

Europeanization and Corruption : A Most Advanced but Irresponsible Form of Governance ?

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Introduction

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Introduction

The political corruption research has been developed in (comparative) *national* perspectives, with emphases on party organizations and politicians, as well as civil servants and socio-political cultures (Della Porta and Meny 1997), while international dimension of corruption is becoming high-profile, with increasing transnational organized crimes (drug, smuggling, child abuse etc.) and backsliding clientelism against international economic liberalization (Harris 2003). European governance has, however, evolved into a *sui generis* form of so-called “multi-level governance”, which is expected to redress the interest- and rent-seeking politics familiar to the nation-states.

A report from Malta expects that accession to the European Union will contribute to long-awaited “modernization” of the country’s deep-rooted clientelistic culture (Mitchell 2002). But the Union is by no means immune from corruption. Rather, it is chronically susceptible to “fraud, mismanagement, and nepotism” while committing to highly functional integration. Old corruption is a fishy side of the most advanced example of post-national governance. But why this happens ?

It is highly difficult to dig over corruption in the European Union bureaucracy, as is evident in a few ice-breaking efforts, such as the whistle-blowing by a Community official, Van Buitenen, with his career on the line, or as the on-going case of Eurostat, investigated by OLAF (the anti-fraud office in the EU) which considered the incumbent Commissioners unreliable to consult on the matter (EU Observer 08.07.2003, “Eurostat case triggers Commission action”). Yet, what is more serious is that the administration in the EU are so complex that the directing Commis-

sioners are not aware of what their officials are doing behind the curtain, and that the Commission is almost blind to the irregularities at the implementation stage given over to each national government, unless the latter notices the cases in a prompt and effective manner.

This paper aims to piece together the picture, ranging from nepotism and irregularities inside the Directorate Generals (DGs) to the monstrous redistribution mechanism at the European level, and then to discuss the logic(s) of corruption and irresponsible management under multi-level governance, with reference to the public/social choice theories.

1. A Tip of the Iceberg and beneath

1) The European Commission

In January 1999, a Committee of Independent Experts (CIE) was set up to investigate fraud, mismanagement and nepotism in the EU, in the course of the tug of war between the European Parliament and the Commission over the closing of the annual Community budget. Although most of the Members of the European Parliament had intended to censure the two most questionable Commissioners, Edith Cresson, the former French prime minister, and Manuel Marin, the whole Commission was forced to resign in the wake of the first report of the CIE completed before the middle of March.

This report, not only made public a vast array of misconducts otherwise hidden away, but also mapped out the responsibility on both individual and collective levels, as well as the categories of misconducts. The four categories the committee broke down were ; fraudulent behavior to obtain an illegal benefit at the expense of the Community's financial interests ; irregularities, i.e. infringement of established rules, whether intentionally or through negligence ; ethically reprehensible behavior such as nepotism in appointments or awarding of contracts ; serious or persistent infringements of the principles of sound administration.

The CIE attributed personal responsibility to the incumbent and successive Commissioners, who tolerated irregularities or delayed enquiry and sanction in his or her concerned part of administration in the major financial programs abused ; Cardoso e Cunha, Vanni d'Archiarafi, Pappoutsis, Van Miert in the Tourism case, Marin and Matutes in the MED case, and Cresson in the Leonardo case along with her clear-cut case of favoritism in relation to her old friend, M.Berthelot. On other fronts, several alleged personal favoritism by several Commissioners were judged as acceptable or "bordering" (CIE 1999 : 121-134 ; MacMullen 1999 : 200-202).

But the Committee emphasized another dimension of irresponsibility, to the effect that protestation of personal “ignorance” are “tantamount to an admission of a loss of control by the political authorities over the administration that they are supposedly running” (CIE 1999 : 137).

Thus the Committee report made not only condemnation but also distinction of what can be called ‘governance deficits’. First, in the bottom line, ‘minimum standards in public life’ do not hold in practice, and lack of norm like nepotism. Second, organizational problems are also found, especially those of communication and direction.

2) The European Public Funds

The Common Agricultural Policy has occupied by far the largest share of the European Community budget, and became the hotbed for financial fraud in the EU’s multi-level transfer mechanism, which is designed at the European level and implemented in large part at the national level (Tupman 1996). “The usual types of CAP fraud are integral to the functioning of the CAP system and essentially are concerned with the manipulation of purpose or procedure...” (MacMullen 1999 : 175) For instance, the levels of duty, refund, and subsidy are laid down according to such information as the destination, type, quantity, and quality of the goods under the CAP rules, which are in turn misused by fraudulent activities—most typically, false declaration of destination or of quality/nature of goods, overdeclaration of livestock, and swindling the quota or set-aside premium. The extreme complexity of the procedure ranging from the Council regulations and the Commission implementation regulations to national provisions also contribute to growing worm holes here and there in the system.

The origin of the CAP dates back to 1960-62 when the two major power in the EEC, France and Germany, both having protectionist economic policy traditions, stroke a deal so that the European market would be opened to the German industry and the French farmers, with a European-wide reassurance for agricultural production. More liberal argument from other small states like the Netherlands was brushed away. The policy consists of intervention measures such as support-buying and storage of products to stabilize the prices, export subsidies, and import levies to sustain the target price for farmers in the EC, with a financial leverage through the European Agricultural Guidance and Guarantee Fund (EAGGF) which partly expands to the structural policy and amounts to over 40 per cent of the general Community budget in total at the turn of the century.

The objectives that legitimized the CAP policy were ; to increase agricultural productivity, to ensure a fair standard of living for the agricultural community, to stabilize market, to assure availability of supplies, and to ensure reasonable price to consumers (!). Later, such objectives were added as to maintain the maximum numbers of farmers and preserve rural communities, to preserve the countryside and environment, or to maintain good international trade relations. Nevertheless, most of them turned out to be defective or antithetical, in the 40 years' sustention of the CAP.

It dumps the costs not only on the EU's own limited budget but also on the many tax payer and consumers — “typically, the cost has been of the order of £250 per person per year for every man, woman and child in the EU” (Howarth 2000 : 6). Moreover, the intensive farming is blamed for damaging environment while maintenance of farming income and rural communities has failed for the last decade. The Uruguay Round and the WTO negotiations were often prolonged or driven on the rock by the EU's recalcitrance about the CAP scheme.

The failure of the policy objects does not directly mean the corruption of the system, but political accountability and monitoring degenerates drastically under distant administration and immobile allocation of budget.

2. Theoretical Approaches and Puzzles to be Solved

In his seminal work on the joint-decision trap, Scharpf theoretically explored the political inflexibility that comes about under certain institutional arrangements where central government decisions are directly dependent upon the agreement of constituent governments and that the agreement of constituent governments must be unanimous (or nearly unanimous) (Scharpf 1988 : 254). It worth recalling that, although qualified majority voting was to applied to the CAP according to the Rome Treaty, the unanimity rule dominated after the 'Empty Chair Crisis' due to the French arm-twisting in 1965.

In his subsequent works focusing on the European governance, Scharpf kept tackling the problem of “negative integration”. The primacy of “negative integration” over “positive integration” in the joint-decision situation tends to dilute the problem-solving capacity of national policy, while leaving European policy less positive than is needed under the lack of international agreement (Scharpf 1996 ; 1999).

Yet the joint-decision trap thesis originally figured out two different aspects of inflexibility ; In the first place, the joint-decision makes it difficult to collectively

launch an extensive positive policy. And, in the second, “non-agreement is likely to assure the continuation of existing common policies”, especially in such cases where the exit option of the members is ipso facto foreclosed as the CAP policy of the EU. A short-term public-choice theory might expect a Pareto optimal result from voluntary non-agreement over changes, but the real problem is that immobilism becomes the rule even when the default condition is no more existent or supported (Scharpf 1988 : 257). Howarth comments, “(i)f a reform is ‘to make better by removing faults or errors’ (Oxford English Dictionary) then the so-called reforms of the CAP could at best be called changes, because most of them have compounded the errors.” (Howarth 2000 : 8)

Patrick Dunleavy’s public choice analysis construes why the responsibility of administration, spending and regulation in the EU countries are concentrated to Brussels, by combining four macro and micro approaches as presented below.

I. **The triple state thesis**, or the neo-Marxist account, assumes the business pressure on state elites to maximize profit. The former invites the latter to insulate policies and expenditures from electoral politics and party competition.

II. **The welfare-maximizing account** draws on the citizens’ interest for optimizing efficiency over alternative levels of governance, expressed in the terms such as “subsidiarity” or “scale-matching”. The same logic also explains why SHEW (social, health, education, welfare) services remain at the national level.

III. **The bureau-shaping model**, contrary to Niskanen’s thesis on the motivation of bureaucrats to seek BMX (budget maximizing), asserts instead the preference of rational senior officials *for* more pivotal agency relatively tiny in size, close to political centers, and plan-oriented or mandated for strategic budget-allocation, *to* time and personnel demanding agencies in charge of direct implementation.

IV. **The transaction cost approach** makes account of the behavior of the policy-elites that seeks to minimize various types of transaction costs, such as decision costs (time, effort, conflict, loss of support, etc.), commitment cost (a change of government or majority), agency costs (imperfectness of the implementing agency), or uncertainty costs (too little or too much flexibility). In these contexts, the national policy-elites are likely to leave their functions to the EU center, thus shifting blame away from national politics, while keeping considerable discretion at the implementation stage at hand (Dunleavy 1997).

These theoretical analyses accounts apparently well the basic logic of the non-rosy sides of the European governance. We will examine more closely the consistencies between the logics and the on-going realities.

In their review of the CAP policy, to which this article owes a rational choice perspective, Elliott and Heath argue, “for all its faults the European Commission is not responsible for the lack of reform,” mainly on the reason that it has had no ambition to inflate the budget, as explained by the bureau shaping model (Elliott and Heath 2000 : 43).

But the very detachment of responsibility of policy-making and implementation is prone to rent-seeking at the local level, as illustrated by the perverse use of the public work and rural reform budget in Japan.

MacMullen pointed out that the cases of major programs investigated by the CIE are new policies developed under the presidency of Jacque Delors and mark a departure from the large traditional EC spending programs such as the CAP, in which implementation was largely delegated to national governments. But with these new programs, the Commission did not actually implement directly, and produced contracts with so-called TAO (technical assistance offices), without requiring formal rules and budget necessary for the Commission itself to administrate with responsibility against fraud (MacMullen 1999 : 203-206). Here is found a similar structural tendency of decoupling responsibility between policy-making and implementing agencies.

3. Conclusion : beyond Weak Principal-Agent Relations

This paper has stressed the structural condition of the European multi-level governance and spending system which contribute to making room for parasitism on the big apple, the EU.

It is an ironic fact that the European Parliament is the political agency in the EU which is the most earnest in pursuing corruption, although (or because) it is endowed with very limited power and party capacities and often left in the dark when substantial decisions are made. Dunleavy predicts that the drift towards Brussels as well as the “democratic deficit” is likely to remain permanently (Dunleavy 1997 : 210).

For analyzing the long-chain, institutionally divided European governance, the principal-agent or principal-supervisor-agent approaches are increasingly applied (Pollack 1997 ; Kassim and Menon 2003 ; Tallberg 2003). Tallberg concludes that the more effective strategy for supranational “supervisors” to prevent infringement and non-compliance of the member states (“agents”) is to *decentralize* enforcement and monitoring powers, in which the European Court of Justice (ECJ) was more successful than the Commission (Tallberg 2003 : 130-134). But this is what the

European anti-fraud and audit units have found great difficulty in. The outcome of anti-corruption measures is uncertain, in the light of accession of many post-communist countries with considerable corruption. (EU Accession Monitoring Program 2002).

A change of principles, however, seems to be driven into the joint-decision trap around the CAP. In 2002, the EU governments agreed to keep the CAP expenditure at current levels until 2013—that is, a rather moderate prescription—, but also to “decouple” payments from production and sustain farmers’ income directly, to encourage them to *farm for the market rather than subsidies*. This “paradigm-shift” in the European agricultural policy was partly demanded by external pressures such as the Eastern enlargement and the acute budget prospect, but it had also been processed out of trial and error since the MacSharry reform of 1992. The bond scheme proposed in the reform was initially rejected, but it produced the “policy-feedback” over time under challenging external conditions. The scheme was originally presented by the Land Use and Food Policy Inter-group of the European Parliament, by assistance of six agricultural and environmental economists. While the reform in 1992 had a limited impact, “many farmers realized that they were subject to major income transfers from the rest of the society and that the farming industry was intensively regulated” (Daugbjerg 2003 : 432). Thus, policy feedback, open not only to governmental officials and “comitology” insiders, may play a role in the generation of a more legitimate European democratic governance developing into a deliberative polyarchy.

To make the European governance more responsible, even before the full democratic constitutionalization of the Union, it will be pivotal to build comprehensive frameworks on both the policy-implementation and the policy-design/supply sides, beyond the conventional criminal-law (“bribo-centric”) approaches (EU Accession Monitoring Program 2002 : 16). The policy-supply side should be more stressed, so that the universal and effective feedback frameworks to reconfirm who pay for what, how much, and how long, will be shared among citizens at each governance level.

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