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PAPER REVIEW

“The Future of Parliamentary Democracy: Transition and Challenge in European Governance”

Green Paper prepared for the Conference of the European Union Speakers of Parliament, September 2000

Background of Green Paper

In 1997, the Conference of the European Union Speakers of Parliament established a working group to consider the theme of ‘quality of legislation’. This group was chaired by Luciano Violante, President of the Italian Chamber of Deputies. In 1999, the working group presented its findings to the conference in a document entitled “The Complexity of Legislation and the Role of Parliaments in an Era of Globalization.” During 1999-2000 an expert group serving the EU Speakers’ working group prepared this Green Paper, which was presented to the Conference in September 2000. This group was chaired by Tom R. Burns, and included Carlo Jaeger, Angela Liberatore, Yves Meny, and Patrizia Nanz.¹ The Paper highlights changes in modern society and recommends a new role for parliaments. It is interesting to note how the group’s emphasis shifted away from its original mandate to study quality legislation to a focus on how globalization has affected the political process.

The Green Paper raises key issues that relate closely to several work areas of the Commission’s “White Paper on Governance.” These include the effects of globalization and scientific expertise on the democratic process, the development of a public space that involves civic actors in political debates, and the role of agencies in designing and implementing policy. The Green Paper could stimulate the thinking of multiple working groups, as it not only highlights the challenges facing policy-makers today but also offers initial solutions. In particular, the paper emphasises the importance of networking and learning from others’ experiences. A recent speech by Luciano Violante is appended to this review. His speech, which focuses on the role of the centre of government, reiterates the key themes of the Green Paper.

¹ Tom Burns is a professor at the University of Uppsala, Sweden. Carlo Jaeger is a professor at PIK-Potsdam Institute for Climate Impact Research, Germany. Dr. Angela Liberatore is from the EU Commission Directorate General XII. Yves Meny is a professor and Director of the Robert Schuman Centre at the European University Institute in Florence, Italy. Patrizia Nanz is a researcher at the European University Institute.

Thesis of Green Paper

Historically, parliament has been a symbol and agent of Demos, the basis for legitimizing political authority and legislation, and accountable to “the people” for laws and regulation. However, many of the most important changes in modern society are currently taking place through mechanisms beyond the scope of parliamentary purview. This Green Paper seeks to identify these changes and suggest new roles for parliament in this era of governance.

Functions of a Modern Parliament

- Policy-Making
- Legitimation of collective decisions and policies
- Oversight of government and other authorities
- Maintenance of public space for discussion and reflection
- Protection and maximum realization of the values of transparency, accountability, and open democratic process with respect to parliament itself and the governance processes operating outside parliament.

Causes of Change

- *Increasing scientification of politics*, particularly the use of expertise. In the politics of knowledge and technology, scientific and technical experts advise policy-makers. However, experts do not speak with a single voice or authority. As a result, effective monitoring, deliberation, and decision-making about many, if not most, policy areas today are far beyond the capacity of a typical parliament. The sovereignty of experts complements as well as competes with parliamentary or popular sovereignty.
- *Expanding role of organizations as vehicles of collective decision-making*. Governance is diffused beyond parliament and its government, resulting in participation by groups - which the paper describes as *organizational citizens* - rather than individual citizens. Although such groups expand the issue agenda, many major processes of governance escape the reach of the nation-state.
- *Changing international environment*, which is characterized by globalization, transnationalism, and regionalization. A particular problem is the twofold phenomenon of globalization and the sectoral specialization of the agencies of governance, which reduces policy options and shifts problems towards an international/supranational space not governed by the traditional forms of democracy.

Effects of Change

- Despite these changes, *direct participation* in collective rule-making has never been so widespread – although this is dominated by the involvement of groups rather than individuals or politicians. One major trend is the development of non-parliamentary systems of governance in a wide variety of policy sectors, which the paper describes as *organic governance*. Examples include financial institutions, economic organisations, environmentalists, and administrators of public services (e.g., animal rights, religious groups).
- Parliament’s relationship to governance conditions may vary: (1) a *laissez-faire* set-up with no accountability to Parliament; (2) self-governance accountable to Parliament or its government; (3) a multi-agent network with Parliament

involved as monitoring and mediating agent; (4) a multi-agent network with Parliament involved as a key decision-making player.

- Governance leads to a diffusion of authority and decision-making into specialized policy sectors in civil society, a decentralization downward into regions and municipalities, and a centralization upwards into international institutions and networks. This makes it difficult to maintain the centrality of parliamentary democracy, particularly given the knowledge and organizational limits of legislatures. Parliaments are increasingly marginalized in numerous significant areas of policy-making and regulation, partly due to their limited capacity to regulate and monitor an array of societal activities.
- Governance enables a possible abuse of power and new forms of corruption, particularly as the political discourse can be dominated by rich and well-organized interests to the detriment of small, poor, and unorganised groups.
- There is a gap between the normative theory and practices of governance. The emerging governance complex – described as *organic governance* -- involves diverse interests and associations that often represent themselves and engage in various forms of policy-making and regulation.

Differences between Formal Parliamentary Democracy and New Self-Governance

- *Representation*. Representation in the new governance arrangements is highly heterogeneous, specialized, and distributed. Diverse interest groups represent themselves, which contrasts sharply with territorial representation in parliamentary democracy.
- *Sovereignty and authority*. A new dispersed sovereignty is emerging, which is layered, segmented, diffused, and increasingly non-territorial.
- *Responsibility* — and accountability — for policy-making and regulation formally reside in the system of parliamentary democracy. In practice, other agents have assumed much of this power and reduced parliamentary government's practical authority. Most of those exercising influence over policy-making are not accountable to the larger public but to their specialized organizations and interests as well as to themselves. Public expectations about responsibility are misplaced, in large part because they are grounded in political mythology of national sovereignty and parliamentary democracy.
- *The transformation of 'law' and public policy-making*. In the past, one distinguished between laws, which were determined through legislative processes, and norms and contracts, which emerged through interactions in civil society. Today we have a wide variety of collectively determined rules and regulations as well as regulative forms, in addition to other social control mechanisms.

New Roles for Parliament

1. Enhancing the Cognitive Capacity of Parliament in the Face of Modern Complexity

- *1a) Parliamentary Access to and Capacity to Use Higher Quality Information*
Parliaments should have access to alternative – and, at times, competing — sources of information. They should not rely on a single information source given the variety of perspectives on, and the complexity of, many modern issues and problems. But there is a danger of excess data unless they have a systematic means to sort out and select information. This requires well-developed models

with which to transform data into knowledge, such as the establishment of a common European Parliamentary Research Service or ‘monitoring institutes’. Parliaments also need to make assessments; for example, impact assessments (of new technologies, programs, or institutional reforms) have been developed to help manage the risks of major reforms.

- *1b) Addressing the Absence of a Pro-active Function in Areas of Critical Societal Development* Parliaments need to consider and prepare for future developments. Tools of pro-active analysis and deliberation would be useful, such as scenario analysis, impact assessments, and early warning analysis. Parliament ensures the formulation of alternative or ‘rival’ drafts for deliberation and legislation in relation to major issues.

- *1c) Addressing the Fragmentation Problematique* Contemporary policy-making is highly differentiated, specialized, and fragmented. Parliament can help develop “integrative” approaches and methods to address the problems of fragmentation, unintended consequences, and contradictions. Although many societal transformations probably do not require immediate new ‘legislation’ in the conventional sense, parliamentary government can also produce reflections and discourses on a problem, situation, or issue.

2. **Enhancement of Parliamentary Capacity to Monitor and Regulate.**

Traditional parliamentary regulation of agencies is increasingly problematic. This is partly because of the high technical character of many policy decisions and their implementation, and also results from the complex, multi-agent nature of the initial policy-making process and the implementation phases. Thus, there is a need to develop new governance forms that effectively regulate and hold accountable agencies handling government regulations

- 2a) Parliament should regulate, hold accountable, and secure greater legitimacy for *non-governmental forms of policy-making* and their agents in key issue areas. The Paper does not advocate a return to ‘top-down’ control of civil society, but wants Parliament to establish an explicit normative framework that provides standards of behavior, openness, transparency, and accountability in key arenas of governance currently operating outside of parliamentary oversight.

- 2b) Parliament could concern itself less with detailed governance issues in highly specialized areas, and focus instead on developing frames for relevant and engaged actors to self-govern in a manner satisfying, for instance, rules of access and participation, due process, and accountability. This may entail parliamentary *charters*, as Parliament could give explicit authorization in the form of a charter to specialized policy-making groups. Parliament could then assume the role of *meta-sovereign*, defining and enforcing general standards of governance and procedures for registering (or obtaining a charter or delegation) and giving periodic accounts of policy making and legislative activities (just as government ministries do presently).

- 2c) Parliament also needs to define explicitly in new legislation or a new constitution the role, duties, responsibilities, and accountability of *expertise and scientists* in democratic politics. An appropriate modern constitution would then refer not only to Parliament, formal government, and citizens but also to organizations, agents of civil society, and experts in governance processes,

defining their roles, rights, obligations, etc. It would also articulate and legitimize particular standards or ideal forms of governance.

3. Parliament's Role in Enhancing Public Participation and Learning

Parliament serves to provide a major public space for debate. Today, diverse, influential organizations have limited contacts with Parliament or the public although they are influencing extra-governmental policy-making. National parliaments, as well as the European Parliament, should strengthen their function as a stimulus and facilitator of public discussion.

- 3a) Operating as a *networking agent* that links specialized decision-making bodies or sub-governments and the general public or citizens.
- 3b) Increasing *public discussion* and awareness of major new societal transformations through hearings and inquiries, including the formation of focus groups that consider a particular problem.
- 3c) Establishing *regular integrated assessment focus groups* on a variety of issues of concern to Parliament and the general public, which could be the responsibility of parliamentary research services.
- 3d) Linking their concerns and deliberations to discussion groups in the *media*, including talk shows and other public fora.

4. Guiding Principles

- Exercise *high selectivity* with respect to the policy areas in which Parliament engages itself directly.
- *Delegate* whenever possible -- a form of the subsidiarity principle -- to self-organizing policy sectors, and at the same time hold accountable these sectors and powerful actors within them.
- *Focus on strategic problems* and issues that cannot be readily delegated or dealt with through private interests or civil society. There is a need to establish social and cultural links in society between multiple publics, Parliament, and experts.
- Examine and rethink the role of Parliament and democratic culture in the continuing *evolution of democratic practices*, especially in the context of major contemporary transformations.
- Any reform is an *experiment*, particularly in a complex dynamic system.
- The new parliamentary role implies a *moral engagement* in confronting critical contemporary issues.

Further Conceptual Issues

1. The Legitimacy Problematique The legitimation of law and other collective decisions is based on democracy. However, a legitimacy deficit arises in the shift from public to private governance structures - partly because there is not yet an established system of accountability. Collective agents who are bearers and developers of the culture of democracy become as important as -- if not more so than -- individual citizens. To solve this deficit, Parliament as meta-sovereign would act to reinforce and guarantee the values of transparency, accountability, and open democratic process with respect to collective decision-making and law-making in critical areas.

2. Rethinking Publics and Public Space Public sphere means a social space in which members of a polity discuss common interests and form public opinions

about them. It mediates between political authority and the people, and is the arena in which a collectivity of citizens can exert influence over policies. In the new era of governance, the public space is constructed on the basis of an emerging shared culture of democratic norms and procedures, recognizes the divergent or unshared socio-cultural perspectives, and sets out the possibility of a dialogical exploration of cultural and ideological differences. It provides the basis for an ongoing negotiation of intercultural collective identity and transnational political culture.

3. Processes of Open Social Exchange and Learning Today's phenomena of multiple attachments and the mixing of elements from different cultures make strikingly apparent the ambivalent and dynamic nature of collective identity. Paradoxically, cultural difference has become for some people the basis for an exaggeration of difference. An inter-discursive approach underscores the processes of exchange and learning that promote the adaptation and creation of culture and identity. Beginning with the assumption that culture is always situated and negotiated, a self-reflective politics of multiculturalism argues for the possibility of new, positive fusions of identities and cultural innovations.

4. Complementary Forms of Modern Democracy: Demos and Organic Democracy Parliamentary territorial representation entails the involvement of a select few in law- and policy-making, and provides a reliable basis for well-organized deliberation and decision-making. Such arrangements risk a de-coupling between Parliament and "the people." Although regular parliamentary elections and a free press were expected to limit such de-coupling, more is needed. The concept of an extensive democratic culture de-couples the democracy principle from the particular political institutions of the nation-state (Demos), without disparaging the latter.

Amanda Sloat
Stagiaire

**Complementary Systems of Governance:
Conventional Democracy and Emerging, Organic Democracy**

	Formal Democracy Model: A system with representative government as the principal institutional arrangement for organizing public discussion, negotiation, and collective rule-or law-making	Organic Democratic Model: A system with multiple publics, multiple public spheres, a diffused culture of democracy through “democratic citizens” who adhere to norms of democratic deliberation (see below)
Representative and Guardian of Democratic Values	Parliament; Demos (“the people”)	Parliament as meta-sovereign; as the agent to assure transparency, accountability and democratic deliberation in major governance settings at whatever level; democratic citizens (those who adhere to the democratic rules of the game).
Key Agents	Demos (The People), Parliament (its members, parties), government	Parliament (its members, parties), government, civil societies, NGOs, intergovernmental organizations, democratic “citizens” who fulfil the norm of “legitimate participation.” (e.g., an issue, project, law, etc. that concerns or affects them).
Sphere of Public Discussion and Debate (to identify, analyze problems, propose solutions, make collective decisions)	Parliament, Demos (e.g., participating in election settings), government organized discussions	Parliament, civil societies, formal and informal public spheres that are established by self-organizing agents; or are delegated/chartered policy settings.
Deliberative Form	Parliamentary Deliberation	Multiple forms of democratic deliberation conducted according to general norms, open access, respect for others, procedures of deliberation, and accountability

*Address by the President of the Italian Chamber of Deputies
Hon. Luciano Violante*

**Meeting of senior officials of centres of government on
“The consistency of public action: the role of the centre of government”
Budapest, 6-7 October 2000**

Ladies and gentlemen,

First allow me to thank you for your invitation. It is an honour, and I will do my utmost to live up to the task with which I have been entrusted.

Parliaments and governments in every country are experiencing a phase of far-reaching change in their functions, in their mutual relations and in their contacts with society at large.

Parliaments have lost their monopoly position in representing society. NGOs, trade unions and industry associations, pressure groups and the media give public voice to broad or narrow interests with apparently much greater effectiveness than parliamentary bodies.

At the same time, governments have lost their monopoly on decision-making. Non-elected public powers such as independent regulatory authorities and the judiciary or private powers such as large national and multinational firms, banks and financial companies seem capable of much more rapid and effective action than governments.

These new powers appear to be more effective because they can concentrate their energies on single objectives. They can tap the expertise of adroit technocrats and are linked by effective international networks. Nor do they have to cope with the problem of reconciling majority and opposition views, a typical feature of democratic parliaments, or juggling the demands of the various components of the majority, a typical feature of coalition governments.

Let us summarise the most obvious effects of these developments:

- a) nearly all nation-states are struggling to cope with the changes;
- b) in many cases politics risks being sidestepped by the economy;
- c) national rules risk being swept away by transnational economic and financial processes.

These trends threaten to shunt parliaments to the margins, leaving them responsible for residual tasks. On their part, governments may well remain at the centre of these new decision-making processes, but they run the risk of not living up to their ultimate responsibility of developing an overall strategy. What is more, governments try to simplify decision-making by avoiding any real parliamentary debate, while parliaments often create needless complications, encroaching upon the sphere of responsibility that rightly belongs to governments.

Therefore the role of the Parliament-Government pair should be recast because it is often strained by the fact that each of them tries to do without the other. This conflict between Parliaments and Governments can be extremely detrimental to

democracy because what is at stake is the primacy of politics over powers without democratic legitimisation, such as economic, bureaucratic and technocratic powerhouses.

I believe, however, that the executive branch can rediscover parliaments as a powerful force for creating a common ground for diverse political views and players as well as a global vision of the major strategic issues on the basis of the political consensus that emerges from the dialectic between different opinions. This is, after all, democracy's greatest resource.

The essential goals towards which parliaments must work seem to me to be the following:

- *the critical examination, legitimisation and monitoring of the key political decisions taken by governments on the basis of their electoral mandate.*

Experience shows that these decisions have a better chance of being implemented only if they pass through the mediation of parliaments because it is the mediation of Parliaments that makes it possible to overcome the resistance of those whose interests would be harmed.

- *governing ever more complex and polycentric regulatory systems.*

If we accept the fact that it is impossible to restore a sort of nineteenth-century legislative simplicity, parliaments must not waste their energies on microlegislation. Instead, they must establish fundamental guidelines for running, controlling and legitimising the many centres of regulatory production in the light of the fundamental principles of democratic legality.

- *controlling the global and final effects of laws and government policies from the citizen's point of view.*

These objectives will become an increasingly integral part of parliamentary responsibilities, and they can be achieved without erasing the distinctions between our institutions or weakening the dialectic between parliamentary majorities and minorities.

- *The instruments for achieving these aims are flexible parliamentary procedures, high-quality information flows between parliaments and governments, links with civil society.*

Let us take a look at

- *flexible parliamentary procedures.*

Precisely because they have centuries of experience behind them, parliamentary procedures are an extremely flexible instrument of "democratic technique" for organising public debate on major political issues. Governments can exploit this resource to develop new forms of political discourse to address new problems, to focus on major issues and to establish an ongoing linkage with the various decision-making centres.

Now let us look at

- *high-quality information flows between parliaments and governments.*

The institutional “performance” of a parliament largely depends on the quality of information it receives from the government. In a decision-making environment dominated by “information overload”, parliaments and governments must agree on high quality standards with respect to the information accompanying government proposals, progress reports on the implementation of laws and impact assessments. This information should be synthetic and to the point.

Finally we have

- *links with civil society.*

Parliaments offer the greatest guarantees of transparency and disclosure in the consultative process between governments and the members of civil society, trade or employers’ associations and user associations. This parliamentary filter can be an effective tool for defining a “charter” of public citizenship for organisations that often operate, as Dahrendorf has remarked, as if they were taking the place of the government or parliament as the expression of the public will.

These are the conclusions reached recently by a working group on the problems of the quality of legislation and the role of parliaments, set up within the framework of the Conference of EU Speakers.

During our work, we asked the OECD to assist with a survey of the most innovative procedures adopted by the parliaments of its member countries, with specific reference to the essential goals mentioned above. This initiative culminated in the report submitted for your attention, a report that I feel will be extremely useful in addressing the issues that we are examining here.

I believe that this is the first time such a detailed picture of procedures for relations between parliaments, governments and civil society in 24 mature democracies has ever been assembled.

It is my job to initiate a discussion of this report and gather suggestions for subsequent initiatives. The OECD’s fresh attention towards parliaments merits further development with the support of the representatives of the governments in which each of you is a key element.

The basic goal is to “rediscover” the pair Parliament/Government as the keystone of the legitimisation of politics in contemporary democracies, based on the freely-expressed consensus of the citizenry and on the democracy and controllability of the procedures they adopt. The OECD has traditionally maintained contacts with governments alone. Its new and constructive interest in developing a relationship with parliaments appears to confirm the need to involve both parliaments and governments in order to ensure full and democratic governance of the complexities of the modern world.

I am sure that all of us are aware of the need to learn from each other and to enhance our understanding of the innovations and best practices adopted in our countries.