

CHAPTER 51

GLOBAL GOVERNANCE AS MULTI-LEVEL GOVERNANCE

MICHAEL ZÜRN*

1. INTRODUCTION

GLOBAL governance refers to the entirety of regulations put forward with reference to solving specific denationalized and deregionalized problems or providing transnational common goods. The entirety of regulations includes the substantial norms, rules, and programs, the processes by which norms, rules, and programs are adapted, monitored, and enforced, as well as the structures in which they operate. The term governance thus encompasses structures, processes, and policy content, which the common distinction between policy, polity, and politics may help to disentangle. Governance activities are justified with reference to the common good, but they do not necessarily serve it. Global governance points to those sets of regulations that address denationalized problems, that is, problems which reach beyond national borders. While government refers to one public actor, governance describes an activity independent of the numbers and kinds of actors carrying it out.

This concept of global governance has two important implications. To begin with, by distinguishing governance structure from contents and actors, it becomes obvious that governance beyond the nation-state is possible, despite the absence of a central authority or a “world state” equipped with a legitimate monopoly of the use of force (Rosenau 1992). In the absence of a world state or at least an empire with a global reach, global governance cannot take on the form of governance by government. Governance with (many) governments such as we see it in intergovernmental institutions, or governance without government as in the case of transnational institutions are, however, conceivable alternatives that are extensively used on the level beyond the nation-state. Second, by requiring a common goods-oriented justification of norms and rules, the concept of global governance also refers to a certain quality of international regulation.

Accordingly, international cooperation includes more than just simple coordination between states to achieve a *modus vivendi* of interaction. Rather, international regulatory governance often aims actively at achieving normatively laden political goals when handling common problems of the international community. In this sense, governance presupposes some common interests and goal orientations beyond the nation-state, at least in a rudimentary form, without—of course—denying the persistence of fundamental conflicts.

Conceptualized this way, global governance is not necessarily identical with multi-level governance. In order to speak of global governance as “multi-level” two additional conditions have to be met. First, the global level must possess some authority of its own. It must be more than just intergovernmental coordination with no delegation of powers to spheres outside the member states. As long as international relations are structured by the consensus principle, according to which states only comply with what they have agreed to, it does not make sense to speak of multi-level governance. Second, the global level must be part of a system that is characterized by the interplay of different levels rather than works independently from other governance levels. Before we can speak of a multi-level governance system, it thus needs to be shown that the system includes some form of division of labor. The whole notion of a multi-level governance system is based on the idea that segmentary differentiation of similar states, each of which controls a certain territorially defined part of the world, gets replaced by a concept that is at least to some extent characterized by functional and stratificatory differentiation.

Against this conceptual backdrop, I want to argue that global governance can indeed be described as a specific form of multi-level governance. In doing so, three issues will be tackled in the ensuing sections. It is argued first that political institutions on the global level today possess a significant level of authority and that those international institutions only achieve their effect by interacting with other political levels. Next, the specific features of global multi-level governance compared to other national or regional multi-level governance systems are discussed. Finally, the built-in deficiencies of such a system are examined.

2. POLITICAL AUTHORITY BEYOND THE NATION-STATE

The traditional, Westphalian notion of sovereignty emphasized the principle of nonintervention into domestic affairs and—closely related—the consensus principle. This notion involved three norms: first, that the ruler of a state exercises sole authority over the territory of that state; second, that all states are judicially equal; and third, that state parties are not subject to any law other than their own. In this view, international institutions are considered as instruments of the territorial state, without possessing political authority in their own right (Kahler 2004).

The last two to three decades, however, brought changes that undermined Westphalian sovereignty. Most importantly, *supranationalization* describes a process in which international institutions developed procedures that contradict the consensus principle and the principle of nonintervention. In this way, some international norms and rules create obligations for national governments to take measures even when they have not agreed to do so. Supranationalization thus leads to political authority beyond the nation-state (cf. also Kahler and Lake 2009: 246; Rittberger and Nettesheim 2008: 3). “International institutions have authority *when states recognize in principle or in practice, their ability to make . . . binding decisions on matters relating to a state’s domestic jurisdiction, even if those decisions are contrary to a state’s own policies and preferences*” (Cooper et al. 2008: 505). Such a political authority requires legitimation.¹

Political authority beyond the nation-state does not necessarily require autonomous international organizations. Both international institutions with an international organization that has been delegated autonomous power to make decisions (e.g. the International Criminal Court) and international institutions without such a formal delegation of power (e.g. majority decisions in the United Nations Security Council) can possess authority in the defined sense. In the former case, one can speak of delegated authority; the latter is a case of pooled authority (Moravcsik 1998: 67; Hawkins et al. 2006). The authority of international institutions thus points to another feature other than the autonomy of international organizations.

What evidence is there that the described changes in international relations governance have indeed come about? A preliminary indicator for this dynamic is the simple increase in the number of international agreements concluded. For example, the number of United Nations (UN) registered international agreements grew from a total of 8,776 treaties in 1960 to 63,419 as of 25 March 2010. If we consider only the most important multilateral agreements officially drawn up and countersigned in the UN, then we obtain a comparable level of growth, namely, from 942 such agreements in 1969 to 6,154 by 2010.² Underlying this increase is a corresponding growth in the issue areas to be dealt with by international institutions. For a long time, security issues and economic relations have dominated as the focal points of international cooperation; today, however, international institutions deal with a much broader range of issue areas.

In addition to the growing quantity and extended range of international agreements, a second indicator can be seen in the new, authority-generating quality of international institutions at different phases of the policy cycle. A policy cycle is a sequence of distinct phases in the life-course of a regulation. At the international level, we can differentiate between the following phases: agenda-setting—decision-making—implementation/rule interpretation—monitoring—enforcement—evaluation/new agenda-setting (see e.g. Abbott and Snidal 2009: 63).

Focusing, first, on the *negotiation* or *decision phase*, we can observe an increase of majoritarian decision-making in international institutions. There is a growing need for regulation at international level and growing demands on international institutions to accommodate this need. Majoritarian decision-making increases the ability of international institutions to act, by canceling the vetoes of individual states and overcoming

blockades. Today, roughly two-thirds of all international organizations with the participation of at least one great power have the possibility to decide by majority (see Blake and Payton 2008). Even if decision by majority is employed far less often than could be, it exerts pressure on veto players and increases their readiness to seek compromise. The formal possibility of international institutions implementing decisions by majority, in connection with a *de facto* preference of states for consensus decision-making, represents an attempt to balance the contradictory aims of maintaining international institutions' ability to act and fostering states' readiness to implement measures decided upon. The result of seeking such a balance is that the probability of individual states implementing environmental measures, even when doing so runs counter to those states' original will or intent, increases.

Monitoring and verification of international rules are, likewise, increasingly carried out by actors who are not directly under the control of states. In general, the need for monitoring is greater if international norms no longer just apply to the borders between countries but, instead, begin to regulate activities within the boundaries of sovereign territories. The monitoring of customs regulations, for instance, which occurs at state borders, is a comparatively simple task. Monitoring to prevent a state from subsidizing its own national enterprises, on the other hand, is more difficult because this involves *behind-the-border* issues. Mutual observation by the states party to an agreement is, in such cases, often not sufficient to guarantee compliance. Thus, the need for independent actors who process information on treaty compliance and make it available is steadily growing. Such information could be provided by autonomous organizations established as part of a treaty regime's safeguards. Two prominent examples of such organizations are the International Monetary Fund (IMF) (for the global financial system) and the International Atomic Energy Agency (IAEA) (for the Nuclear Nonproliferation Treaty) (Dai 2007: 50–53). In addition to such bodies, the role of international secretariats in regulatory monitoring has increased notably in recent years (see Siebenhüner and Biermann 2009).

Equally important in this regard is the growing significance of transnational non-governmental organizations (NGOs). Transnational NGOs collaborate with societal actors who have been negatively impacted by rule violations. Together they undertake informal, independent regulatory monitoring. For example, the monitoring of internationally standardized human rights has long since been transferred informally to human rights organizations like Human Rights Watch. The proliferation of transnational NGOs accredited by the United Nations' Economic and Social Council (ECOSOC) can thus be taken as an indicator for this development. In 1948, only fifty NGOs were approved by ECOSOC; by 1996, this number had climbed to 1041; and in 2009 it had reached no less than 3,287.³

Regarding disputed cases of *rule interpretation*, we find that there has been a significant increase in international judicial bodies. To the extent that the quantity of international obligations has grown, so, too, have the number of collisions between international and national regulations, and the number of conflicts between different international regulations. The establishment of court-like proceedings is one possibility for dealing

with such problems. At the same time, however, this would lead to a situation where states would be, by and large, stripped of their authority to interpret rules. For example, the World Trade Organization's Dispute Settlement Body (WTO-DSB) decides matters of controversy over the application of the rules in international trade. A judgment by the Dispute Settlement Body can only be overturned by a unanimous vote of all WTO member states. In 1960, there were, worldwide, only twenty-seven quasi-judicial bodies; by 2004, this number had grown to ninety-seven. If we narrow the definition and include only those bodies that meet all of the prerequisites for formal judicial proceedings, then only five such bodies existed worldwide in 1960, climbing to twenty-eight by 2004.⁴

Concerning *rule enforcement*, we can observe an increased readiness to levy material sanctions against violators. *Jus cogens* (independent and binding international law, not requiring the consent of states) in the meantime reaches beyond the prohibition of wars of aggression, including *inter alia* the prohibition of crimes against humanity, genocide, and apartheid. Furthermore, especially since 1989, the international community has increasingly begun to respond to cases of gross violation of human rights with military force and economic sanctions (Binder 2009: 340). After 1989, in some cases (like Kosovo or East Timor) the UN even set up transitional administrations with far-reaching executive, legislative, and judicial powers (Caplan 2004). But developments of this sort are not limited just to the area of security policy. For instance, for a good two decades, the World Bank (WB) has increasingly employed conditional loans—that is, loans which are tied to the recipient state fulfilling certain conditions, like carrying out specific economic or political reforms (Mosley, Harrigan, and Toye 1995).

Finally, other actors have begun to compete with states in the field of *policy evaluation and related agenda-setting*. The set of organizations that evaluate the effectiveness of existing regulations and place new problem areas on the international agenda has widened in accordance with the extent to which the addressees of international regulation have become societal actors. Again, international secretariats and transnational NGOs are the actors who have increasingly taken up these governance functions. In conjunction with this tendency, so-called *knowledge bodies* affiliated with the secretariats of international organizations, like the Intergovernmental Panel for Climate Change (IPCC), have gained in importance. To a comparable extent, those NGOs that identify international problems and call for international regulation have also clearly taken on greater significance. The role of Transparency International in the development of the Anti-Bribery Convention (see Metzges 2006) is just one example. In any case, the normative pressure resulting from the authority of such knowledge bodies and agenda-setting actors weakens the ability of individual governments to oppose international norm development processes (see Meyer 2005).

Overall, a dense network of international and transnational institutions of unprecedented quality and quantity has developed in recent decades. Many of these new institutions are far more intrusive than conventional international institutions. They can circumvent the resistance of most governments *via* majoritarian decision-making, or by dispute settlement procedures through the interaction of monitoring agencies with transnational society, and by dominating the process of knowledge interpretation in

some fields. With the—most often consensual—decision to install international institutions with such features, state parties become subject to a law other than their own, to which they have either not agreed upon (mission creep) or do not agree any more (costly exit option). Given the extent of the intrusion of these new international institutions into the affairs of national societies, the notion of “delegated, and therefore controlled authority” no longer holds.⁵ At least in some issue areas, the global level has achieved a certain degree of authority and has thus partially replaced the consensus principle of the traditional international system.

3. FUNCTIONAL DIFFERENTIATION IN GLOBAL GOVERNANCE

The rise of political authority beyond the nation-state should, however, by no means be read as an indication of the demise of the nation-state. First, the developments described here apply only to denationalized issue areas. Second, it is hard to see how governance goals can be achieved without the nation-state, even in strongly denationalized issue areas. For instance, the elimination of the problems relating to global financial markets, organized crime, or global environmental risks is hardly conceivable without nation-states. For the implementation of policies, especially, the nation-state seems to be indispensable. This is due to its control of resources based on its legal monopoly on the use of force and its capacity to raise taxes. Third, the nation-state remains, with respect to many issues, the first point of address for political demands, even in highly denationalized issue areas. Whereas transnational NGOs and even traditional interest groups increasingly address international institutions directly with their political demands, the nation-state remains, in this respect, the default option. Nation-states still aggregate territorial interests and put them forward in international negotiations.

The concept of multi-level governance promises to better grasp the complex arrangements of governing institutions than the concept of sovereign states does (see Bache, Chapter 44, this volume for an exploration of the term multi-level governance with respect to the European Union (EU)).⁶ In such a multi-level constellation, nation-states will not relinquish their resources such as monopoly on the use of force or the right to exact taxes in a given territory. Nevertheless, while the nation-state will play a significant role in multi-level governance, it will no longer be the paramount political institution able to perform all functions, but only one among others carrying out some of these tasks (Zürn and Leibfried 2005). The nation-state has lost its monopoly on political authority. The state remains pivotal, however, increasingly playing the role of an authority manager (Genschel and Zangl 2008).

In denationalized issue areas, effective and legitimate governance depends on the interplay of different political levels. It often requires transnational recognition of problems, decision-making in global forums, and the implementation of these decisions at

the national level. Global governance thus does not run parallel to other levels of governance; rather, it is constituted by the interplay of different levels and organizations, whereby each level and organization cannot work unilaterally. In this sense, the Westphalian system of segmentary differentiation has transformed into a multi-level entity characterized by functional differentiation.⁷

Each of these levels exercises authority, that is, they can make decisions and take measures in a given issue area, which cannot be unilaterally reversed by other levels without violating accepted governance procedures. Authority beyond the nation-state means that some governance tasks are taken over on the supranational or transnational level and cannot be hindered in this by single states affected by these decisions and measures. Authority on the lower level means that some governance tasks can be carried out by decentralized units without a legitimate possibility for the higher levels to intervene. If more than one level exhibits authority, then there is a “need to coordinate decisions between different levels” and one can thus speak of multi-level governance (Benz 2004).

4. FEATURES OF GLOBAL MULTI-LEVEL GOVERNANCE

There are, however, different types of multi-level governance (Hooghe and Marks 2010; Scharpf 2009). Global multi-level governance is different from both unitary federal political systems (Scharpf, Reissert, and Schnabel 1976) and the European multi-level system (Marks et al. 1996; Jachtenfuchs and Kohler-Koch 1996; see also Bache, Chapter 44, this volume). The specific features of global multi-level governance point simultaneously to the structural deficiencies of global governance.

All these three types of multi-level governance are characterized by a *two-stage implementation* process.⁸ In all these cases, norms and rules developed by the higher level will be mostly implemented by decentralized units. An international or European regulation asking, for instance, for a reduction of emissions, needs to be implemented by national governments and administrations. And all laws legislated, for instance by the government of the Federal Republic of Germany, will be implemented by the decentralized state administrations.

With respect to *legitimation processes*, significant differences among these three multi-level systems can be observed. In a unitary federal system, there is a direct relationship between the societal addressees of a regulation and the central decision-making units. The government and the parliament are directly accountable to the citizens. They are elected by the citizens and address them directly when justifying laws and measures. Here we can speak of a direct, or one-stage, legitimation process. In the European multi-level system, any direct contact between the central decision units and the citizens is limited. Whereas elections to the European Parliament constitute a direct relationship,

other—more important—decision units such as the Commission and the Council are, as a collective, not directly accountable. This is even less so, when it comes to international institutions. The executive board of the World Bank, for example, does not turn directly to the affected people when justifying their decisions; and, in turn, the people do not have many possibilities to sanction the board directly. They normally need to take a detour through their national governments.

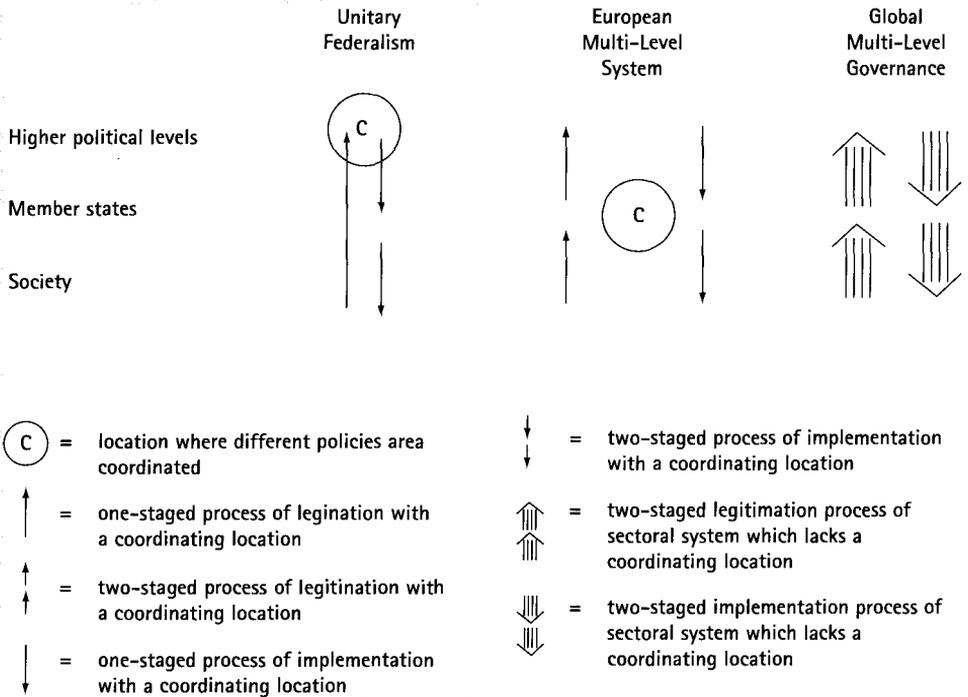
Multi-level governance with such a two-stage legitimation process has mainly developed beyond the nation-state. In these cases, societal actors confer legitimacy to constituent members of the system, which interact with each other to constitute the higher level beyond the nation-state. In return, almost any decision taken at the higher level needs to be organized and implemented through the lower levels. Citizens of nation-states therefore rarely have direct contact with the higher levels of multi-level governance systems, which reach beyond the nation-state.⁹

In addition, global multi-level governance differs with respect to the *coordination of different policies and societal subsystems*. Since regulations always produce effects in other issue areas beyond the ones to which they are directed, governance also involves the coordination of different policies which have been formulated on the same level or at different levels. In unitary federalism, coordination takes place via formal procedures on the side of central decision-makers, for instance, via Cabinet rules or supreme courts, and through public debate on the side of the addressees of a regulation. Public debates are characterized by an exchange of opinions in which views and positions are not just issued, but a discourse among competing claims occurs. *Broad* public debate refers to an ideal-typical democratic discourse among citizens of a given political community about vital political issues of general interest in mass media such as newspapers, radio, and television. Broad publics often debate conflicting goals and thus the coordination of different sectors. Sectoral publics, in turn, comprise formal and informal groups generated through functional differentiation, which devote themselves to specific issues. Here, the medium of interaction is often the Internet, specialized press, or personal exchanges or communications at conferences and meetings (Zürn and Neyer 2005: 201). Sectoral publics by definition are not able to mediate intersectoral conflicts.

Regarding coordination, the EU can be described as a multi-issue arrangement with a limited number of nonoverlapping jurisdictional boundaries and some built-in coordination mechanisms such as the Commission and the Council. Such a governance structure follows a system-wide architecture that is relatively stable and clearly public in character. Whereas broad public debate is possible, such debates occur most frequently at the constituent member level and are therefore often fragmented. They nevertheless provide for some policy coordination through the expression of a minimal sense of a polity.¹⁰

By contrast, global multi-level governance describes a complex and fluid patchwork of overlapping jurisdictions. In these cases, each issue area has developed its own norms and rules, and the membership varies from issue area to issue area. The membership of the Organisation for Economic Co-operation and Development (OECD), for instance,

is significantly different from the WTO. Debates and discourses take place almost exclusively within sectoral publics that do not address the side effects of certain measures for other issue areas. In addition, there are no constitutionalized mechanisms for the coordination of different issue-area-specific regimes; at best, informal mechanisms exist. Thus, global multi-level governance stands out due to a very loose coupling of different issue areas.



Types	Unitary Federalism	EU MLG System	Global Governance
MLG Features			
Implementation	2-staged	2-staged	2-staged
Legitimation	1-staged	1-staged/2-staged	2-staged
Coordination	Centralized	Decentralized	Missing/rudimentary

FIGURE 51.1 Three types of multi-level arrangements.

5. DEFICIENCIES OF GLOBAL MULTI-LEVEL GOVERNANCE

From the specific features of global multi-level governance, we now can derive some conjectures about structural deficiencies. First, global multi-level governance is permanently confronted with a *significant likelihood of non-compliance*. While many consider the legitimate monopoly on the use of force as a necessary prerequisite for compliance, the case of the EU demonstrates that alternative mechanisms such as legitimacy, legalization, and nonhierarchical enforcement can be used to successfully induce sufficient levels of compliance (Tallberg 2002; Zürn and Joerges 2005). All of the alternatives mentioned for ensuring compliance depend, however, on specific conditions of scope, which are not regularly given on the global level. The appeal to legitimacy grounded in law-like procedures depends on the willingness of a non-compliant actor to be responsive to good reason and concerns of legitimacy. In cases of nonhierarchical enforcement mechanisms, the enforcing actors need to be willing to bear the costs of enforcement, and the addressees of sanctions and blame need to be vulnerable to such strategies. Obviously, these conditions do not always hold on the global level. As a result global multi-level governance is inherently selective vis-à-vis the implementation of norms and rules. The selectivity of interventions authorized by the United Nations Security Council illustrates the point (Binder 2009).

In addition, global multi-level governance produces specific *legitimation problems*. As long as the intergovernmental level was restricted to merely developing a *modus vivendi* of interaction, requiring the consent of each member state, the two-stage process of legitimation was sufficient. The decisions taken on the level beyond the constituent members were legitimated through the legitimacy of their representatives. With the rise of a multi-level system and the authority of international institutions undermining the consensus principle, this has changed. There is an increasing need to legitimate decisions more directly.

Free elections, discursive will formation, party systems favoring those parties that represent a broad range of interests, and majority decision-making are mechanisms that made the political participation of broad segments of the public possible in the territorial state, and through which legitimacy was transferred to the central decision bodies. Only through these mechanisms has it been possible to strengthen and broaden the public interest orientation of democratic nation-states during the nineteenth and twentieth centuries. Beyond the nation-state such mechanisms are, to a large extent, lacking.

There are two developments which can be seen as institutional responses to the deficits of the two-stage legitimation process. First, there is the rising number and importance of transnational NGOs—that is, societal groups directly influencing international decisions by arguing mainly in terms of the global common good (as opposed to member interests). NGOs are an important element of sectoral publics, which help to directly connect the global level of regulation with the societal addressees of the regulations. In this way, the two-stage legitimation process gets informally complemented with a direct link.

Second, decision-making in global networks often emphasizes consensus beyond the point that formal procedures require. Even when majority decisions are possible, real-world negotiations seek consensus. Adjudication mechanisms also take great care to hear all addressees and to strike a compromise if possible. There are very few direct interventions at the global level without prior consultation at the constituent member level. In this sense, the system is more autonomy-preserving than some formal rules seem to suggest.¹¹

However, this comes at a cost. Given this inclusive and consensual orientation of multi-level arrangements, it can be expected that global multi-level governance will rarely lead to redistributive or strongly interventionist measures. To the extent that market-making and compatible regulations are more easily achieved consensually than are market-correcting policies (Streeck 1995), a liberalizing bias is introduced into global governance. In any case, it means that global multi-level governance tends to be slow and hardly able to take decisive steps.

The lack of a central place for the coordination of different policies points to a third deficiency in global multi-level governance. Global governance does not have a central government that is responsible for the coordination of different policies. Moreover, one of the major functions of a broad public—namely, to decide in cases of goal conflicts between different sectors such as growth and clean environment, or security and freedom—cannot be fulfilled by sectoral publics which, by definition, are tied exclusively to either growth, environmental protection, security, or freedom. Given the functional and to some extent technocratic limits of such sectoral publics, there is a tendency to neglect the effects of regulations on other societal subsystems that are not part of the decision networks.

Against this background, the global multi-level governance system has—again informally—produced some substitute institutions that sometimes seem to assume such a coordinating role. The UN Security Council in particular has aspired to such a role by deciding on all those issues in which the goal of peace and the protection of human rights seem to contradict each other. Also, the G8/20 seem to define themselves as central coordinators by giving other international institutions a sense of direction, and by identifying issues and assigning the governance of those issues to specific international institutions.¹² These attempts, however, have remained limited. Moreover, they generate resistance on the side of many other actors, because membership in these institutions is not only restricted, but highly exclusive. The members of these institutions are self-nominated in the role as coordinators, and lack authorization to act in this way.

All three mechanisms available for coordination between different sectors and levels—the UN Security Council, the G8/20, and the dispute settlement bodies—share two features. First, they are completely detached from societies. There are no formal and hardly any informal channels available through which societal actors can make these institutions responsive to their demands. Moreover, these institutions were not created for the purpose of coordination. They are probably the most emergent elements of an emergent order. Global governance therefore is troubled by a strange lack of subjects: something happens, but no one has done it (Offe 2008). If no one governs, however, no

one can be made responsible. This lack of accountability in the global multi-level governance system is another deficiency, which affects its ability to gain social acceptance.

6. CONCLUSIONS

Global governance can be described and fruitfully analyzed as a multi-level governance system. The global level contains a sufficient degree of authority, and the interaction between levels is functionally differentiated. In this way, the rise of global multi-level governance seems to be the logical response to the process of societal denationalization.

The construction principles of global multi-level governance differ, however, from other multi-level systems. It is those specific features—the lack of direct relationships between the higher level and the societies of the constituent members, and the lack of a location for the coordination of the policies—which cause the major deficits in global governance, namely, compliance problems, legitimacy problems, and unrestricted sectoral externalities. Two questions directly follow from this: Do these observations reflect structural deficits in multi-level systems of governance, or do they represent problems of transformation? And what can be done about this? Being skeptical about structural explanations and believing in the importance of social reflectivity, I tend to believe that civil society and public interests will in the long run find ways to bind multi-level governance more closely to the attainment of the common good. There are increasing signs that the institutions of global multi-level governance are becoming politicized (see Zürn and Ecker-Ehrhardt 2011). People and societal actors are beginning to bring transnational and international issues which were previously handled by mainly administrative or technocratic bodies into the public realm. International institutions are confronted with more societal resistance than ever, but they are also used more often by interest groups and non-governmental institutions. They are increasingly judged by political criteria such as legitimacy and fairness, in addition to efficiency and functionality—the yardstick of international affairs so far. In this sense, the future is open, as it has always been. If so, one of the most important tasks will certainly be to investigate the ways in which and the extent to which new ideas and intelligent institutional designs that help to avoid the inadequate attainment of governance goals in global multi-level governance can be developed.

NOTES

- * This contribution builds on Zürn (2010). I would like to thank Jack Donnelly and Sonja Wälti for most helpful comments on an earlier version.
1. *Transnationalization of governance* refers to a process in which transnational non-state actors develop political regulations and activities without being formally authorized by

states. Such regulations are based on the principle of self-governance and create *private authority* (cf. Cutler, Haufler, and Porter 1999; Biersteker and Hall 2002). Examples are *codes of conduct*, which are agreed upon between multinational corporations (MNCs) and possibly contain obligations not liked by all the governments affected by them (cf. Scherer and Palazzo 2008). The informal adoption of functions through NGOs within international institutions—for example, Amnesty International’s role as primary monitoring agency in the human rights regime—is another case of transnationalization. Transnationalization can lead as well to *de facto* circumvention of the consensus and nonintervention principle. For the purposes of this chapter, I will focus on supranationalization, however.

2. See <http://treaties.un.org/Pages/Home.aspx?lang=en>.
3. See <http://esango.un.org/paperless/content/E2009INF4.pdf>.
4. See <http://www.pict-pecti.org/matrix/matrixintro.html>; see also Alter (2009).
5. See also Haftel and Thompson (2006) who define the independence of international organizations as the absence of complete control by other actors, and consider autonomy, together with neutrality and the delegation of authority, as constitutive elements.
6. Arguably, the arrangement is—given the parallel process of supranationalization and transnationalization—better described as multi-level and multi-actor governance, since on each of the levels, different actors—public ones and private ones—dependent of each other are relevant. In this contribution, the conceptual focus is on the interplay of different levels (each of them consisting of more than one actor), which makes it possible to use the simpler, yet still not very elegant term, multi-level governance.
7. Functional differentiation as used here refers merely to the assignment of specific roles within—to use the language of Luhmann—the societal subsystem “politics.” Functional differentiation writ large means, according to Luhmann, that different societal subsystems work more or less independently of each other. Arguably, there is, however, a close connection between these two forms of functional differentiation.
8. Dualist federal systems—such as the one in the United States before the New Deal—are different in this respect. In dualist—as opposed to unitary—federal systems, two completely developed governance systems operate—at least in the ideal world—in parallel. They take full responsibility for different policy fields. Here, the division of labor is exclusively along different issue areas, with the central level responsible for, for example, foreign policy, and the state level for, for example, educational policy.
9. There are, however, notable exceptions to this rule such as the international administration of war-torn societies (see Heupel 2009) and the International Criminal Court of Justice (Deitelhoff 2006).
10. Hooghe and Marks (2010) describe this as MLG type 1. Similar concepts are used by Mayntz (2001) to argue that the EU differs fundamentally from global governance.
11. The famous comitology in the EU highlights this point. In conjunction with more formal EU decision-making, a parallel apparatus has developed, which assures the participation of the member states in the implementation process (Joerges and Neyer 1997; Huster 2008).
12. The rise of transnational and national dispute settlement bodies points as well to the lack of coordination in global multi-level governance. While such adjudicatory bodies still rarely mediate between different issue areas—with the exception of the WTO–DSB—they play an important role in the coordination between the global and the national level. The quantitative rise of such dispute settlement bodies indicates the growing autonomy of the global level, but also the lack of coordination between different sectors of it.

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