

**Public-Private Partnerships:
Effective and Legitimate Tools of International Governance?**

by

Tanja A. Börzel and Thomas Risse

Prepared for the Edgar Grande/Louis W. Pauly (eds.), *Complex Sovereignty: On the Reconstitution of Political Authority in the 21st Century*

Authors' Addresses:

Tanja A. Börzel
Institute for Social Sciences
Humboldt University of Berlin
Unter den Linden 6
10099 Berlin
Germany

Tel.: +49-30-4797-375/355
Fax: +49-30-4797-157
Email: tanja.boerzel@rz.hu-berlin.de
Web: <http://www2.hu-berlin.de/compliance>

Thomas Risse
Center for Transatlantic Foreign and
Security Policy
Department of Political and Social Science
Free University of Berlin
Ihnestr. 22
14195 Berlin
Germany
Tel.: +49-(0)30-838 55527
Fax: +49-(0)30-838 54160
Email: risse@zedat.fu-berlin.de
Web: <http://www.fu-berlin.de/atasp>

Introduction¹

Public-private partnerships as governance tools have been around for quite a while in domestic affairs of highly industrialized states. Corporatist arrangement, for instance, constitute one such form of private-public partnerships (PPP). However, it is only recently that they have become the objects of research beyond the nation-state. For decades, research on international institutions has concentrated on inter-state regimes solving collective action problems and providing common goods (Hasenclever, Mayer, and Rittberger 1997). To the extent that non-state actors were taken into consideration at all, they appeared either as actors shaping state interests through domestic politics (cf. the literature on “two level games,” Putnam 1988; Evans, Jacobson, and Putnam 1993) or as transnational actors (from Multi-National Corporations to International Non-Governmental Organizations [INGOs]) lobbying international negotiations and/or international organizations (IOs; cf. overview in Risse 2002). Only recently did they emerge in the international relations (IR) literature as direct partners of national governments and IOs in structures of international governance (e.g. Reinicke 1998; Cutler, Haufler, and Porter 1999; O'Brien et al. 2000). Many authors celebrate public-private partnerships as a significant solution to a whole variety of problems of governance beyond the nation-state (e.g. Reinicke and Deng 2000). PPPs are said to increase both the effectiveness (problem-solving capacity) and the legitimacy of international governance in terms of democratic participation and accountability.

In the following, we first present an overview of types, forms, and functions of existing transnational relationships between public and private actors and then identify PPPs as a particular subset of these interactions. Second, we argue that conceptualizing the issue as “private actors on the rise” and as “the demise of the nation-state” is empirically questionable. It is unclear how many functioning PPPs actually exist beyond the nation-state anyway, since the empirical literature on the subject is not well developed and sometimes rather imprecise. Moreover, PPPs should not be seen as zero-sum games between states and private actors. Third, we tackle questions of sovereignty, effectiveness, and legitimacy. Concerning sovereignty, we claim that discussing the problem in terms of either formal-legal sovereignty or material sovereignty understood as autonomous action capacities of states risks to miss the mark. Traditional and even contemporary international relations

¹ This is a revised version of a paper, which was presented at the workshop on “Global Governance”, European University Institute, Florence, April 6-7, 2001, and at the Conference on “The Reconstitution of Political Authority in the 21st Century,” University of Toronto, March 15-16, 2002. We thank the participants, in particular Edgar Grande, Renate Mayntz, and Louis Pauly, for their helpful comments. Moreover, we thank the students in Thomas Risse’s seminar on “Public Private Partnerships in International Relations” for their critical input on the draft.

scholarship has been far too much concerned with the question what private actors do to state authority. Rather, we argue that PPPs should be evaluated in terms of their capacity to increase the effectiveness (problem-solving capacity) and legitimacy (democratic accountability) of global governance. However, there is little empirical evidence available on these questions, and the evidence which is available contains a serious bias toward selection on the dependent variable. We claim that the role of PPPs toward increasing the effectiveness and legitimacy of governance beyond the nation-state is likely to vary, even though we have little idea about what accounts for this variation.

1. **Types, Forms, and Functions of Public-Private Partnerships in International Governance: What's New?**

The question of public-private partnership is part of the new governance problematique beyond the nation-state (for excellent reviews see Mayntz 1998, 2002). The term “governance” has become such a catchword in the social sciences that its content has been used to connote a whole variety of things. As the result, the meaning of governance broadened in such a way that it has become a summary term for all forms of steering and producing social order including markets, states (governments), and networks. In the following, we will use governance in a more narrow sense, as in “governance without government” (Czempiel and Rosenau 1992). In this sense, governance connotes “a mode of governing that is distinct from the hierarchical control model characterizing the interventionist state. Governance is the type of regulation typical of the cooperative state, where state and non-state actors participate in mixed public/private policy networks” (Mayntz 2002, 21). If we use the term in this narrower sense, we need to further distinguish between actors involved in governance (public and private), on the one hand, and modes of steering, on the other (hierarchical versus non-hierarchical). Hierarchical modes of steering are usually reserved to states and public actors who can allocate values authoritatively and enforce rules. We enter the realm of governance, the more we include non-hierarchical forms of steering and non-state actors (see the shaded area in figure 1). Concerning types of non-state actors, we can further distinguish between the for-profit sector, i.e. firms and private interest groups, and the not-for-profit sector, i.e. the world of (International) Non-Governmental Organizations (INGOs).

Furthermore, two modes of non-hierarchical steering should be differentiated, at least analytically. First, bargaining and governing by incentives constitutes such a mode of steering (non-hierarchical

1 in Figure 1), which is based on a rational choice model of interaction. Bargaining and positive incentives leave the preferences and identities of actors unaffected, but are supposed to regulate actors' behaviour by changing cost-benefit calculations of utility-maximizing actors. Second, steering can also be accomplished through non-coercive means of persuasion, defined as "changing people's choices of alternatives independently of their calculations about the strategies of other players" (Keohane 2001, PAGE). This involves learning, arguing, and other forms of communicative action (Risse 2000) geared toward changing actors's interests and even identities (non-hierarchical 2 in figure 1).

Figure 1: The Realm of Governance

<i>Actors involved</i> <i>Steering Modes</i>	<i>Public Actors only</i>	<i>Public and Private Actors</i>	<i>Private Actors only</i>
<i>Hierarchical:</i> Top- down; (Threat of) sanctions	<ul style="list-style-type: none"> • traditional nation-state; • supranational institutions (EU, partly WTO) 		
<i>Non-Hierarchical 1:</i> Positive incentives; bargaining	<ul style="list-style-type: none"> • intergovernmental bargaining 	<ul style="list-style-type: none"> • delegation of public functions to private actors • corporatism • public-private 	<ul style="list-style-type: none"> • private interest government/private regimes • private-private partnerships (NGOs-companies)
<i>Non-Hierarchical 2:</i> Non-manipulative persuasion (learning, arguing etc.)	<ul style="list-style-type: none"> • Institutional problem-solving 	<ul style="list-style-type: none"> • networks and partnerships • bench-marking 	

(Shaded area = realm of governance in the narrow sense; darkly shaded area = realm of public-private partnerships)

Of course, the distinction between the two types of non-hierarchical steering is mainly an analytical one. Empirical reality tells us that bargaining and arguing often go together (Holzinger 2001) and that it depends on the institutional context which mode of steering matters more. The same is true for the distinction between hierarchical and non-hierarchical forms of steering. Many non-hierarchical forms of steering take place "in the shadow of hierarchy," and it might well be that the shadow of hierarchy, i.e. some form of authoritative decision-making by states and governments is a crucial condition for successful interactions between private and public actors.

We can now identify public-private partnerships as a particular form of governance as described above (the darkly shaded area in figure 1). From a public management perspective, Linder and Rosenau have defined public-private partnerships as “the formation of cooperative relationships between government, profit-making firms, and non-profit private organizations to fulfil a policy function” (Linder and Rosenau 2000: 5). Transnational PPPs would then be institutionalized cooperative relationships between public actors (both governments and international organizations) and private actors beyond the nation-state for governance purposes. By “governance purposes,” we mean the making and implementation of norms and rules for the provision of goods and services that are considered as binding by members of the international community. These can be international regimes with explicit norms, rules and decision-making procedures, but also informal governance arrangements pertaining to specific issue-areas of international life. Non-state actors can be (domestic and transnational) for-profit organizations (including [Multi-National] Corporations), interest groups (business, trade unions), and the non-profit sector, such as public interest groups and (I)NGOs including voluntary organizations and advocacy networks (Keck and Sikkink 1998). In International Relations language, PPPs thus constitute a specific subset of transnational relations in world politics.²

This understanding of PPPs covers a wide variety of potential cooperative arrangements. Yet, it also excludes certain forms of public-private interaction from the definition (see the shaded area on the right hand side of figure 1). On the one end of a continuum, we exclude lobbying and mere advocacy activities of non-state actors aimed at governments and International Organizations to provide some goods or services. Transnational actors who are not active participants in governance arrangements or negotiating systems pose little challenges to existing concepts and tool-kits in political science including international relations – from “two level games” to transnational politics and the literature on epistemic communities and advocacy networks (Putnam 1988; Evans, Jacobson, and Putnam 1993; Keck and Sikkink 1998; Haas 1992; Risse-Kappen 1995). On the other end of the spectrum, we leave out those arrangements among private transnational actors which

- are based on self-coordination (markets);

² Transnational relations are defined as “regular interactions across national boundaries when at least one actor is a non-state agent...” (Keohane and Nye 1971: xii-xiii). For the state of the art of the IR literature on the subject see Risse 2002.

- constitute self-regulation among private actors (private regimes (Cutler, Haufler, and Porter 1999));
- produce public goods and services as unintended consequences (e.g., rating agencies) or provide public “bads” (transnational mafia, international drug cartels, transnational terrorism).

[Insert Figure 2 about here]

Our understanding still encompasses at least four distinct types of PPPs:

- cooptation
- delegation
- co-regulation
- self-regulation in the shadow of hierarchy.

Moreover, we can also distinguish PPPs according to their purposes and function in terms of

- rule and standard setting
- rule implementation
- service provision.³

Figure 3 provides an overview of PPPs according to types and functions. It also gives prominent examples for each of the categories.

³ Once again, the distinctions are not as clearcut as they look like. There is a lot of overlap in these functions.

Figure 3: PPPs According to Type and Purpose (Examples)⁴

<i>Type</i>	<i>Purpose</i>	<i>Rule Setting</i>	<i>Rule Implementation</i>	<i>Service Provision</i>
<i>Cooptation</i>		Human rights regimes	UN Human Rights System	UN Development Agencies
<i>Delegation</i>		International Standardization Organization (ISO)	Executive Outcomes	Humanitarian and Development Aid Sectors
<i>Co-Regulation</i>		International Labor Organization (ILO)	Various Emission Trading Schemes of Climate Change Regime	UNAIDS
<i>Self-Regulation in the Shadow of Hierarchy</i>		Safe Harbor Agreement	Global Compact	Rating Agencies?

We will now discuss the various PPPs according to types.

(1) Regular consultation and cooptation of private actors in international negotiation systems

This is probably the most common, “weakest,” and also least problematic form of PPPs. Given the complexity of most international negotiating systems – from nuclear non-proliferation to international trade to international climate change –, most governments and international organizations increasingly incorporate non-state actors as official members of their delegations in rule-setting and rule-implementation. Such stable cooperative arrangements between private actors – both firms and INGOs – are particularly pervasive in the issue areas of international human rights and the international environment. The deal in such arrangements is that non-state actors provide consensual knowledge, expertise, and also moral authority and legitimacy. In many cases, cooptation has resulted in striking influence by non-state actors in international treaty-making. In exchange, they receive closer information about the details of the negotiations and gain better access. From the 1980s on, for example, Amnesty International has established itself as a legitimate source of knowledge and moral authority in the human rights area – a position which no other human rights INGO has been able to match. As a result, there is hardly any major international human rights agreement which AI did not shape in crucial ways – from the Convention against Torture to the recent estab-

⁴ The examples in this table are partly taken from the discussions in Risse’s seminar on “PPP in International Relations.”

lishment of the International Criminal Court (Korey 1998). Similar developments can be observed in international environmental politics (Arts 1998).

But regular consultation of private actor has extended beyond human rights and international environmental issues into the international economy and even international security. Multinational Corporations and INGOs have gained formal and legitimate access to international negotiations and organizations, such as the International Monetary Fund (IMF), the World Bank, and the World Trade Organization (WTO) (see O'Brien et al. 2000). During the Ottawa negotiations to ban anti-personnel landmines, the International Campaign to Ban Landmines had formal observer status which included the right to make statements and to table treaty language, with the one exception of voting rights (Mekata 2000). However, as examples from the UN system document, official consultative status also provides a powerful tool for states and IOs to control non-state actors and to sanction “non-cooperative behavior” (see Martens forthcoming).

(2) Delegation of state functions to private actors

In ever more instances of international life, international regimes, states, and IOs delegate certain functions to non-state actors. This is particularly common regarding technical standardization, on the one hand, and “contracting out” of public services to private actors, which have previously been provided by states. However, delegation actually covers a wide array of PPPs – from rather weak forms in which private actors are held accountable by states in a rather tight way (“outsourcing”, “contracting out”) to cases in which “delegation” actually amounts to and resembles private self-regulation in the shadow of hierarchy. The International Standardization Organization (ISO) or the Committee for European Normization (CEN) are prominent examples of the latter where public authority to set technical standards is delegated to private actors who are active in standardization (Ronit and Schneider 1999). Private expertise shall increase efficiency and the acceptance of standardization outcomes. Efficiency is also a major reason for international organizations to contract out certain functions to private actors. In both development aid and the humanitarian sector dealing with complex emergencies, the UN and the EU increasingly contract out the provision of humanitarian aid, health services, and others functions to private organizations, charities, churches, and INGOs. In some cases, even oversight functions are no longer supplied by international agencies, but by the private actors themselves (this has partly to do with the extreme lack of resources of UN organizations such as the UNHCR in the humanitarian sector).

Much more problematic is the delegation of core state functions such as the monopoly on the use of force to private actors. Many weak Third World governments who are no longer able to provide national security for their citizens have started to contract out military security to private firms such as Executive Outcomes resembling modern forms of mercenaries (Lock 2001; Singer 2001/02). However, such privatization of security and defense policy appears to be the exception rather than the rule and is usually closely scrutinized by other states including Western powers.

(3) Co-regulation of public and private actors

True joint decision-making, where private actors hold at least veto power, are rare in international politics. But non-state actors can be increasingly found as equal partners in the making and implementation of international rules. While nation-states still have to sign and ratify the resulting agreements, business associations and trade unions constitute negotiating partners with equal status at the International Labor Organization (ILO). The World Commission on Dams (WCD) is another example for a negotiating mechanism to reconcile the construction of big dams with principles of sustainable developments. It consisted of national governments, the World Bank, firms, and INGOs (Khagram 2000). The Transatlantic Business Dialogue (TABD) represents a forum in which firms negotiate trade and investment regulations for the transatlantic area under the auspices of the U.S. government and the EU Commission (Cowles 2000). In the European Union (EU), the “open method of coordination” represents such an instrument of co-regulation between public authorities and (business) interest groups. Yet, as H eritier shows, true co-regulation accounts for only a tiny fraction of EU policy-making (H eritier 2002; see also Kohler-Koch 2002).

The main difference between these types of governance mechanisms and the “cooptation” model above consists of raising the status of non-state actors to equal and legitimate partners at the negotiating table. Some of these PPPs have operated rather smoothly for decades (ILO), while others have been far more conflictual (WCD). In most cases, however, the negotiating dynamics does not pitch the “society world” of non-state actors against the “state world” of governments and International Organizations (see Czempiel 1991 on these notions). Rather, the more the stakeholders in an issue-area are represented at the bargaining table, the more we observe cross-cutting coalitions among private and public actors.

(4) Private self-regulation in the shadow of hierarchy

International organizations and state governments have occasionally induced private self-regulation at the international level by threatening formal legislation. When the WTO had decided a code of ethical and scientific standards, the International Federation of Pharmaceutical Manufacturers Association voluntarily adopted a Code of Pharmaceutical Marketing Practices to avoid further regulation of marketing practices (Ronit and Schneider 1999). Another example is the “Safe Harbor” agreement between the US and the EU regarding the European Data Protection Directive. This Directive sets more stringent rules to protect the privacy of consumers than US legislation. Therefore, the United States does not qualify as a country under the Directive to which data could be exported from the EU. But the EU and the US agreed that if US-companies voluntarily sign up to a set of privacy principles, which the US administration and interested companies had previously formulated, the European Union would not take action against them (Farrell 2002). Thus, the U.S.-EU agreement constitutes the “shadow of hierarchy” under which business actors are supposed to accept more stringent privacy standards than those under U.S. law.

State adoption of privately negotiated regimes – a case of public-private partnership?

Private self-regulation is often triggered by the very lack of effective international norms and rules. In the absence of an international legal system for dealing with transborder interactions between private individuals and organizations, economic actors have negotiated trade codes (such as the *lex mercatoria moderna*). Such private regimes may then become “publicly sanctioned” (Lehmkuhl 2000). They are enforced by national courts or, like in case of the rating agencies, even adopted in legal statutes (Kerwer 2002). Another example of a state-adopted private regime are domain names in the Internet. In this particular case and interestingly enough, private regulation and an IO-sponsored system of domain names competed for a while. Private regulation won, and was then adopted by national governments. But does the state adoption of privately negotiated regimes qualify as a public-private partnership? Unlike in the case of delegation or the shadow of hierarchy, the involvement of public actors is purely ex-post. They have certain control over output since International Organizations and states cannot be forced to adopt private regulations. But they do not cooperate with private actors in the rule-making process. Nor can they set any framework guiding the process and outcome of the private negotiations.

It is quite obvious that both the frequency and the significance of PPP arrangements vary enormously according to both type and purpose. While we do not have valid data on the number and

importance of PPPs, it is probably a safe bet that they most frequently serve the function of service provision. Service providing PPPs of all types are particularly widespread in the areas of development and humanitarian aid. This might have to do with the fact that states and International Organizations have drastically reduced their resources for development purposes during the 1990s. As a result, they have to increasingly rely on the financial resources and expertise of private actors, both firms and the voluntary NGO sector. Moreover, PPPs also result from the recent emphasis on “good governance,” “sustainable development,” and “strengthening civil society” in the development policies of Western donors and International Organizations.

PPPs appear to be far less frequent in the areas of international rule-setting and –implementation. Concerning rule setting, states are still rather reluctant to delegate authority to private actors or to include them into their negotiating systems. This is particularly true for questions of international security where cooptation is the best that private actors can hope for (e.g., the negotiations to ban landmines). Private regimes appear to be particularly confined to one issue-area of international relations, the international political economy (Cutler, Haufler, and Porter 1999). This probably results from the fact that the rule targets in the international markets are mainly private actors, but might also be a consequence of neoliberal ideas according to which market regulation should be left to those acting in the markets. Yet, even most private regimes in international trade and financial markets seem to require the shadow of hierarchy.

In the issue areas of human rights and the environment, we can also observe recent trends toward incorporating private actors into rule setting through voluntary agreements with or without the shadow of hierarchy. There are several reasons for this. First, failure of national governments to agree upon internationally binding and effective rules often leads to voluntary agreements by private actors as second-best solutions. Examples are social rights, on the one hand, and the climate change regime, on the other. Second, learning may play a role. States and International Organizations increasingly understand that incorporating rule targets – “stake holders” - into rule making not only enhances the legitimacy of global governance, but also might make international norms more effective in terms of problem-solving. The World Commission on Dams is a case in point.

The latter point also concerns PPPs with the purpose of rule implementation. States and International Organizations such as the EU increasingly realize that insuring rule compliance through threats of sanctioning does not necessarily produce the desired results. In some cases, sanctioning

mechanisms are simply lacking. In other words, the more a “managed compliance” perspective (Chayes and Chayes 1991; Chayes, Chayes, and Mitchell 1998) carries the day, the more we are likely to see the emergence of PPPs in rule implementation (see below).

All in all, however, and despite the recent hype about “global public policy” (Reinicke and Deng 2000), states seem reluctant to provide private actors with true governance authority outside their control. Moreover, none of the PPP in international life are completely “new” in the sense that they are not known from either domestic affairs or the history of international relations. A lot of the arguments on PPPs can be found in the literature on policy networks (Börzel 1998). PPP as co-optation are quite normal in the domestic politics of most highly industrialized states. PPPs as co-regulation characterize most corporatist arrangements. And the delegation of state functions to private actors has become quite common in the OECD world resulting from the deregulation/privatization waves starting in the 1980s and restricting the state role in many public services sectors to oversight functions and regulatory agencies. Private self-regulation in the shadow of hierarchy, finally, is not new to domestic politics either. In environmental politics, for instance, business associations often prefer voluntary agreements with state actors, where they voluntarily commit themselves to comply with some negotiated policy goals, over traditional command-and-control regulation, which leaves little flexibility in implementation (Bohne 1981).

Last not least, it should be noted that the state system as the defining feature of international order is probably a transitory phenomenon in international life, historically speaking. The pre-Westphalian medieval system was one of overlapping public, private, and religious authorities. The linchpin of state sovereignty, the monopoly over the legitimate use of force, only emerged after extended struggles with private armies, pirates, and mercenaries during the 19th century (Thomson 1994). Maybe, the current transformation of the Westphalian order toward a more complex system of global governance including PPP represents a “return to normal” from a historical perspective.

2. State Sovereignty, Autonomy, and PPPs: Is There a Problem?

This brings us to the question of sovereignty with which International Relations scholars and international lawyers are so obsessed. For our purpose, Krasner’s distinctions serve as a useful starting point (Krasner 1999: 9-25; see also Reinicke’s discussion of legal and operational sovereignty,

Reinicke 1998: chapter 2). As to *international legal sovereignty*, which refers to the mutual recognition of states as actors in the international system, PPPs do not affect this meaning at all. This is also true for what Krasner calls “interdependence sovereignty” as the ability of governments to control transborder movements. It is highly questionable whether states – even the most powerful ones – ever possessed the ability to control their borders. PPPs affect this only at the margins.

Things become more complicated with regard to what Krasner defines as “Westphalian sovereignty,” i.e., the exclusion of external actors from domestic authority configurations. PPPs as cooptation of non-state actors by state actors and as public-private negotiating arrangements do not seem to pose problems here, since the activities of non-state actors in such settings take place “in the shadow of hierarchy.” However, delegation of public authority to private actors and private regimes adopted by states do infringe on Westphalian sovereignty as understood here. For example, if weak states hire (foreign) private companies to take care of threats to national security, such as insurgencies of rebel groups or guerrilla movements ((Lock 2001; Singer 2001/02), this represents an erosion of constitutive functions of the Westphalian state. And whether such delegation and contracting out is consistent with Westphalian sovereignty crucially depends on the ability of states “to take it back,” i.e. whether they are capable of compensating failures of private self-regulation by direct intervention. This might be a given in a strict legal sense (as the very term “delegation” implies), but how realistic is this politically? And what does it mean for Westphalian sovereignty when a legal possibility increasingly becomes an empty concept? This holds even more, of course, for private regimes that provide public goods and services in the sense defined above. Here, non-state actors perform public functions previously confined to state authority. Of course, one could argue that the “shadow of hierarchy” still exists, even for private regimes. If states refuse to adopt or approve of them, what happens? Can they be sustained? Is state regulation capable of compensating failures of private self-regulation?

However, the question of Westphalian sovereignty might not be that relevant for understanding the implications of PPP for global governance. What about the fourth meaning of sovereignty, i.e., the level of effective control exercised by public authorities? What about “material sovereignty” as the autonomous action capacity of states (for the following see Grande and Risse 2000: 253-257)? There is no question that state autonomy and state control over policy decisions and outcomes decrease drastically from PPP No. 1 to PPP No. 4. However, we need to be careful, once again. First, PPPs on the international level might only be the latest development in a transformation of the state

from within. Modern democratic welfare states have long been characterized by non-hierarchical modes of governance including formal and informal networks of public and private actors (domestic PPPs, cf. Rosenau 2000; Voigt 1995). If the modern welfare-state is no longer autonomous vis-à-vis its own society, why should this be different beyond the nation-state? Besides, the degree of state autonomy and the ability of states to formulate and attain their own goals internally and externally has always varied tremendously in the international system. Apart from the great powers, very few states have ever enjoyed the privilege to attain complete control and autonomy over their internal and external environments.

So, once again, what's the problem? Is there one? We suggest that posing the issue of PPPs in terms of either sovereignty or (loss of) state control and autonomy over policies and outcomes misdirects our scholarly attention to the more relevant questions to be asked. In fact, decreasing state autonomy resulting from international PPPs might be the price to be paid for an increase in problem-solving capacity and legitimacy of international public policy. Rather than discussing in abstract terms whether the nation-states and national governments have lost control because of both globalization forces and an increase in public-private governance networks, one should ask what PPPs can do in terms of increasing the capacity of international governance to solve global problems and to enhance the democratic participation and legitimacy of international institutions. Posing the question in those terms would also avoid the "zero sum" logic that informs much of the debate about public-private governance arrangements. This leads to the last part of this paper.

3. PPPs as Effective and Legitimate Tools of International Governance?

Proponents of PPPs have long argued that such arrangements increase both the problem-solving capacity and the legitimacy of international governance structures.⁵ On the one hand, there is the neo-liberal argument in favour of PPPs and private regimes claiming that "state failure" in providing public goods and services is at least as relevant as "market failure" in international life and, thus, that private actors are better suited to regulate their affairs and coordinate their activities. Moreover, PPPs are favoured, because states and IOs alike lack the knowledge and expertise to solve increas-

⁵ In the following, we use the term legitimacy exclusively as "input legitimacy," since output legitimacy equals problem-solving effectiveness. In-put legitimacy requires that those who are affected by collectively binding decisions should have a say in the decision-making process. Out-put legitimacy, by contrast, refers to the effectiveness of policies in the sense that they serve the common good and conform to criteria of distributive justice (cf. Scharpf 1999).

ingly complex problems in international governance. Hence, PPPs satisfy the plea for an increased role of “epistemic” or “knowledge communities.” On the other hand, proponents of “cosmopolitan democracy” and “transnational civil society” (Wapner 1997; Held 1995) claim that involvement of INGOs and transnational social movements in international governance increases the democratic nature and the accountability of international institutions. Transnational civil society is widely seen as the beacon of hope in the global community and as representing the international common good, in contrast to narrow-minded states and the for-profit sector of firms and interest organizations.

But do PPPs in fact increase the problem-solving capacity and the democratic nature of international governance? We don’t really know. One problem is that most studies in this area suffer from a selection bias. There are many more studies of successful NGO-public partnerships than there are of failures. For instance, is the world a better place because an INGO coalition killed the prospects for a Multilateral Agreement on Investment (MAI), or would a MAI that included human rights and environmental concerns have been preferable? In addition, there are practically no empirical studies comparing inter-state regimes for problem-solving in international life with PPPs that are supposed to serve similar purposes.

As to problem-solving effectiveness, the core idea supporting PPPs concerns the mutual resource dependency of public and private actors. In those areas in which public actors control only limited material and ideational resources, non-state actors are said to come to the rescue. Pooling of resources and burden-sharing between public and private actors is said to increase the problem-solving capacity of governance arrangements (Wolf 2000). In the issue areas of international development and of humanitarian aid, PPPs between, for instance, UN organizations and the private sector (mainly NGOs) was simply a necessity given the lack of material resources of the international organizations.

In a similar way, non-state actors often serve as knowledge providers for public actors. Private actors – both firms and the not-for-profit sector – are said to increase the knowledge base (scientific and other) of public actors in various governance arrangements. Take the role of knowledge-based epistemic communities (Haas 1992) in various international environmental regimes. In the human rights area, for example, we can certainly observe that the regular provision of information by the INGO community to various UN human rights committees and national governments has not only

greatly improved our knowledge about human rights violations, but has also increased compliance with international human rights norms (Risse, Ropp, and Sikkink 1999).

However, it is unclear whether the mutual resource dependency of public and private actors leading to PPPs actually increases the problem-solving capacity of transnational governance arrangements. If the international community strips International Organizations such as the UN of material resources which then have to rely on the INGO sector, the delegation of authority to non-state actors can easily result in problem-shifting rather than problem-solving. In many cases, PPPs are simply neoliberal solutions in disguise, i.e., they amount to the privatization and de-regulation of formerly public services. This seems to be very much the case concerning PPPs in humanitarian aid and the development sector. Moreover, “taking back” delegation in cases of private failures is not an option since functions were delegated because public actors are not capable of delivering them.

A second argument in favour of increasing the problem-solving capacity of transnational governance concerns compliance. The “management perspective” to compliance with international norms and rules (Chayes, Chayes, and Mitchell 1998; Chayes and Chayes Handler 1993) posits that the more rule targets are included in the process of rule-making, the greater the likelihood of improving compliance with these rules. Since many rules and regulations in international life actually involve private actors such as firms as primary rule targets, inclusion of these actors in PPPs is said to increase compliance. The EU’s new “Open Method of Coordination” provides an example for such a mechanism.

Yet, inclusion of private rule targets in international treaty-making and other governance arrangements might simply lead to lowest common denominator solutions. If those who have to bear the ultimate costs of compliance with international rules are sitting at the negotiating table where the rules are formulated in the first place, they might simply try to water down the regulations as much as possible. In the end, we might end up with the same phenomenon of whether the “good news about compliance” actually tells us something about the successful solution of cooperation problems, which Downs et al. have argued with regard to states (Downs, Rocke, and Barsoom 1996). We might end up with international treaties, which are rather irrelevant for problem-solving. Moreover, inclusion of rule targets in the process of treaty-making might lead to the exclusion of the actual stakeholders. Take international environmental agreements: If rule targets such as firms are allowed to set their own standards for compliance with international norms, the interests of ordinary

citizens and of consumers in a cleaner environment could loose out, if their preferences are not included in the negotiating systems.

A third argument supporting the view that PPPs make transnational governance more effective in terms of problem-solving stems from proponents of deliberative democracy focussing on learning communities (Bohman and Rehg 1997). The literature often claims that involvement of stakeholders and rule targets in a deliberative process of rule-making could lead to better governance in terms of a reasoned consensus rather than a bargaining compromise (Scharpf 1997; overview in Risse 2000). By bringing in additional information and (authoritative) knowledge, the involvement of private actors contributes to the identification of possible ways of handling problems. At the same time, public actors become open to deliberation since they expect private actors to bring in their knowledge and expertise (Brühl et al. 2001). Arguing and reason-giving in a transnational arena that includes public and private actors would thereby not only enhance the democratic legitimacy of the governance process at the input side (input legitimacy), but also lead to better problem-solving by enabling mutual learning processes.

But is this so? What about the risk that arguing instead of bargaining leads to agreed-upon dissent rather than reasoned consensus (on this point see Müller 1996)? What about the risk of stalemate in such settings? Once again, we know very little about the scope conditions under which PPPs as learning communities actually deliver the goods of improved problem-solving capacities of transnational governance.

This last point leads to the question of input legitimacy in terms of solving the democratic deficit, accountability, and transparency problems of governance beyond the nation-state. Here, inclusion of non-state actors – both firms and the not-for-profit sector – is said to increase the legitimacy of international negotiating systems. The catch phrase is “civil society.” To include representatives from transnational civil society (Florini 2000b) in PPPs and other governance arrangements supposedly enhances the participatory and democratic nature of these institutions. PPPs help to improve the correspondence between the ‘rulers’ and the ‘ruled’ (Reinicke and Deng 2000). They contribute to the emergence of a transnational demos or transnational demoi (Brühl 2001).⁶ Moreover, many INGOs, epistemic communities, and other transnational advocacy networks (Keck and Sikkink 1998)

⁶ This is not to say that governance beyond the nation state needs a “transnational demos” to be legitimate (cf. Brock 1998; Zürn 2000).

command undisputed moral authority in a given issue-area. For instance, take the role of Amnesty International in the human rights area or the newly established authority of Transparency International in the international efforts to curb corruption (Galtung 2000). Including these moral authorities in governance mechanisms increases their legitimacy.

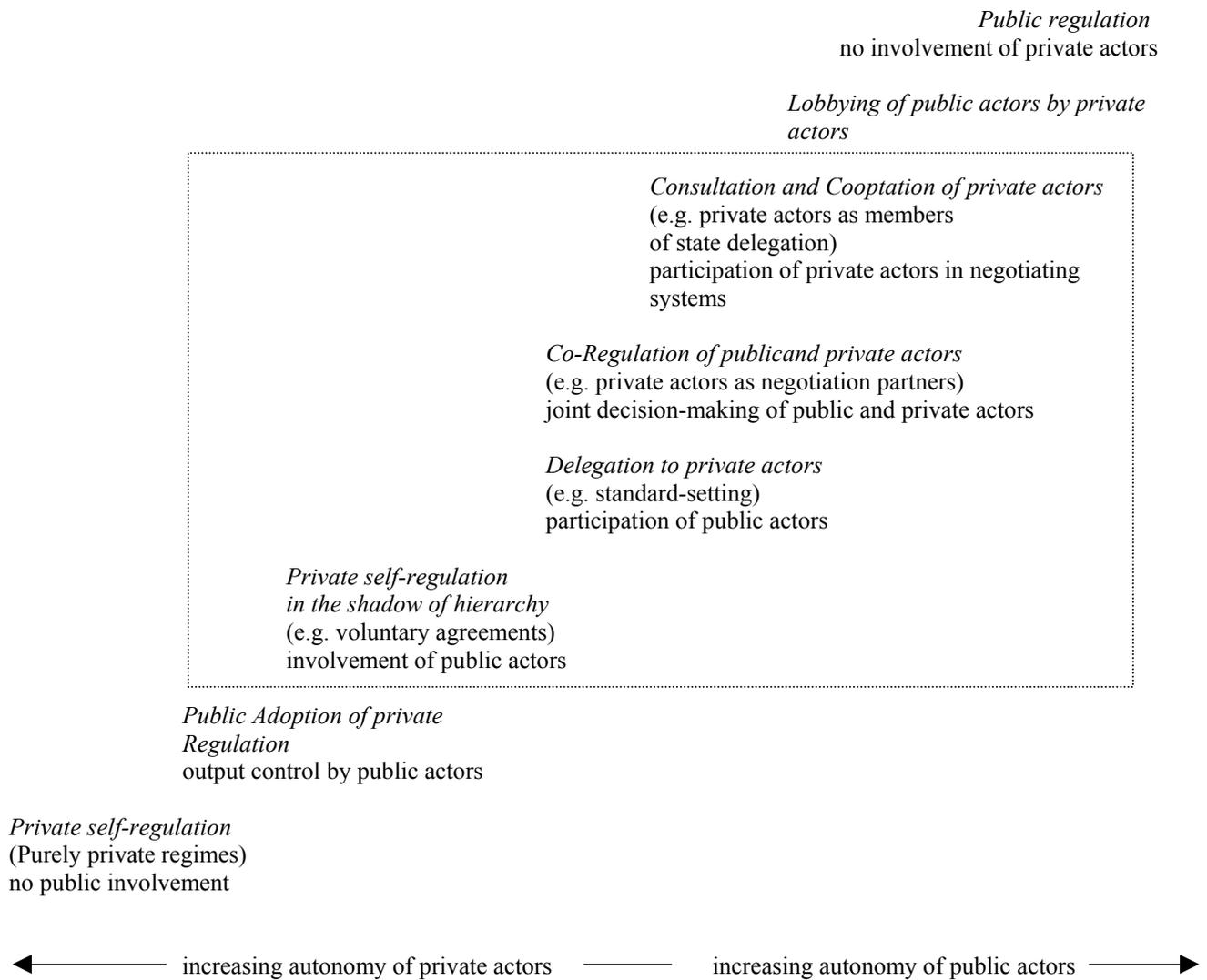
Once again, it has to be asked, however, whether these hopes can be satisfied. Some have even argued that the inclusion of private actors, both for-profit and not-for-profit, enhances the problems of democratic legitimacy in international institutions rather than help to alleviate them since private actors contribute to the “de-governmentalization” and “commercialization” of world politics (Brühl et al. 2001). Participation of non-state actors per se does not make international governance more democratic, if this participation is selective and lacks transparency. In fact, one does not have to reinvent the wheel here. More than thirty years ago, Karl Kaiser raised exactly this issue of democratic accountability of transnational actors in his contribution to the famous special issue of *International Organization* which put transnational relations on the agenda of IR scholars (Kaiser 1971). Why is the Transatlantic Business Dialogue as a PPP including multinational corporations, EU and U.S. officials more democratic than direct negotiations between the democratically elected U.S. government and the EU Commission representing equally democratic member states? As to the participation of the non-profit sector in international governance, things are more complicated. While they are not generally elected, these actors can legitimately claim to represent the public interest from which they draw their moral authority (Wolf 2001). Moreover, many NGOs have the seal of government approval through the legal recognition extended to such organizations (Florini 2000a). However, there is an increasing gap (and subsequently growing conflict) between those representatives of transnational civil society who are allowed inside the governance mechanisms and those who remain outside. While they claim to represent the public interest, some NGOs tend to be self-selected and elite-driven (Keohane and Nye 2001). To some degree, the “participatory gap” (Reinicke and Deng 2000: viii) is unavoidable and the resulting conflict within civil society might actually be helpful, since it keeps both sides honest. But PPPs involving the INGO world also raise questions of transparency and exclusivity. Which INGOS are allowed to sit at the bargaining table? How much information about international negotiations can they disclose to the public if they wish to maximize their influence on bargaining outcomes? Moreover, the global cleavage between the rich and powerful in the North, on the one hand, and the poor and powerless in the South, on the other hand, is reproduced in transnational civil society. The INGO world overwhelmingly represents civil society of the OECD world including their cultural values (Boli and Thomas 1999).

Southern NGOs have only limited resources to push their concerns in the INGO community. In fact, one could even argue that it is part of the Western global hegemony in the international system. Thus, inclusion of selected non-state sectors in PPPs per se does not solve the democratic deficit of international governance.

Whether or not PPPs solve the legitimacy deficit of transnational governance or, on the contrary, make it worse, seems to depend on several conditions then. First, the question is how inclusive or exclusive are the governance arrangements? The more exclusive the networks are, the less accountable and the less transparent they become. However, “all-inclusive” governance arrangements might lead to a serious lack of efficiency and reduced effectiveness. In other words, a trade-off between legitimacy and effectiveness might arise.

We currently lack the empirical knowledge to answer the question whether PPPs make transnational governance more democratic and more legitimate. As usual, the answer probably depends on scope conditions pertaining to the actors involved, the issue area and problem structure in question, and the particular institutional arrangements. It is unlikely that PPPs will solve most of the world’s problem and make governing beyond the nation-state more democratic per se. It is equally unlikely, though, that governance arrangements involving non-state actors can be easily discarded as not delivering the goods. Thus, future research needs to explicitly address the circumstances under which these arrangements enhance the problem-solving capacity of international governance as well as increasing its participatory quality and democratic legitimacy.

Figure 2: The Realm of Public-Private Partnerships



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