed. Actually the Ministry of Economy played a key role in this initiative. As CPOGG aims at having a policy relevance, it seems crucial to spend more time on the question of whom to invite to have a maximum policy impact.

Nevertheless, the discussions of the panel were very fruitful, as one could sometimes observe that the NGO representative and the policy maker agreed on an issue, for example whether environmental standards significantly increase production costs whereas, the academic did not share this view. It was furthermore interesting that a representative of the Foreign Office challenged his colleague from the Ministry of Environment pointing out that the former had managed to sign a joint declaration with stakeholders in the field of human rights. This begs the following question: Why did the FDI agreement of the Ministry of Environment fail and the agreement of the Foreign Ministry work out? Is this because it is easier to find a consensus on the issue of human rights than on environmental standards? Or is it because important stakeholders did not participate in the process of the Foreign Ministry?

Workshop 4: Global Governance and the Role of Human Rights

The head of panel of this workshop was Andrea Liese, Assistant Professor at the Freie Universität Berlin. Panelists were Julia Owen, Columbia University; Anja Mihr, Deputy Spokeswoman of the German Section of Amnesty International; and Brita Wagener, German Foreign Ministry: Head of Department Task Force Human Rights.

The main results of the panel were that there are a growing number of efforts which try to secure human rights through new partnerships with the private sector. However, the problem of such global governance mechanisms is that the implementation of human rights on the ground has to be delivered by states. NGOs play an important role as watchdogs and in human rights education, whereas international organizations play an important role in providing the legal framework for human rights protection.

Both the representative from the Foreign Office and the representative from Amnesty International were challenged on their positive assessment of international human rights norms and the work of their organization. It was questioned whether human rights work is always good and leads to positive results or whether it may lead to unintended consequences (i.e. decrease the

well-being of the concerned persons or stimulate further limitations and abuses of human rights). In this respect a long discussion of campaign against child labor was discussed. Secondly it was questioned whether all human rights are compatible. It was argued that certain rights might be mutually exclusive (e.g. freedom of opinion excludes respect for minorities) and that the international human rights discourse privileges certain rights over others. A third challenge was seen in the rare resources that NGOs, such as Amnesty International, can devote to controlling the activities of TNCs. Especially for this point, but also for the whole discussion it would have been helpful to have also included a representative from the corporate sector.

Workshop 5: Global Governance and Climate Change

Alexander Ochs, German Institute for International and Security Affairs (SWP), Berlin, was head of this workshop. The panelists included David Michael, The Paul H. Nitze School of Advanced International Studies (SAIS), Johns Hopkins University, Washington D.C.; Ambassador Julius Georg Luy, Commissioner for Environmental and Biopolitical Issues, German Foreign Office; and Friedemann Müller, Head of Research Unit Global Issues, SWP.

The panel started with the assumption that the problem of global climate change, arguably one of the biggest challenges of the 21st century, has not been diminished thus far. Whatever has been done, we are far from managing the problem. At times in the past inaction was justified by pointing out an alleged lack of full understanding of the phenomenon. However, today one has to admit that within the last decade science has made considerable progress in research on climate change. It is essential to appreciate that while a better understanding of the world climate system is of course desirable, a 100 percent forecast of the extent of its change and regional consequences will in all probability remain unattainable, even for decades to come. Politicians therefore must decide on effective protection measures *though* being faced with an enduring degree of uncertainty. Other important factors helping us understand the lack of effective *global* action in the past are the multitude of governmental and non-governmental actors involved as well as the very different approaches taken by key actors. Overall, the panel stated that there is a need for a worldwide technological revolution, not just an evolution of technology.

The second issue discussed was the search for the right global governance instruments. Questions which came up included how to achieve the engagement of the major emitters, i.e., of

the United States as well as major developing countries within the present UNFCCC process. Furthermore, one could ask how a strengthened future global governance structure, termed “Kyoto II” or otherwise, could be formulated. In this regard it is of interest whether the definition of a final goal for global climate protection, i.e., the stipulation of global emission cap, is regarded as a necessary prerequisite of governmental action.

A last major topic of debate was the overlaps and the differences of the climate challenge with other issues of global governance: Focussing on climate change, one can witness certain phenomena also existent in other fields of global governance, such as: a) the *different* behavior of states although they all belong to the “developed world” and therefore are supposed to share similar interests, b) the call for aid on the side of developing countries, c) different industry “ideologies” and strategies, d) the importance of NGO action, and e) the general importance of public awareness as a source of pressure for political action. However, other concomitant features of the climate discourse are unique, for example the strong influence of the International Panel on Climate Change (IPCC) on the international regime-building process. One could ask whether the IPCC could serve as a model for other expert councils.

Overall the discussion in the workshop was very lively and sophisticated. Participants welcomed it as distinguished input in their research or other field of activity. Panelists were also content with the proceedings and the obvious knowledge of the audience. Given the diversity of attendants’ origins, it is of course in the very nature of an event such as CPOGG that individual discussants sometimes go too far into the details of their certain interests towards the topic. A lack of understanding and interest on the side of other participants in the discussion can be the result. To give an example, a scientist’s perspective that the climate topic demonstrates the general Marxist approach of regime theory does not necessarily help a climate policy negotiator in his or her daily work (regardless of whether the statement as such is true or not). Generally, however, workshop members regarded the concept of “theory meets practice” as a unique attraction.

If one were to organize such an event again, it would be helpful to organize an extra plenary session in which the heads of panel summarize their discussions in order to give the larger audience the chance to profit from the outcome of events they were unable to attend, as well as to allow a discussion around similarities and divergences between the different topics, a

verification of the results, and a check of the consequences for the overarching issue “global governance.”

Workshop 6: Global Governance and the Role of Parliaments

The head of panel of this workshop was Marianne Beisheim, MdB-Büro of Dr. Ernst Ulrich von Weizsäcker. Panelists included Ulrich Irmer, former MdB and MEP for the FDP; Katrin Auel from the Fern-Universität Hagen; and Jochen Boeckhoff, Initiative e-Parliament, representing the NGO sector.

The contributions by the three panelists were very focused on the five challenges the head of panel had prepared in advance – with the result that the discussion was very well structured and to the point. There was consensus on some points and dissent on others – and especially the dissent made the discussion very lively. Two aspects were among the most debated:

1. Is Globalization/Global Governance a challenge for parliaments at all?
2. What best options are there for the “strategic adaptation” of parliaments? What instruments are already at hand? Do we need new instruments/institutions?

Since there was a controversial debate on both points, the panel discussed some future research questions. Unfortunately, there was not enough time for a second round of discussion. Most participants thought it would be a good idea to get a short abstract (1-2 pages) of the panelists’ input and a list of his/her publications on the topic.

Workshop 7: The Institutions of Global Governance

At this workshop Rebecca Johnson, Brookings, was Head of Panel. The contributors included Peter Wahl from the NGO World Economy, Ecology, and Development (WEED); Frank Herterich from the German Foreign Ministry; and Martin Björklund from the Erik Castren Institute in Helsinki.

The workshop attracted about 25 participants and the discussion centered on the effects of international institutions on global governance. Participants grappled with questions concerning

the legitimacy of global governance projects — for instance, whether the WTO's dispute settlement mechanism is legitimate in how it resolves conflict among members. In addition, the workshop engaged in a brainstorming session on how to configure international institutions to increase their legitimacy while responding effectively to global concerns.

Generally, the discussion went quite well and the interaction among panelists was engaging and fruitful. One panelist, Peter Wahl, had to leave before the end of the workshop and his absence was perhaps the greatest weakness of the session. Given Mr. Wahl's strong background in the non-profit community the discussion would have been better served by his continued presence. That said, the comments he made before he left were continually referenced by the other panelists and the audience. The greatest strength of the workshop was a result of distributing the challenge papers to all participants before the conference. Everyone in the room came to the discussion with different backgrounds, but everyone was oriented to the same issues by the challenge papers, and this lent coherence to the conversation that would have otherwise been absent.

Workshop 8: Global Governance and Civil Society

Heikki Patomäki, Nottingham Trent University, managed this workshop. Panelists included Teivo Teivainen from the Network Institute for Global Democracy (NIGD); Mark Laffey, SOAS London; and Thomas Fitschen, German Foreign Ministry: Deputy Head of Department Task Force Global Issues..

The three panelists were all excellent and complemented each other very nicely. Mark Laffey started by giving a set of academic reflections based, to a large extent, on the questions of the “challenges.” He emphasized the role of critical, emancipatory knowledge in the work of the NGOs but also pointed out the diversity and (actual and potential) dark sides of civil society. Thomas Fitschen continued by using Germany as a case study for why a state has been interested in the work of civil society actors and has even included NGOs in their national delegations in some international conferences. He also explained in detail the status and position of the NGOs in the UN system. Teivo Teivainen took a more bottom-up viewpoint and stressed the developments of the World Social Forum (WSF). Being an NIGD representative in the International Council of the WSF, Teivainen introduced and assessed arguments about the

possibility of institutionalizing the WSF and giving it agency in world politics. Thus far the WSF has been defined as a pluralist and open space and a network of networks, which does not have the capacity of giving opinions or making statements.

What was particularly interesting in the panel was the interaction between the panelists that evolved during the two hours of discussions. Indeed, one of the purposes of the whole exercise was to create some interplay between academic world, foreign ministry and civil society. The workshop not only succeeded in this but also was able to draw some shared conclusions. Civil society actors can constitute an important critical force in the globalizing world and their attempts at changes of policies and institutional transformations are legitimate. Nonetheless, there are limits to the legitimacy of civil society (not representative in any of the usual senses) and a number of conditions to their rights to participate in decision-making. All panelists also emphasized that civil society is not a unity. Discussions around organizing the WSF process more tightly show that diversity and openness are also accepted values among the civil society actors themselves. Nonetheless, it is likely and, within certain parameters, perhaps desirable, that new forms of global civic agency will emerge and that civil society will also gain more powers in the agenda-setting and decision-making of various international or global organizations.

These developments and conclusions notwithstanding, the full potential of the panel remains unexplored. The panelists did not know each other before the panel. Apart from the “challenges,” there were no written contributions that could have set the context beforehand. Two hours is a very limited time to progress very far in any discussion. Some of the questions of the “challenges” were hardly touched. For instance, although the diversity of civil society was mentioned many times, no one problematized the concept itself. Also, none of the panelists explored the problems or prospects of public funding of NGOs in any detail or took up the challenge of “what would be the best way to cultivate the positive and innovative features of global civil society?” The discussions about the agenda-setting and decision-making powers that could be granted to civil society actors remained rather descriptive or tentative. In all these respects, one could have gone much further.

If such a panel were to be organized again, it would be essential to create some sense of purpose and continuity. The “challenges” were a good starting point for discussions but to take things further would require something more. Firstly, the purpose of the exercise seemed to remain

unclear to the panelists what is the purpose of the exercise. Next time around they should know why they have been invited and the expected outcome of the panel.

Workshop 9: The Role of Business in Environmental Global Governance

Doris Fuchs, Assistant Professor at the LMU München, chaired this workshop. Contributors were Jennifer Clapp from Trent University, Toronto; Wolf-Dieter Glatzel, Assistant to MdB Michael Müller; and Heinrich Reitz, BASF.

The panel aimed to assess critically the potential contribution of business to global environmental governance. The panel discussed the following three avenues and instruments on the basis of which one can conceptualize business' contributions to global environmental governance: First, business influences policy output at the national and international level via its traditional role as a lobbyist of national governments and increasingly via transnational and supranational lobbying strategies. Secondly, business determines policy input via its (relatively) new political role on the basis of self-regulation such as ISO 14000 standards and public-private partnerships. Thirdly, business shapes the structural environment and options of political decision-making in the context of the privatization of the public realm, i.e. the increasing move of traditional tasks of the state in terms of the provision of security, education, or public health to the market and the associated reliance on market rather than social rationality. While most businesses use these various channels, however, there is no uniform stand taken by business actors in terms of environmental policy. Their positions on various global governance mechanisms are a function of specific factors in each issue area (e.g. the stands taken by industry on POPs and Biosafety treaties were very different). Moreover, while it is important to look at channels of business influence on global environmental governance, we should not lose sight of the other side of the coin: the impact of global environmental governance on industry behavior toward the environment.

In order to best garner the potential contribution of business to global environmental governance, we need a framework that allows us to draw on the benefits of economic rationality and the interests and expertise of business actors in the interest of the environment while ensuring the sufficient pursuit of public environmental welfare at the same time. One option for such a framework would involve financial/investment regulations allowing business to pursue long-

term interests rather than having to satisfy the short-term interests of the stock market. Other options would be to 1) harmonize environmental performance standards across countries, ensuring capacity and enforcement 2) implement public release and transfer registers (publishing pollution data) or 3) create global mechanisms assigning liability to TNCs, as, for example, in a legally binding global treaty on corporate accountability (e.g. Greenpeace Bhopal Principles).

The important aspect of voluntary codes of conduct or public-private partnership is not to identify them as good or evil. Rather both academic research and political debate need to identify state-of-the-art characteristics that render these arrangements desirable, feasible, and effective. The benefits of these systems are that they are industry owned, industry driven, and flexible. Their drawbacks are that they do not stop double standards and continue to allow poor practices by TNCs. It is important, therefore, that states step back into the equation and exert authority alongside voluntary codes, in order to provide a stick and support the carrot.

Workshop 10: Global Governance and International Law

This workshop was exceptional in the sense that it included almost only academics. The chair was Florian Hoffmann, EUI Florence and the panelists included David Kennedy, ELRC Harvard; Thomas Skouteris, University of Leiden; Leo Specht, attorney in Vienna; Juan Amayo-Castro and Miklos Redner, both from the University of Rotterdam.

The panel dealt with the so-called ‘tribunalism’ problématique, i.e. namely the factual proliferation of inter-/trans-/supra-national judicial institutions and the general tendency to attribute a positive global governance role to them. The panel attempted to examine critically this tendency from different perspectives: by pointing out the inherent uncertainty of the ‘foreground vocabulary’ of international law (David Kennedy), by analyzing mainstream tribunalism discourse and what it obscures (Thomas Skouteris), by looking at how one such body, the European Court of Human Rights, actually deals with the dichotomy between global rules and local practices (Juan Amaya-Castro), by identifying two opposite tendencies in the ‘desire’ for judicial dispute settlement, namely one for unity, and one for fragmentation (Miklos Redner), and, finally, by demythologizing the private *pendant* to the new tribunals, namely arbitration and alternative dispute settlement practices within the notorious realm of the *lex mercatoria* (Leo

Specht). Though each perspective approached the subject matter differently, one could, possibly, identify the following common themes or issues:

- technicalisation v. substantialisation in (judicial) global governance discourse
- unification v. fragmentation in (global) judicial discourse, mimicking the general dynamics of globalization
- globality of norms v. locality of context and application

Partly by design, partly through good luck, all five (!) panelists fit together rather well, with David Kennedy giving a general and abstract introduction, Thomas Skouteris mapping the tribunalism problématique, Juan Amaya-Castro and Miklos Redner dealing with specific aspects of the latter, and then Leo Specht concluding with a different, if related, subject. That way, together with strict time-keeping, the presentations both cohered to the general theme, and yet were not repetitive and idiosyncratic and, thus, tedious. Especially inclusion of a substantively different topic, arbitration, and a different approach, by way of case study, contributed to ‘lightening’ the panel atmosphere. Hence, one could classify this panel as quite satisfactory; of course, as always, several questions could not be addressed due to time constraints.

Should such a panel be repeated, the planning phase might be structured differently; the relatively little time given for putting together the panel meant that no fully ‘rational’ pre-selection of potential panelists could be undertaken on account of the shortness of notification periods. In this panel’s specific case, this has, as stated above, not been detrimental, and, in the end, things did work out satisfactorily. Nonetheless, it would have been desirable to be able to ‘design’ the panel to a greater extent and, thus, to better plan ahead certain topical debates/issues one would want to include. Another point is that the original framework of policy-maker/civil-society/academic dialogue, while as such being a good idea, was, perhaps, not sufficiently ‘master-planned’ to work out well. For there to be a dialogue, rather than a collection of unconnected monologues, one would have had to initiate the dialogue prior to the conference, interconnect the different panelists, and have them work (virtually) together on the theme. This, perhaps, would be a true challenge for the future, as it is done, as yet, only rarely in any setting – though, again, the general planning approach would be a different one. Given these inherent difficulties with the original framework, the slightly more academic orientation of this panel, arguably interspersed by an academicised practitioner’s perspective, seems to have been a good second-best option.

There was perhaps one shortcoming of this panel, namely the fact that all five presentations were ultimately variations on a common core of themes and convictions, with no real controversy arising. This was possibly aggravated by the fact that many of the audience were not fully acquainted with both ‘newstream’ thought in general and a ‘critical’ perspective of tribunalism, and would, thus, seem to rather ‘listen in’ with interest, than discuss controversially (some account should also be taken of the late hour, by the time of which many of even the most active participants were visibly tired).

Plenary in the Europasaal

At the end of the third day, Otto Lampe, David Kennedy, and Matthias Finger briefly summed up their impressions of the various workshops. Kennedy stressed that he was impressed by the various focal points which were taken to challenge conventional wisdom about global governance. He furthermore stated that only by foregrounding and politicizing apparently technical expertise is it possible to understand and criticize underlying power structures. Finger took up a different aspect and argued that all workshops which he had seen did not yet develop a satisfying understanding of the state. As a conclusion, he thus advised that CPOGG take on a more organizational focus which would allow to see changes in the institutional structure of the global governance process. Lampe took up his criticism of the first day that the term ‘neoliberalism’ is too easily used a straw man without further reflection of the diversity of policies which are actually employed. He said that his impression of some of the workshops was that again the same mistake was made and that at least in future discussions such a misunderstanding should be avoided.

3. Wednesday, January 8: Academic panels

On the third day of the conference, three authors’ workshops and one open workshop took place. The authors’ workshops included those members of CPOGG who had already introduced their work at the conference in Schloß Amerang and who were then selected to contribute to the *Challenging Global Governance Reader*. The co-editors (Andrea Liese, Philipp Müller, and Markus Lederer) had asked the authors to restate their research question briefly as well as their arguments and then to focus on why their contribution is a critical one. Furthermore, everybody was asked to situate his or her work within the general debate on Global Governance and if

possible show links to some of the other contributions of the book. The open workshop was an open plenary where everybody could present a research project in a quite informal way to receive some feedback from those present.

The discussions of those four panels were much more academic in nature than those of the two previous days. They focused more on theoretical and methodological questions of the Global Governance debate. For the organizers it was, however, very encouraging to see that some of the practitioners also stayed until the third day and made lively contributions to the debate.

Author workshop I

This panel was chaired by Philipp Müller and contributions came from Konrad Spaeth (LMU Munich): *Inside Global Governance: New Borders of a Concept*; Fleur Johns (Harvard Law School): *The Globe and the Ghetto*; Andreas Paulus (LMU Munich): *From Territoriality to Functionality? Towards a Legal Method of Globalization*; and Jörg Friedrichs (University of Bremen): *Global Governance as the Hegemonic Project of Liberal Global Civil Society*. These papers will represent the most theoretical contributions to the Challenging Global Governance Reader.

Konrad Spaeth argued that it is necessary to free the concept of global governance from its descriptive bonds and to take it into the realm of speech act theories. He argued that global governance is not a concept to describe international reality out there, but a normative vocabulary that allows us to legitimize or justify claims about policy options in a globalizing world. In this discursive formation new borders of inside/outside come into being.

Fleur Johns sensitized us for the political moves underlying the seemingly neutral discourse of global governance and for the conscious and unconscious production and reproduction of power relationships in this discourse. She argued that the practice of considering and practicing global governance is marked by conventions of inclusive segregation and aspirations for authority. In her paper she re-examines three articles on global governance that focus on economic, democratic, and juridical global governance and then juxtaposes them with 16th century Venetian writing on “worldliness,” thereby unearthing the paradox with which the current global

governance discourse is grappling: i.e. in order to achieve global completeness we need to cultivate the divergent.

Andreas Paulus argued that for global governance there exists neither a clear hierarchy between different issue areas, nor a hierarchically superior institution that would be capable of coordinating and deciding conflicts of values and norms. Whereas the ordinary domestic lawyer will have a place for these decisions in the domestic legal system – in courts or in political institutions acting within a hierarchy established by law – the international sphere lacks such hierarchies and sufficient rules for balancing the values involved. He claimed that the establishment of new hierarchies such as *ius cogens* or quasi-constitutional conflicts of law rules such as Art. 103 of the UN Charter do not alter this prospect in a decisive way. Complexity prevents clear-cut conflict rules. Instead, he argued for a culture of mutual respect and accommodation between different issue areas which will not look for a “hierarchical” solution to value conflicts but will seek a practical solution in specific cases. This requires a readiness to dialogue and discourse to find practical ad hoc solutions for conflicts of interests and values. Thus, one may speak of a move from constitution to discourse – away from formalized hierarchies towards a search for compromise.

Joerg Friedrichs argued that even if global governance as “governance without government” is not clearly defined, the global governance discourse could be said to be defined by three projects with hegemonic ambitions. In the political realm, the Western model of the democratic constitutional state continues to challenge all other forms of political organization. In the economic realm, transnational corporations are becoming the key actors of global business. In the sphere of transnational society, liberal nongovernmental organizations are raising claims for superior moral authority. Among each other, these three hegemonic projects are engaged in a set of sometimes cooperative, sometimes agonistic relationships. When taken together, these relationships can be said to make up the post-Westphalian, or neo-medieval, world order. If global governance is understood as an alternative to conventional politics, it should be stated as clearly as possible what this alternative is supposed to comprise. He argued that global governance is best described as a muddled combination of parapolitics, i.e. the continuation of politics within the societal sphere, and metapolitics, i.e. the politics of assigning roles to international politics and transnational economics.

Author workshop II

Andrea Liese chaired this workshop, which included the authors Julie L. Owen: *Human rights as civil religion: the glue for global governance*; Matthias Finger: *Global Governance as an Institutional Phenomenon*; and Stephanie von Hayek: *Public Private Partnerships in Global Governance: A legitimate way of reducing poverty?*.

Stephanie von Hayek investigates into public-private partnerships, set up under the auspices of the World Bank. She argues that the question of legitimacy lies at the heart of partnership critics. Several authors have raised their concern that the integration of corporations into international institutions and organizations will lead to a dependence of public institutions from corporations who might simply want to "bluewash" inglorious activities. By analyzing World Bank partnerships, von Hayek finds evidence for a lack of transparency and deficits with regard to participation and representations. However, given that public partners hold the primary authority in the partnership and determine the scope, form and content of the partnership, she concludes that the often quoted legitimacy gap of PPPs is smaller than expected.

Finger and Owen (???)

The discussion started with a feedback to each paper by the head of panel, Andrea Liese. Immediately after, the other participants commented on the papers as well. With regard to Stephanie von Hayek's paper, special attention was paid to the question of how to operationalise legitimacy, and to the underlying assumption that decisions by public actors are more transparent and inclusive than those by private actors. The hypothesis of Matthias Finger met lots of interest. Several participants confirmed the very idea that partnerships between international organizations and the private sector do not provide much change with regard to policy output, but rather merely amend the organizational structure. Julie Owens contribution was mainly challenged with regard to her understanding of human rights and the question how the quoted literature, referring to legal analysis and political theory could be linked to the Global Governance discourse in public policy and International Relations.

Author workshop III

This workshop was chaired by Markus Lederer. The panelists were Basak Cali: *Global Governance and Domestic Politics: Fragmented Visions*; Heikki Patomäki: *Problems of democratising global governance: Time, space and the emancipatory process*; Rebecca Johnson: *Reconstructing the Balkans: The Effects of a Global Governance Approach*; and Anna Leander: *Enforcing Global Governance: Rethinking the Legitimate Use of Organized Violence*.

The papers discussed in this panel all share the motivation to focus on specific aspects of the global governance discourse in order to either gain a better understanding of how global governance can be understood at all (Patomäki; Cali and Ergun) or to apply it to a specific issue area like security (Leander) and state-building (Johnson). Within the panel the authors primarily discussed why their papers provide a critical perspective on global governance and whether their understanding has some policy relevance.

Patomäki's paper has the broadest approach as it uses the perspective of democracy to develop a critical understanding of governance overall. It claims convincingly that such a broad framework for politicization can have strong policy implications due to its focus on the empowerment of networks and because it questions the still predominant conception of politics and democracy being bound to territorial space. The paper by Cali and Ergun analyzes the impact the international discourse and practice have on local NGOs in Turkey and Azerbaijan. Its critical impetus is that the knowledge travel and the accompanying power structures that take place between the international and the domestic levels are hardly ever analyzed and even more rarely criticized. The two authors are reluctant to offer any policy recommendations but pressed on the issue they would advise the international community to develop a more local understanding of global governance. This recommendation of shortening the distance between global and local levels is also apparent in the contribution of Johnson, who analyzes global governance as it is being put into place by the international community in the Balkans. During the discussion of the panel it becomes apparent that the critical perspective of Johnson's paper differs fundamentally from that Cali and Ergun. The critique Johnson offers is located more within the traditional global governance discourse and could be qualified as a "problem-solving" one, whereas the Cali and Ergun paper is more radical in its fundamental attack on the misunderstanding of the so-called "global" aspect of contemporary governance structures. The last paper of the panel by Leander is somewhere in between these two perspectives. Leander questions where the authority

to use legitimate means of violence lies. Looking at the case that the traditional understanding of the state as the monopoly holder might no longer be appropriate in times of global governance, she looks at the consequences this development has for our understanding of statehood and sovereignty. Leander stresses that such a focus on the most important question political science has within a framework of global governance allows a critical understanding of the sociology of shifts (theoretical as well as practical) that take place. Her policy recommendation is perhaps less implementable than those by the other papers discussed but Leander convincingly stresses that already the confrontation with those questions raised is useful in itself.

Overall the panel was extremely fruitful in not only focusing on each of the contributions individually but more importantly because the authors as well as the audience were willing to engage in the difficult task of comparing the papers and to develop some threads that had not been visible before. This was especially astonishing as this panel was the last one of a three day conference.

Open workshop

Markus Lederer chaired the open-workshop. Contributors included Ruth Buchanan (University of British Columbia): *Contested Global Governance: The State, Multilateral Economic Institutions and Global Civil Society*; Corneliu Berrari (University of Timisoara) *Teaching Virtue: The IFIs and the Politics of Good Governance*; Antonio Seguar Serrano (University of Granada) *International Law and the Internet*; Christopher Tucker (University of California) *The Lisbon Strategy and the EU's "Open Method of Coordination": the revolutionary potential of "soft governance" in the European Union*; and Helen Hartnell (University of San Francisco): *European Civil Justice: Bottom-Up Governance*.

The contributions in this workshop all were works in progress by scholars who share a keen interest in developing a critical perspective of global governance. The majority of them were legal scholars who belong to the 'school' of critical legal studies and it was thus no surprise that also the majority of the audience was in one way or another acquainted with international law. Some of the most interesting discussions of this panel thus focused on legal questions such as whether there is a developing international law that regulates the Internet or whether we 'only' witness an increased use of national law being applied to this issue and maybe some new form of

transnational law currently evolving. Another legal question that became a hot topic in the discussion was the role of national judges within the EU who might be about developing a pan-European identity from the bottom up. A much more critical viewpoint was taken in regard to the role of international law in the governance of multilateral economic institutions, especially the WTO, where it was convincingly argued that law helps more to entrench already existing power structures within the system than to contribute to the protection of the weak players. A more political-economic than legal issue that was raised during the workshop was the question whether the international financial institutions are using the concept of 'good governance' in such a way that countries like Romania or Hungary have to adopt specific economic structures that might not be sustainable in the long run at all.

The third day of the conference ended officially in the late afternoon but most participants were still willing to engage with each other in one-on-one discussions. However, this took place not at the Foreign Office but rather at a private place where the *Challenging Global Governance Conference* ended for good around five o'clock in the morning.

INDIVIDUAL FEEDBACK

The organizers of the conference sent three questions to all participants in order to gain some feedback. Those were:

1. What is the most important substantive idea you got from the conference?
2. What went right and what went wrong?
3. What needs improvement?

Sample Answers to Question One: Substantive idea of the conference

- The definitions of what Global Governance means are very heterogeneous and contested and therefore constructive dialogue is difficult, but also inspiring (Ingo Take, Universität Greifswald).
- The relationship between Globalization and Human rights: Companies have to ensure and improve the social and economics human rights of employees' (Hao He, Universität Potsdam)
- To me the most important outcome of the conference was that I discovered a group of people in Europe that are carrying out critical studies (I only knew of the Americans) ... I was happy to see how many people (political scientists and lawyers) do think the way I do (Antonio Seguar-Serrano, University of Granada).
- Global governance may strongly affect parliamentarian democracy (Jörg Friedrichs, Universität Bremen).
- The most important idea and the room for improvement go hand in hand: there is, unsurprisingly, much need for better - in quantity as well as in substance - exchange between (critical) academics and real-life practitioners. I was positively surprised by the willingness of many policy makers to listen to and to discuss with "us" academics. at the same time, there were significant gaps in the overall communication (e.g. random usage of core terminology such as governance/government) occasionally resulting in impatience or notions of futility and fatalism on behalf of the academics (including myself)... (Steffen Bauer, PIK Potsdam)

Sample Answers to Question Two: What went right and what went wrong

- The organizational aspect of the meeting was just great. I think you did a great work. Having the Foreign Affairs Ministry Headquarters was just impressive! On the other hand, I think it was right to have non-academics in the conference. But it's true that most of them (whether policy makers or NGO members) defended positions that are already known or common place (at least at the workshops I attended). I'm a lawyer, and I expected more illuminating proposals from political science people. It may be that I'm so far from understanding this kind of discourse that I missed everything (Antonio Seguar-Serrano, University of Granada).
- The arrangements were impeccable - I should just have given myself more time to visit Berlin (Martin Björklund, Erik Castren Institute Helsinki).
- I think things generally went well and I have personally benefited from the conference. However, I thought that the United Nations System and Global Governance session could have been much more interesting and lively. The policy maker-NGO-academics dialogue did not successfully take place in that session (Basak Cali, University College London).
- As for organizational details I appreciated the venue and in particular the reasonably generous timing of coffee and lunch breaks: some of the most interesting discussions were happening there as well as facilitating the networking aspect of CPoGG (Steffen Bauer, PIK Potsdam).

Sample Answers to Question Three: Improvement

- The panels should be more consistent in respect to the papers presented. That would focus the discussion and may result in more constructive answers to certain questions (Ingo Take, Universität Greifswald).
- Heads of the workshops were very good, but unfortunately, sometimes there was no real discussion, but only sort of successive statements. Perhaps moderators could be more provocative (Lena Langbein, Freie Universität Berlin).

- Perhaps the discussion could have benefited from a somewhat more openly polemic approach. By clearly stating some of the most classic critiques of some of the mainstream ideas as well as critiques of NGO initiatives and having policy makers and NGOs prepare for this critique? ... (Martin Björklund, Erik Castren Institute Helsinki).
- Framing of panel topics: "security", "human rights" etc. seemed too broad to get into anything meaty. Perhaps panelists could be asked to speak to a particular question? This way, each panelist would still have the freedom to stake out his or her position, but the orientation would, at the outset, be more critically inclined (Fleur Johns, University of Sydney).
- When the network will have come to an agreement on certain ideas, definitions and best practices, the scope of the audiences for future conferences should be widened (industry, services companies, banks, participants from developing and transition countries). At times the question crossed my mind, what would my colleagues from India or Brazil say to this? (Heinrich Reitz, BASF).
- Dominant war die 'linke' Perspektive auf GG, was sicherlich die Mehrheit der einschlägigen Publikationen zu diesem Thema reflektiert (a la Anti-Neoliberalismus in allen Formen...). Mir fehlte dann aber doch die konservative Kritik an GG als Alternative nicht unbedingt zum Unilateralismus (Stichwort: US bashing) als generell zu internationaler Politik als rechtmäßige Domäne von Nationalstaaten (a la Staaten als einzig legitime Teilnehmer im Geschäft etc. pp.). ... Die Perspektive aus dem Süden fehlte. ... Die Praktikergruppe war m.E. zu sehr auf AA-Mitarbeiter fixiert. Was ist mit Leuten aus dem Privatsektor, z.B. von Ratingagenturen, oder großen Ölkonzernen? Letztere habe ich schon häufiger bei solchen Diskussionen erlebt und meist als recht aufgeschlossen und undogmatisch in Erinnerung (Ralf Leiteritz, LSE).

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