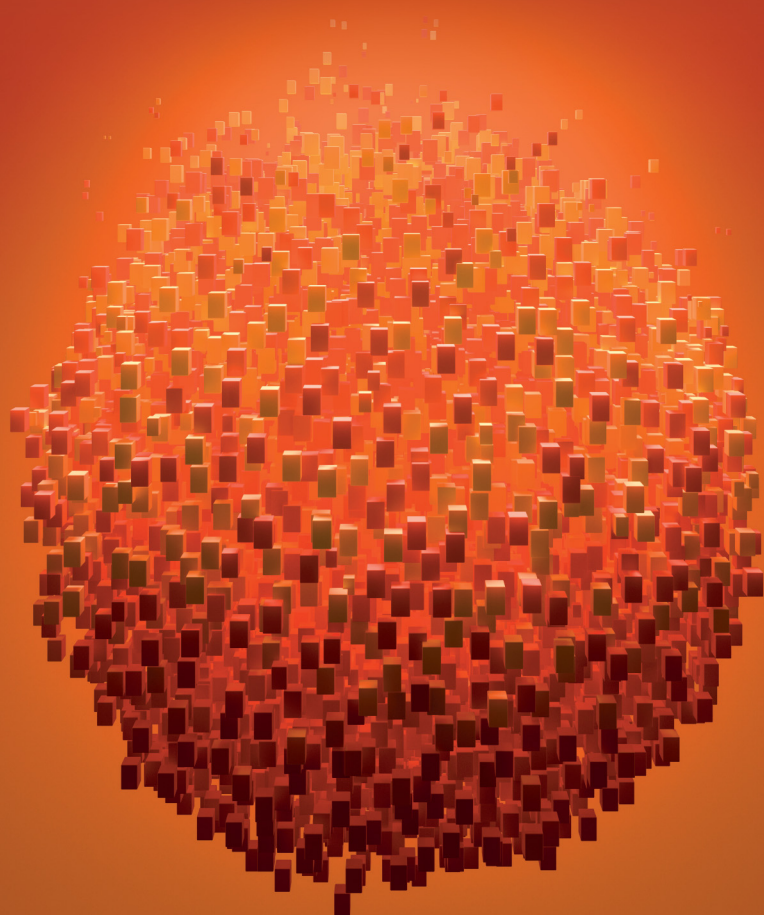


OXFORD



# POLYCENTRISM

how governing works today

edited by FRANK GADINGER & JAN AART SCHOLTE

Polycentrism



# Polycentrism

*How Governing Works Today*

*Edited by*

Frank Gadinger  
and  
Jan Aart Scholte

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# Preface

This book is born of a frustration coupled with an inspiration. The frustration is that smart people are not talking with each other. The inspiration is to nurture such a conversation.

Many scholars of our time are saying many clever things about governing in contemporary society. Across widely dispersed disciplinary and theoretical positions, insights about how governing works abound in untold amounts and depths. We today face a staggering menu: arguably ingredients for a quantum leap in knowledge.

Yet current research on governing generally proceeds in discrete paradigmatic camps. What this book characterizes as organizationalists, jurists, relationists, and structuralists work apart, with little contact, limited communication, still less exchange, and only rare hesitant steps towards combination.

Dialogues of difference are, of course, among the greatest challenges of human being, including for academicians. While fights within a school of thought may be heated, they transpire with the contextual reassurance of familiar and shared ground. Far more testing is to venture beyond the comfort zone and encounter the intellectual other. In this borderland, effective dialogue demands to relativize position, relinquish power, deeply listen, openly learn, and mutually change.

We editors thank our fellow authors for embracing this experiment to meet, engage with, write for, and be transformed by each other. The long and often demanding journey to this publication has required no small courage, patience, and generosity from all contributors. Together we have sown modest seeds of inter-paradigm deliberation—in both substance and method—that future work can hopefully take forward.

We further thank our colleagues with the Centre for Global Cooperation Research (CGCR) at the University of Duisburg-Essen for steadfast support in this complicated endeavour. Sigrid Quack and Nina Schneider contributed chapters, while other senior researchers Lauren Eastwood, Katja Freistein, Volker Heins, Patricia Rinck, and Christine Unrau maintained the stimulating surroundings of the CGCR *Denkfreiraum* ('space of open thinking'). CGCR fellows Maryam Deloffre, Maria Koinova, Zeynep Şahin-Mencütek, and Jens Steffek fed richly into our polycentrism research group during

2019–2020. The events team led by Rakchanok Chatjuthamard, Julia Fleck, and Tobias Schäfer delivered the logistics of our two workshops with their characteristic efficiency and good cheer. The communications team led by Martin Wolf has helped bring the project to public attention. We want to further thank Daniel Orders for his superb language editing and stylistic improvements on many chapters of the book.

Special gratitude also goes to the CGCR publications and research staff—Melissa Abreu, Leonie Bremm, Jonas Borini, Saina Klein, Ann-Kristin Kuhnert, Philipp Michaelis, Sabrina Pischer (in a highly appreciated coordinating role), and Clemens Weggen—for extraordinary helpful support to prepare the manuscript. Even more, your perseverance in the face of two distracted editors sustained the project through to conclusion. Thank you.

Financial resources for the project, including open access publishing of this book, have come from a generous core grant to CGCR from the German Federal Ministry of Education and Research. CGCR is one of a batch of Käte Hamburger Kollegs (KHKs) supported by federal public funds to undertake innovative international interdisciplinary research.

At Oxford University Press we are grateful for the ever encouraging and accommodating guidance of Dominic Byatt. Three anonymous reviewers for OUP gave valuable and much-appreciated urgings and suggestions to advance the final manuscript.

Finally, we thank each other, as co-editors, for our own mutually enriching bilateral dialogue of difference in convening this project. Creative constructive tension in the coordination has advanced a friendship as well as insight.

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# List of Abbreviations

ANT	Actor-Network Theory
APP	Asia-Pacific Partnership on Clean Development and Climate
BMBF	German Federal Ministry of Education and Research
BMPs	best management practices
C2G	Carnegie Climate Governance Initiative
CAO	Compliance Advisor Ombudsman (World Bank)
CDM	Clean Development Mechanism
CDR	carbon dioxide removal
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CERs	Certified Emission Reductions
CfCS	Centre for Cyber Security
CGCR	Centre for Global Cooperation Research
CI	Consumers International
COP/MOP	Conference of the Parties/Meeting of the Parties
COPOLCO	Committee on Consumer Policy
DDIS	Danish Defence Intelligence Service
DOEs	Designated Operational Entities
EB	Executive Board
EITI	Extractive Industries Transparency Initiative
EU	European Union
FSC	Forest Stewardship Council
G7	Group of Seven
GAL	global administrative law
HRA	High Risk Area
IACHR	Inter-American Court of Human Rights
IAD	Institutional Analysis and Development
IAEA	International Atomic Energy Agency
IASB	International Accounting Standards Board
IBRD	International Bank for Reconstruction and Development
ICJ	International Court of Justice
IDA	International Development Association
IEC	International Electrotechnical Commission
IFC	International Finance Corporation
ISO	International Organization for Standardization
INGOS	international non-governmental organizations
IPCC	Intergovernmental Panel on Climate Change
IR	International Relations
KHK	Käte Hamburger Kolleg

## x List of Abbreviations

NETs	negative emissions technologies
NGO	non-governmental organization
PPPs	public-private partnerships
PSCs	private security companies
PSI	Public Services International
SRM	solar radiation management
STS	Science and Technology Studies
SZ	Süddeutsche Zeitung
UN	United Nations
UNAT	United Nations Administrative Tribunal
UNCHR	United Nations Commission on Human Rights
UNFCCC	United Nations Framework Convention on Climate Change
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNSC	United Nations Security Council
WADA	World Anti-Doping Agency
WBIP	World Bank Inspection Panel
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WMD	weapons of mass destruction
WTO	World Trade Organization

# Notes on Contributors

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**PART I**  
**INTRODUCTION**





# 1

## An Introduction to Polycentric Governing

*Frank Gadinger and Jan Aart Scholte*

Connect to the Internet and communicate with more than half of humanity across the planet: what rules make that possible; who is watching; and to what end? Migration flows: what, if anything, is regulating the mess? Climate change: how is it being (mis)managed, by what and whom, and why? Health: how to respond across borders to meet global pandemics? Peacebuilding: how to advance the process when, seemingly, everyone is involved and no one is in charge? Airport security: who or what determines that one or the other passenger is denied boarding? What governs cultural heritage, educational standards, financial stability, labour conditions, social media communication, research evaluation, sexual mores, trade policy—indeed, pretty well anything in contemporary society?

How does governing work today? This simple question has no easy answers. The old neat equation of governing with government has dissolved into a multitude of diffuse, fluid, overlapping, and seemingly uncoordinated regulatory forces. Think of everyday interventions from regional and global institutions, fair trade schemes, online platforms, people trafficking networks, interbank collaborations, fact checkers, and private security companies. Think also of less visible and more subtle governing through algorithms, benchmarks, gender norms, professional practices, common narratives, technical standards, the profit motive, and more.

This blurry situation raises fundamental questions. Who and/or what makes and applies the rules that (dis)order contemporary society? By what techniques is governing accomplished these days? Where does the power to govern now lie? How far is contemporary governing legitimate—i.e. accepted and acceptable as right and appropriate? How, if at all, can current modes of governing handle pressing societal challenges in ways that are democratic, effective, peaceful, sustainable, and fair? When today's often elusive

governing processes fail, how far can they be made accountable, resisted, and/or changed? Again: how *does* governing work today?

These urgent issues understandably draw strong interest across contemporary academe and public life. Many scholars sense that inherited ideas cannot make adequate sense of current modes of societal regulation: that we need new theory to draw shadowy operations into daylight. Simultaneously, countless citizens worry about the prospects for democratic, effective, peaceful, sustainable, and fair governing in the present-day world. In these uncertain times, fundamentalisms and populisms readily attract followings with promises of simple solutions, however illusory. Meanwhile, as researchers flounder and publics lose heart, crucial policy challenges of the kind mentioned above go insufficiently addressed. The situation invites designations of ‘chaos’ and ‘crisis’.

Across a host of disciplines, theorists are scrambling for new concepts that might grasp the elusive quality of governing today. Scholars from anthropology, economics, geography, history, international relations, law, literature, philosophy, political science, sociology, and a range of interdisciplinary fields have all joined the search. Thinkers as diverse as Pierre Bourdieu (1993), Wendy Brown (2015), Robert Cox (1992), Michael Hardt and Antonio Negri (2000), Robert Keohane and David Victor (2011), Bruno Latour (2005), Elinor Ostrom (2010a, b), Saskia Sassen (2006), and Anne-Marie Slaughter (2004) have each—albeit in very different ways—tried to give conceptual shape to the dynamics of contemporary governing.

A whole new lexicon has emerged as a result. Bourdieu speaks of ‘fields’, Brown of ‘neoliberalism’, Cox of a ‘*nébuleuse*’, Hardt and Negri of ‘empire’, Keohane and Victor of ‘regime complex’ (also Alter and Meunier 2009; Orsini et al. 2013), Latour of ‘actor-networks’ (also Porter 2012; Best and Walters 2013), Ostrom of ‘polycentricity’ (also Black 2008; Thiel 2017; Jordan et al. 2018), Sassen of ‘assemblage’ (also Ong and Collier 2005), Slaughter of ‘transgovernmental networks’. Further scholars have described today’s modes of governing as ‘complex sovereignty’ (Grande and Pauly 2005), ‘cosmocracy’ (Keane 2003), ‘fragmentation’ (Rosenau 2000), ‘fragmented sovereignty’ (Lund 2011), ‘global bricolage’ (Mittelman 2013), ‘global governance’ (Barnett et al. 2021), ‘hypercollective action’ (Severino and Ray 2010), ‘mobius-web governance’ (Rosenau 2003), ‘multi-level governance’ (Hooghe and Marks 2001; Enderlein et al. 2010), ‘network governance’ (Reinecke 1998), ‘new medievalism’ (Friedrichs 2000; Akihito 2002; Zielonka 2006), ‘patchwork’ (Pouliot and Thérien 2020), ‘quasi-constitutionalism’ (Thompson 2012), ‘transnationalism’ (Djelic and Sahlin-Andersson 2006; Quack 2010), and more. The proliferating vocabulary is dizzying.

To bring some shape to the clutter, we can fruitfully catalogue this diversity of approaches with a fourfold distinction between organizational, legal, relational, and structural conceptions of contemporary governing. The key point of differentiation is ontological: i.e. in regard to where the respective paradigms see governing to reside. For what we describe as organizational analysis, governing occurs in the first place through *actors*, including governments, firms, civil society associations, and other decision units (Avant et al. 2010; Hale and Held 2011). For jurists, governing happens in the first place through *laws*, including statutes, treaties, directives, resolutions, standards, etc. (Halliday and Shaffer 2015; Cassese et al. 2016). For relationalists, governing transpires in the first place through *practices*: i.e. the everyday activities of those who govern and are governed (Adler and Pouliot 2011; McCourt 2016; Bueger and Gadinger 2018). For structuralists, governing arises in the first place through *architectures*: i.e. macro frameworks of social life such as anthropocentrism, capitalism, and nationalism (Harvey 2005; Scholte 2018).

A core point of divergence in these different theoretical streams concerns the issue of (dis)order in contemporary governing. On the one hand, organizational diagnoses tend to underline the quality of confusion, with accounts of ‘fragmentation’ (Biermann et al. 2009; Van Asselt 2014), ‘institutional complexity’ (Pattberg and Zelli 2016), and ‘liquid authority’ (Krisch 2017). From an actor-focused organizational perspective, the main challenges of ‘chaotic’ governing include accountability, compliance, coordination, efficiency, forum shopping, and gridlock (Black 2008; Hale et al. 2013; Murphy and Kellow 2013; Abbott et al. 2015). Characteristic organizational answers to these problems include ‘experimentation’, ‘orchestration’, ‘managing complexity’, and other administrative measures to bring ‘order’ to the disarray (Oberthür and Pożarowska 2013; De Burca et al. 2014; Abbott et al. 2015).<sup>1</sup>

On the other hand, further conceptions of governing tend in different ways to highlight coherent patterns below the surface confusion of organizational arrangements (Koinova et al. 2021). Legal approaches identify order amidst actor messiness in terms of the (changing forms of) laws that prevail, with notions such as ‘transnational legal orders’ and ‘global administrative law’ (Kingsbury and Krisch 2006; Halliday and Shaffer 2015). Relational approaches find order in terms of repeated everyday practices and tools of governing, such as benchmarking exercises, diplomatic protocols, visual images, and narratives (Pouliot 2010; Broome and Quirk 2015; Bleiker 2018; Smith Ochoa et al. 2021). Structural theories locate order in terms of underlying macro frameworks of social relations, such as ‘governmentality’ (Larner and Walters 2004; Joseph 2012), ‘meta-governance’ (Jessop 2009),

‘intersectionality’ (Collins and Bilge 2016), and ‘new constitutionalism’ (Gill and Cutler 2014).

Over recent decades these different approaches to understanding contemporary governing have mostly developed independently of each other. Organizational analysts, jurists, practice theorists, and macro-structuralists have rarely mixed. Disciplinary and theoretical divides have inhibited comparisons and dialogues that hold obvious potentials to generate novel and more encompassing insights. These inviting but thus far avoided juxtapositions, exchanges, and combinations are long overdue. This book initiates such bringing together, conversation, and reconstruction, generating important benefits for knowledge and practice.

The aim and expectation of this unprecedented exercise are by no means to achieve a single overarching synthesizing transdisciplinary theory of governing. We do not promise a crowning comprehensive ‘final word’. Such an ambition is neither attainable nor indeed desirable. On the contrary, continued theoretical diversity and contestation provide crucial drivers for further knowledge innovation. This book therefore seeks not to end the arguments, but to consolidate debates and propel them into new promising directions.

In particular, the volume aims to deliver five important benefits that are not available in the existing literature surveyed above. First, readers obtain, in one book, a probing review with unequalled breadth, covering a full spectrum of imaginative insights into how governing operates in contemporary society. Second, comparisons and exchanges between the different perspectives highlight, and help to clarify, the distinctive emphases, potentials, and limitations of each approach. Third, juxtaposition and combination between the diverse theories generates still further (and perhaps even more promising) avenues of novel thought about governing today. Fourth, more methodologically, the experience of this dialogue-of-diversity may offer inspirations for further constructive inter-paradigm conversations in the future. Fifth, we hope that readers through their engagement with this book will develop their own, perhaps different, understandings of governing today and thereby become more empowered political subjects.

The rest of this introductory chapter lays ground for the book’s inter-paradigm conversation in four steps. The first section below sets out ‘polycentric governing’ as an umbrella notion for rethinking theories and practices of regulating society. The second section then categorizes the past decades of novel thinking about polycentric governing along the four broad lines introduced above: organizational, legal, relational, and structural. The third section identifies techniques, power, and legitimacy as three core issues that reveal major distinctive features and insights of the different theories

of contemporary governing. The fourth section describes the process of collective enquiry among authors that has generated this book.

## **Polycentric Governing: A Starting Concept**

Readers will have noted our specific choice of the word ‘governing’. As understood here, this term refers to processes of regulation and ordering in society. Governing involves constructing, implementing, securing, reviewing, adjusting, and transforming rules for a human collective. Thereby governing brings notable degrees of consistency and predictability to social relations. Governing can also create possibilities for deliberate intervention into, and guided change of, the ways that people live together in society.

Our book deliberately favours the vocabulary of ‘governing’ over that of ‘government’. The latter term usually refers to the ordering of society through the modern state: i.e. a regulatory apparatus that is formally constituted, hierarchically organized, centrally directed, territorially delimited, and public. Current governing certainly includes the state—often very prominently. However, processes of societal regulation now usually encompass non-state sites as well. Think of corporate alliances, digital platforms, and philanthropic foundations. Moreover, today’s state does not operate like the state of yesteryear. For example, contemporary governing sees states enmeshed in countless intergovernmental organizations, transgovernmental networks, and public–private partnerships—constructions that also have a life of their own, beyond the contributing states. Thus, societal regulation today involves much more than government alone.

Our title also prefers the notion of ‘governing’ over that of ‘governance’. For one thing, the gerund better emphasizes the dynamic-process quality of societal regulation: *governing* does not stand still. In addition, the word ‘governance’ tends to be conceived in a bureaucratic and legal sense to refer to regulatory organizations and the measures that they produce. In contrast, as suggested already and elaborated later, the concept of ‘governing’ invites wider investigations of societal ordering to include also regularized practices and macro social structures.

As noted above, recent social and political theory has generated a multiplicity of accounts of contemporary governing. Across this wide diversity, however, these many perspectives identify certain similar broad features of societal regulation today. For one thing, the approaches all see governing to occur across geographical scales, with rules operating in and over local, national, regional, and global spheres. Thus, governing is not confined to

the national level. In addition, the different conceptions view regulation as emanating from both public and private sectors, so that governing can be non-governmental as well as governmental. The many theoretical initiatives also share the premises that governing today is decentred and diffuse (spread across multiple forces), as well as fluid and unstable (being in constant flux). Frequently, contemporary governing involves overlapping mandates (with many players addressing the same regulatory issues) and ambiguous hierarchies (with unclear chains of command among regulatory sites). The new conceptions likewise share an insight that governing today generally works without a final arbiter, so that no single location holds ultimate determination and responsibility. In this sense contemporary governing lacks a sovereign power.

As an umbrella term for this transscalar, transsectoral, dispersed, variable, messy, elusive, headless mode of governing, our book invokes the descriptor ‘polycentrism’. We use this word in a generic sense to encompass the various perspectives listed earlier. In particular, we distinguish our wider conception from the narrower rationalist reading of ‘polycentricity’ developed by Vincent and Elinor Ostrom (2010b) and examined by Andreas Thiel in our volume (Chapter 5). Coming from many divergent positions, the contributors to this book have found the noun ‘polycentrism’ and adjective ‘polycentric’ to be, as one author expressed it, ‘generatively problematic’.

Why do we prefer this vocabulary over the multiple alternative possible labels listed earlier? A major attraction is that ‘polycentric’ pointedly combines indications of diversity, disaggregation, and diffusion (‘poly’) with suggestions of position, grouping, and order (‘centric’). Indeed, the originator of the concept ‘polycentricity’ in social theory, the transdisciplinary academician Michael Polanyi (1951), related the idea to ‘a social system of many decision centers ... operating under an overarching set of rules’ (Aligica and Tarko 2012, 237; also Ostrom et al. 1961). Polycentrism thereby well conveys the intricate combinations of dispersion and arrangement that mark contemporary governing. Moreover, not being tied to any particular disciplinary or theoretical approach, ‘polycentrism’ is conducive to interdisciplinary and inter-paradigm conversations of the kind that this book pursues.

Polycentrism also communicates the sense of diffusion/order more directly and vividly than other language. By comparison, words such as ‘assemblage’, ‘bricolage’, ‘field’, ‘nébuleuse’, and ‘patchwork’ are more implicit and elusive. Further candidates such as ‘complexity’, ‘fragmentation’, and ‘liquidity’ lean more in the direction of clutter and confusion, while ‘cosmocracy’, ‘empire’, ‘governmentality’, and ‘meta-governance’ tilt more towards unity and coherence. James Rosenau’s notion of ‘framegration’ (fusing

fragmentation and integration) imparts the intended sense of ‘ordered chaos’, but this construction is rather idiosyncratic and phonetically clumsy.

We also deliberately prefer ‘polycentrism’ over the widely circulating label ‘global governance’. For one thing, the latter phrase invokes the notion of ‘governance’ with its previously identified limitations. In addition, ‘global’ tends to isolate and privilege one level of governing, whereas ‘polycentric’ more suitably spans various geographical scales, as well as the ‘transscalar’ relations that interconnect the local, the national, the regional, and the global in contemporary societal regulation (Scholte 2019). Also, the language of ‘global governance’ mainly figures in the field of International Relations, which sits uneasily with this book’s quest for interdisciplinary conversation.

Compact, evocative, relatively accessible, and easily remembered, ‘polycentrism’ offers a most suitable terminology. Of course, no umbrella term will ever encompass this discussion to everyone’s liking, and the thirty-year search for ‘the right name’ will not end with this book. More appealing alternatives may arise in future, but for now ‘polycentrism’ and ‘polycentric’ serve the present conversation well.

Indeed, given the advantages just mentioned, it is not surprising that the term polycentrism has recently acquired increased circulation in academic and policy circles (e.g. Scholte 2004, 2010; Black 2008; Ostrom 2010a, b; Mittelman 2013; Jordan et al. 2018; Carlisle and Gruby 2019; Thiel et al. 2019; Faude 2020; Kim 2020; Orsini et al. 2020; Wurzel et al. 2020; Koinova et al. 2021; Koinova 2022). The word has also obtained its own entry in English language dictionaries, even if those definitions do not (yet!) present the more particular conception that we intend here.

Just as the terminology is recent, most of the previously cited literature on contemporary governing tends to assume that polycentric modes of regulation are new to our day. Yet, as ever, it is important to historicize the current situation. Hence, in the next chapter of this book, Nina Schneider asks how far the characteristics of polycentric governing are actually novel to present times or whether similar circumstances have appeared in earlier history. Schneider does indeed find polycentric-like governing in the past, which raises questions regarding how polycentrism has varied over time and whether we can identify different historical phases of polycentric governing.

Meanwhile, from a postcolonial perspective, other critics may caution against possible Euro-centric tendencies in theories of polycentric governing. After all, the literature cited earlier has emanated almost entirely from Europe and North America. Might ‘western’ scholars be universalizing what are actually culturally parochial experiences of diffuse governing in the medieval Holy Roman Empire and multi-level regulation in the



contemporary European Union? Indeed, might theories and practices of polycentric governing serve a purpose (even if unconsciously) to reinforce western imperialist power in world politics of the twenty-first century? Tamirace Fakhoury and Rosalba Icaza Garza probe these issues further in [Chapter 3](#).

As our sensitivity to these historical and epistemological considerations indicates, we deploy the notion of ‘polycentric governing’ with due hesitation and reflexivity. We invoke the concept not because it reveals definitive truth, but because it opens new space for critical creative interdisciplinary interrogation of regulatory processes in contemporary society. As underlined earlier, we do not intend the idea of polycentric governing to forge an overarching theoretical synthesis that would transcend divides and resolve contradictions between existing approaches. If anything, this book’s inter-paradigm encounter may sooner sharpen differences between perspectives and instigate new contestations.

## **Polycentric Governing: A Fourfold Typology**

As indicated earlier, the book explores polycentric governing in relation to four broad strands of thinking, which are treated in four successive parts of the volume. We designate these general perspectives respectively as ‘organizational’, ‘legal’, ‘relational’, and ‘structural’. This fourfold typology is attractive: (a) for allowing fairly comprehensive coverage of recent theoretical innovations; and (b) for bringing into focus key ontological and methodological contrasts between approaches, which sets up lines for productive debate.

To be sure, we could have adopted an alternative classificatory scheme. For example, one might distinguish more material (ecological, economic, geographical) and more ideational (cultural, literary, psychological) theories of governing today. However, such a categorization does not relate to the question of dispersion/order as effectively as our preferred typology. Moreover, a material-ideational division and sub-division can tend to mirror disciplinary distinctions, which can hamper interdisciplinary exchanges. Another possible classification could categorize theories according to geographical emphasis, for example, as more local, national, regional, or global in orientation. Yet such a separation of levels contradicts the transscalar character of contemporary governing, as highlighted earlier. A further division could have an epistemological focus that distinguishes between knowledge which seeks respectively to reproduce, to reform, to deconstruct, or to transform

existing modes of governing. The question of theory–practice relations is certainly important, especially for political struggles to shape the future, and the matter gets explicit attention in several chapters of this book. Still, we choose here to privilege the ontological issue of how governing works above the epistemological issue of how knowledge helps to sustain or change prevailing ways of governing.

Of course, no typology is airtight. The four categories of organizational, legal, relational, and structural perspectives are neither uniform internally nor mutually exclusive. As later parts of the book show, each cluster of approaches encompasses considerable diversity, and each also has some overlaps with the other groupings. Indeed, certain individual scholars straddle paradigms, for example, with feet in organizational and legal spheres (e.g. [Slaughter 2004](#); [Krisch 2017](#)), or across relational and structural positions (e.g. [Foucault 1977](#); [Joseph 2018](#)). As ever, any exercise in classification involves simplifications and a degree of artificial division. Still, most theorists most of the time fall more or less into one of our four categories, and much analytical advantage is gained from distinguishing between understandings that locate governing in actor strategies, in regulatory measures, in routine practices, and in underlying structures. Overall, the perspectives that are collected under each of these four headings tend ontologically and methodologically to have more in common with one another than with accounts that are placed in the other categories.

*Organizational* approaches to polycentric governing emphasize the role of actors (both individual and collective) and their interactions within complex policymaking arrangements. For organizational analysis, polycentric governing is about the ways that agents pursue their ideas and interests through webs of concrete regulatory bodies ([Scholte 2021](#)). Organizational notions of polycentric governing particularly stress that actors in contemporary society confront an enormous expansion in the amounts and types of agencies that undertake regulatory functions. These accounts typically speak of governing apparatuses that have become more ‘complex’, ‘fragmented’, ‘networked’, ‘multilevel’, and ‘transnational’. Organizational writings on polycentric governing tend especially to examine how policymaking processes can achieve greater effectiveness, coordination, accountability, and legitimacy. In this regard, these theories consider contextual conditions of the decision-making process such as issue orientation, resource availabilities, organizational leadership, and so on.

*Legal* approaches to polycentric governing highlight new conceptions and expanding practices of law in the regulation of contemporary society. Whereas organizational accounts of polycentrism emphasize the role of

actors, legal perspectives highlight the role of measures. In particular, this research observes that inherited ideas about law, both national and international, miss much of what is law-like in governing today. Many current regulatory instruments—particularly as regards transborder matters—lack a formal basis in statute or treaty, and in some cases may largely bypass the state altogether. Nevertheless, these alternative law-like measures can still have far-reaching governing effects. New legal theories seek to understand this expansion of ‘law’, invoking notions such as ‘global administrative law’, ‘international public authority’, ‘transnational legal pluralism’, and ‘new constitutionalism’. Often these legal writings, like many organizational theories of polycentric governing, especially explore issues of compliance, accountability, and legitimacy.

*Relational* approaches to polycentric governing focus not on actors or laws—although such matters can figure secondarily in the analysis—but on practices. The question for these theories is how societal regulation arises from ‘ways of doing things’. This general ontological position informs notions such as ‘actor-network’, ‘assemblage’, ‘communities of practice’, and ‘field’. Relational approaches highlight the role and impact of mediating phenomena: i.e. elements that connect people as they ‘perform’ governing. Practices might relate to materials (e.g. documents, visual representations, physical tools, layouts of rooms), or to behaviours (e.g. administrative routines, prescribed etiquettes, acts of resistance), or to discourses (e.g. terminology, slogans, narratives). For relational understandings, the overarching issue is how governing—the regulation of society—arises from the practices that relate governed objects to each other. Different relational perspectives have different conceptions of what is ‘relating’, including how far non-human elements influence governing dynamics alongside human players. At the same time, relational theories of governing also often have a priority concern for how far practices can be a vehicle for agency (i.e. the capacity of an actor deliberately to craft their situation and destiny).

*Structural* approaches to polycentric governing share with relational perspectives an interest in less conscious aspects of regulatory processes; however, rather than highlighting visible practices, they look at more implicit and intangible ordering patterns in society. While relational theories examine micro practices (e.g. how people give speeches, show resistance, etc.), structural theories consider macro frameworks (e.g. constructions of gender and race). Practices are directly visible in activities, whereas ‘deeper’ structures are inferred from regularities in observed activities. Social structures (such as, for example, industrialism and nationalism) are not concrete phenomena in themselves, but manifest themselves ubiquitously through

actors, laws, and practices across society. Different structural theories focus on different overarching architectures: e.g. modernity in the case of liberalism; knowledge/power in the case of poststructuralism; capitalism and class in the case of Marxism; hegemonic states in the case of political realism; patriarchy and intersectionality in the case of feminism; anthropocentrism in the case of posthumanism. Yet all structural theories share the premise that social ordering principles have causal effects or ‘structural power’: i.e. macro patterns regulate society by constraining people to act in certain manners. Thus, for example, gender structures influence the way that people enact femininity, masculinity, and other connotations of sexual identification. For its part, the structure of capitalism governs by more or less compelling people to deal with commodification and monetization in contemporary society. At the same time as emphasizing these constraining effects, structural accounts can also identify social forces for transformation and associated opportunities for actor emancipation. Hence, a key concern for structural analysis is whether and how polycentric governing either sustains or changes underlying ordering patterns of society.

The fourfold typology just elaborated provides a framework to organize the later body of this book in four parts of three chapters each. Part II, on organizational approaches, opens with a chapter by Fariborz Zelli, Lasse Gerrits, Ina Möller, and Oscar Widerberg, who consider polycentric governing in terms of ‘institutional complexity’. They examine how the transformation of organizational arrangements of governing favours new forms of legitimacy and power that are based, for example, on resilience and adaptation. Next, Andreas Thiel treats the conception of ‘polycentricity’ developed by the Ostroms and their Bloomington School of political economy. This perspective examines organizational designs that can assemble autonomous actors in sustainable collective action to provide public goods at different scales, local-to-global. Rounding off Part II, Sigrid Quack examines notions of ‘transnational governance’. This approach to polycentric governing considers patchworks of agencies—bilateral, regional and global, public and private—that operate across national boundaries to develop rules for given collective problems. These three chapters are thereby especially interested in how actors pursue governing through regulatory apparatuses that consist of multiple interacting organizations.

Part III of the book turns to legal perspectives on polycentric governing. Here the first chapter, by Alexis Galán, considers global administrative law. This approach suggests that many of today’s regulatory measures emerge from transnational networks of governmental and non-governmental officials, a trend that generates large deficits of accountability. Next,

Jothie Rajah's chapter applies a global socio-legal approach to polycentric governing, showing how 'law' and 'governing' are imbricated processes and categories that shape issues across multiple scales. Specifically, the chapter relates this mode of analysis to a land grab in Uganda. Then, Philip Liste's chapter on transnational legal realism examines the power implications of law as it operates on various scales. Liste highlights an interplay of 'law in the books' and 'law in action' that works across jurisdictional boundaries and, in the process, reproduces the transnational distribution of power in world society. The three legal chapters thus stress how polycentric governing has expanded 'the law' beyond legislated domestic statutes and traditional interstate conventions.

Part IV of the book, on relational approaches, focuses on governing through social practices. A first chapter by Frank Gadinger argues that Pierre Bourdieu's conceptual vocabulary, particularly the notion of 'field', sheds light on distinct practices of governing such as negotiating and using expertise. The description of emerging transnational fields reveals knowledge constructions, symbolic power struggles, and practices of domination in their particular historical context. Next, Christian Bueger and Tobias Liebetrau use assemblage theory to study polycentric governing through largely informal and rapidly changing practices among large numbers and multiple forms of actors. Drawing on examples from regulation of the oceans and cyberspace, Bueger and Liebetrau show how contemporary problems give rise to regulation using new governing techniques at different scales. Thereafter, Alejandro Esguerra interprets polycentric governing through a lens of actor-network theory. This approach explains how and with what effects governing is increasingly performed through seemingly neutral practices of expertise such as indicators, standards, and assessments. Hence, for the three chapters of Part IV, polycentric governing unfolds not by organizational arrangements, or by the law as such, or by deeper structural logics, but by evolving social practices.

Part V shifts the emphasis to governing through more encompassing social structures. In this vein, Henk Overbeek's contribution associates polycentric governing with today's advanced (and substantially transnationalized) capitalism. From this perspective, the underlying logic of contemporary regulation is to enable and organize maximal surplus accumulation. In contrast to the materialist focus on capitalism, Frida Beckman's chapter on governmentality examines macro social structure more ideationally in terms of prevailing constructions of political subjectivity. The specific diagnosis here is a disjunction between long-held western beliefs in the liberal subject

and contemporary techniques of neoliberal control, a tension that generates widespread paranoiac perceptions of power in contemporary politics. Closing Part V, Marianne Marchand's discussion of intersectionality and transnational feminisms engages with polycentric governing by asking questions such as: What kinds of structures are generating mechanisms of oppression, in particular for women of colour in the Global South? How do these hierarchies (of gender, race, and geopolitics) interrelate, and how do they lead to marginalization and the silencing of subordinated voices?

Again, our aim with these twelve chapters is not to obtain either a definitive categorization or a comprehensive coverage of theories about contemporary governing. Rather, the book presents a broad sweep of new thinking about governing and pursues a dialogue among multiple divergent approaches, thereby clarifying distinctions between perspectives and encouraging the exploration of further new insights. At first blush, addressing the perspectives in discrete parts and chapters might seem to contradict the conversational intention of the volume. However, as the next two sections will clarify, the chapters address common themes, follow a common structure of discussion, and are suffused with cross-references. Moreover, the chapters have been written in an extended dialogic process that included several author workshops.

## **Polycentric Governing: Three Core Issues**

To set a joint framework for comparison and debate among the various approaches to polycentric governing, this book headlines—in general as well as in each chapter—the three issues of techniques, power, and legitimacy. The reader may ask: why highlight these particular matters rather than other possible overarching issues, such as coordination, democracy, and hegemony? For one thing, techniques, power, and legitimacy constitute three of the most prominent and interesting research challenges in current debates on governing (e.g. [Zürn 2018](#); [Hurd 2019](#)). Moreover, unlike most other alternatives, these three questions arise across all of the highly diverse perspectives that are covered in this book and so provide themes that readily engage all parties. Indeed, the focal themes of techniques, power, and legitimacy emerged organically in the preparatory workshops for this book. As those meetings evolved, our authors found issues of techniques, power, and legitimacy to be touchstones that each perspective could comfortably address, in the process also offering channels of productive communication, exchange, and debate with other approaches.

In brief, *techniques* asks how polycentric governing is undertaken (Voß and Freeman 2016; Seabrooke and Folke Henriksen 2017). *Power* asks what forces drive polycentric governing processes (Barnett and Duvall 2004; Lukes 2005). *Legitimacy* asks whether and how subjects regard arrangements of polycentric governing to be right and appropriate (Tallberg et al. 2018; Zürn 2018; Dingwerth et al. 2019). Across all three issues, an underlying question is change: whether, in what ways, and to what extent contemporary polycentric governing involves, relative to what has gone before, new and different kinds of techniques, power, and legitimacy.

Needless to say, these three core matters are interrelated. Thus, techniques produce (or in the case of resistance seek to unravel) power and legitimacy. Techniques empower some actors and disempower others and legitimate some orders and delegitimize others. For its part, power shapes the kinds of techniques that are performed (or impaired) and the kinds of rules that are legitimized (or rejected). Meanwhile, legitimacy sustains prevailing types of techniques and modes of power, while illegitimacy undermines them and can fuel political transformation. In this way techniques, power, and legitimacy form a trilateral dynamic.

## Techniques

Regarding techniques of polycentric governing, the different theories covered in this book have different accounts of the ‘how’ in contemporary regulation. Indeed, views on how polycentric governing is enacted diverge so much that the contributors to this volume could not agree on a more precise shared definition of ‘technique’. Thus, instead of seeking one specific conception that could fit all theories, the authors decided that it would be more interesting to disagree on what constitutes a technique and instead to deepen insights through contentious debates about the matter.

The various chapters identify what their respective approaches see as the principal instruments and activities that accomplish polycentric governing. Does the heart of governing lie, as organizational approaches emphasize, with effective organizational arrangements for decision-making and implementation? Or, instead, as legal approaches highlight, is the tool of law (and in particular new forms of law) the main way to make polycentric governing happen? Alternatively, following relational approaches, can one emphasize the routine use in governing of material objects, behavioural habits, and discursive expressions? Differently still, in line with macro structural approaches, are techniques of governing less

immediately visible and less deliberately intentional, for example, around class blocs, gender discriminations, and what poststructuralists have called ‘technologies’?

The various paradigms also have different ideas about the purpose that lies behind techniques of polycentric governing. In organizational thinking, techniques are mainly instruments that governing bodies deploy to make and pursue policies. For legalists, techniques exist to formulate, administer, and enforce the law. For relationists, techniques have the principal effect to embed, perpetuate, or overturn a governing practice. For structuralists, techniques serve in the first place to stabilize or disrupt a deeper social order. Yet across these divergent approaches, chapters in this book all debate the ways and means of polycentric governing. The inviting additional proposition is that, as through this book, interweaving ideas about techniques from organizational, legal, relational, and structural perspectives can open up further insights into how governing is done today.

## Power

A second focal question for the chapters in this book concerns power: namely, how the different theories conceive of the main forces that drive and shape polycentric governing. Beyond a highly generic shared understanding of power as the capacity to affect outcomes, the theories greatly diverge, holding very different ideas about the main sites and forces that shape contemporary societal regulation.

For example, in an organizational vein, does power in polycentric governing emanate principally from the attributes of actors, including certain new types of governing actors? If so, which actors count: governments, citizens, companies, consumers, experts, celebrities, subalterns, and/or more? Alternatively, in line with legal analysis, does power lie with established laws that set the contours of normal behaviour? If so, is the character of measures that have law-like force changing in today’s society? Or, following relational thinking, can social power emanate more from practices that push actors to perform in certain ways? If so, which artefacts, behaviours and/or discourses have the most governing power? Or does power in polycentric governing reside more with underlying social structures? If so, then which structural forces are key: capitalism, knowledge/power, modernity, and/or other macro frameworks? In addition, of course, a dialogue among these different paradigms, as in this book, invites the generation of new ideas of power that bear fresh alternative insights by combining perspectives.



As the foregoing comments indicate, debates about power in polycentric governing are—explicitly or implicitly—debates about agency. How much scope do the various theories envision for subjects to have initiative in and impact on societal regulation? How far can people make their decisions, laws, practices, and structures? Which players enjoy the greater agency, and which are denied it? In particular, when and how far are marginalized actors able to affirm agency in processes of polycentric governing? Does polycentric governing open significant avenues for counter-hegemonic agency by social movements, perhaps even more so than under the modern state and its colonial empires? Or, on the contrary, is a transscalar, transsectoral, diffuse, fluid, elusive mode of regulation a boon for the power of largely invisible transnational elites, to the exclusion of (in the words of the Occupy protests of 2011–12) ‘the 99%’ of humanity?

Then there is the particular question of change: the various theories examined in this volume have distinctive ideas about whether and how contemporary polycentric governing is altering the character of power. Does today’s polycentric governing introduce more places and more ways to obtain and perform power? Do the multiple sites, measures, practices, and structures of power overlap and interconnect more in polycentric governing than in other settings? Indeed, are actors—floundering in their manifold entanglements with polycentric arrangements—often uncertain about their own power? Does polycentric decentring of regulatory activities entail an accompanying decentring of power, generating social relations that are generally more horizontal? Or, on the contrary, does polycentric governing actually involve reassertions of hierarchy—and indeed perhaps greater concentrations of power? If so, of what kind?

Finally, what is the politics of the various theories themselves: how does each approach relate its knowledge to power in polycentric governing? For example, some perspectives may tend towards a problem-solving orientation that works with and through—and does not question or challenge—existing power relations. Other approaches to polycentric governing may deploy knowledge to deconstruct power: that is, to show how each instance of power is historically and culturally contingent—and thus liable to dissolution and reconfiguration as the context changes. Still other theories may have a deliberate transformational design and aim to place their knowledge at the service of one or the other substantive political struggle to change the social order. For example, theories of transnational governance may be used to promote accountability of non-state actors, and feminist theories of intersectionality may be deployed to advance gender justice.

## Legitimacy

A third core hotly debated theme for comparative examination across theories of polycentric governing is legitimacy. Legitimacy prevails when people accord a governing apparatus approval, confidence, trust, and foundational support. Like any form of societal regulation, polycentrism tends to function more smoothly and stably when people believe that the arrangements have a right to rule and exercise that right in an appropriate manner. In contrast, a regime that lacks legitimacy can struggle to obtain mandate, attract participants, assemble resources, take decisions, gain compliance, or impact on problems in intended ways. Indeed, an illegitimate governing setup—one viewed with disapproval—is more prone to collapse or displacement by a rival arrangement.

Social and political theory has traditionally examined conditions of (il)legitimacy and processes of (de)legitimation in relation to the modern state; so the question arises here whether legitimacy in respect of polycentric governing operates similarly or differently. For example, does the greater fluidity of polycentric governing also put legitimacy in more flux? Moreover, since only small circles tend to understand and enact today's polycentric governing, does its legitimacy tend to become mainly a concern for narrow elites rather than general publics? Might the complex and elusive character of polycentric governing breed increased confusion about what is or is not legitimate, even to the point of losing moral compass? All in all, is polycentrism more (or on the contrary less) prone to crises of legitimacy than state-centric modes of governing?

Regarding the drivers of legitimacy, different theories of polycentric governing tend to highlight different kinds of sources of beliefs in rightful rule. For instance, organizational theories tend to focus on assessments of institutional purpose, procedure, and performance as the main drivers of confidence in polycentric governing. In contrast, legal theories tend to locate the grounds of legitimacy for polycentric governing in constitutionality and whether rulers follow the law. For relational accounts, legitimacy beliefs vis-à-vis polycentric governing are rooted in the performance of certain everyday micro practices. Thus, for example, legitimacy might arise from routines of singing anthems or from images of charismatic leaders. For structural theories, legitimacy is mainly a matter of rendering normal and acceptable the deeper ordering arrangements of society, such as a hegemonic state, capitalism, or patriarchy. Bringing these various approaches into dialogue, as through this book, invites reflection on how accounts of legitimacy in polycentric governing might combine these different kinds of sources.

Discussions of legitimacy also readily bring normative questions to the fore: namely, what philosophical standards of ‘the good’ can be invoked in order to justify or repudiate polycentric governing? For example, should one apply the principle of democracy (i.e. people’s power and collective self-determination) as the main yardstick for judging the legitimacy or otherwise of polycentric governing? Alternatively, does the delivery of material security (e.g. with employment, health, and peace) hold more value than democracy in polycentric governing? Or is distributive justice of higher normative importance, even when it might undercut democracy and security? Alternatively again, should normative assessment of polycentric regulation give priority to cultural ethics, including cognitive justice for the widest spectrum of life-worlds, especially constructions of identity and ways of knowing that tend to be marginalized? Or does normative precedence in contemporary history instead belong with ecological justice, such that care for the web of life on earth becomes the principal criterion for assessing legitimacy in polycentric governing? When and how are different normative views deployed: either to bolster the ruling order or to undercut and change it?

## **Preparing the Book: A Dialogue across Perspectives**

This book has resulted from a project of the Centre for Global Cooperation Research (CGCR) at the University of Duisburg-Essen. CGCR is a Käte Hamburger Kolleg (KHK) with core funding from the German Federal Ministry of Education and Research (BMBF). The KHKs were launched in the 2010s as a *Denk-Frei-Raum* (‘space for free thinking’), with particular encouragement of interdisciplinarity and international collaboration.

The volume has developed over several years. A first step involved the preparation of a starting outline for the project. A research group at CGCR met regularly over five months (February–June 2018) to discuss eight successive drafts of a prospectus. A second step involved consolidation of the author team. Some of the contributors were drawn from research staff and resident fellows at CGCR who participated in the initial project design. Other authors were recruited more widely especially for this book.

The whole author group met at CGCR in October 2018 in order to further develop the project aims, themes, and methods. Importantly, contributors did not at this point write papers and instead focused on conversations to listen to and learn from one another. In particular, quizzing each other on their respective perspectives helped the participants: (a) to express their key points in ways that would be understood across disciplines and theories;

(b) to identify and specify distinctions between approaches; and (c) to lay ground for cross-references to one other in the eventual book chapters. This process of ‘language learning’ (Hellmann and Valbjørn 2017, 298) was driven by mutual interest of scholars to understand others’ conceptual vocabulary without claiming paradigmatic superiority.

Only then did authors turn to writing. Draft chapters were circulated for a second workshop at CGCR in March 2019. Here each text was reviewed by lead discussants from other streams of thinking. Thus, for example, a draft chapter on an organizational approach received primary feedback from colleagues taking legal, relational, and structural perspectives. This format further deepened the dialogic method of the project. For example, participants discovered—sometimes surprisingly—that they hold radically different interpretations of key notions such as ‘neoliberalism’. Meanwhile authors of the book’s opening chapters (on historical and postcolonial critique) observed the workshop discussions in order to begin formulating their cautions about the very notion of polycentric governing. A final stage of writing saw authors submit revised versions of their chapters to the editors. These penultimate drafts were also circulated to the rest of the contributors for further reaction from the group as a whole.

To facilitate comparisons across the various theories of polycentric governing, all chapters in Parts II–V adopt the same broad outline. Each contribution starts with an overview that introduces the perspective at hand. In what historical and intellectual context did the approach emerge and develop? Who/what have been the main authors and writings? What does the theory aim to accomplish, analytically and/or practically? What main questions does the approach pose in its pursuit of those aims? In short, the opening section of each chapter establishes what is broadly distinctive about the theory under discussion.

Thereafter, each of [Chapters 4–15](#) turns to more detailed discussions of techniques, power, and legitimacy. In writing on these issues, authors especially seek to communicate across disciplines and theoretical positions. The chapters also adopt a reflexive approach that identifies limitations as well as promises of the perspective at hand, both in its own right and in comparison with other approaches. To close the respective chapters, concluding sections reiterate the distinctive contributions of the approach in question, reflect on what has been learned from dialogue with other approaches, and consider where the theory may head in the future, including areas for further development.

As for writing style, the book aims at a broad cross-disciplinary audience. Chapters therefore minimize theory-specific jargon (and, where ‘in-house’

language is unavoidable, explicitly clarify the terms). Also, in order to guide a more general reader, chapter bibliographies cover only major works, rather than an exhaustive literature review. The aim of effective communication to a wide readership is additionally furthered by the infusion of each chapter with ample concrete examples from substantive problems of contemporary society.

Finally, but by no means least importantly, authors explicitly address theory–practice relations. On the one hand, this question is personal: each contributor considers their own positionality: e.g. how their account reflects their academic training, social position, and political commitments. On the other hand, the question is societal: each chapter thereby assesses the possible consequences for substantive politics of adopting (or failing to adopt) the perspective in question. In particular, the chapters gauge how far the respective approaches foster space for counter-hegemonic movements to pursue resistance and to build alternative societies for the future.

In sum, this introductory chapter has set out the motivations, orientations, and ambitions of this exploratory book. Hopefully this opening discussion has whetted the reader's appetite to engage with more detailed enquiries in the following chapters. We editors return in the concluding chapter with an overall evaluation of where this inter-paradigm conversation has and has not taken our knowledge of how governing works today.

## Note

1. Many exponents of what this book calls 'organizational' approaches describe themselves as 'institutionalists'. We avoid the latter label here, given that the term 'institution' often also arises in relation to the other three categories of our typology. Thus, for example, legal perspectives often speak of the law as an 'institution', relational perspectives can characterize rituals as 'institutions', and structural perspectives may refer to underlying patterns such as capitalism and the family as 'institutions'.

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## 2

# Historicizing Polycentric Governing

*Nina Schneider*

Most scholars regard polycentric governing to be a novel form of governance emerging in the 1980s or even later (see [Chapter 8](#) by Henk Overbeek in this volume). This leads us to consider governing practices in the Middle Ages, the early modern period, or even in ancient times; can we identify past forms of governing with key features comparable to those ascribed to the umbrella term of polycentric governing today: that is, featuring a variety of actors and sites, a dynamic and interrelated governing process, and multiple geographical scales ranging from the local to the global?

This chapter shows that polycentric governing is in fact nothing remotely new; that on the contrary, it has a long and hitherto little-acknowledged past. Adopting a historical perspective, I raise the central, previously unaddressed question: to what extent are the characteristics of polycentric governing new, or can similar earlier historical instances be identified? Indeed, past societies—as this chapter vividly demonstrates—have been regulated by the same features associated with polycentric governing, namely multi-actor, transscalar, and dynamic forms. If, as this chapter argues, forms of polycentric governing have been practised in the past, this raises a whole series of new questions: has historical polycentric governing necessarily led to fragmentation or dismemberment, as debated in the recent polycentric governance literature? To what extent has polycentric governing varied over time? Can we identify different ‘phases’ or ‘forms’ of polycentric governing throughout history? What have the advantages and disadvantages of polycentric governing been in the past, given that we can look at those instances with the benefit of hindsight? Which historically specific conditions facilitated or hindered polycentric governing? A historical approach also raises the question: why has the term gained popularity now? Overall, this chapter pursues a twofold aim: it identifies past instances of polycentric governing, and identifies a series of new research enquiries that follow from it.

As the expression ‘polycentric governance’ emerged in the 1960s and 1970s and was further developed in the 1990s and 2000s (Ostrom et al. 1961, 831; Ostrom 2010; Thiel et al. 2019, 4–7), the use of the term for similar instances of governing earlier in history may be criticized as anachronistic. A closer look, however, reveals that the defining features of polycentric governing existed much earlier. This contribution does not intend to historicize the literal term coined in the late twentieth century, offering a genealogy of the expression; rather, it aims to historicize the *substantive* characteristics of polycentric governing: a variety of private and state protagonists and arenas, a dynamic and interrelated process, and multiple geographical scales ranging from the local to the global—features of governing that are typically held to be a novelty of the late twentieth century. Ultimately, it is the core features that matter for this volume’s central debate: to what extent is the term polycentric governing appropriate as an analytical and descriptive tool—even taking a long-term perspective?

## Historians’ Use of the Term ‘Polycentric Governing’

Few historians use the term ‘polycentric governing’ or related notions, as any keyword search will quickly confirm. One may speculate as to the reasons for that. One simple answer is that it originated from the field of political science. Another hypothesis is that shared practices of power were so familiar to historians that a special term for that form of governing seemed unnecessary. In any case, historians tend to use different terminology to describe historical forms of governing with similar features. For instance, ‘transscalar’ would be referred to as a ‘transnational’, ‘global’, or ‘entangled’ perspective (Subrahmanyam 1997; Sachsenmaier 2010; Pernau 2011). A few historians, however, make an exception. The church historian Klaus Koschorke (2016, 28, 34), employs the related term ‘polycentric structures’. Other salient examples can be found in early modern Spain and Portugal; Cardim, Herzog Ibáñez, and Sabatini (2014, 3) used the term ‘polycentric monarchies’ to examine how the Spanish and Portuguese monarchies achieved and maintained the first empires on a worldwide scale. The economic historian Regina Grafe (2017, 2013) from the European Institute in Florence provides another example, explicitly arguing that early modern Spain and its overseas territories form a prime example of a ‘polycentric’ polity. She offers rich empirical evidence on the practices of power and power sharing in early modern Spain. Focusing on these three examples, this chapter shows that polycentric governing was being practised long before the late twentieth century.

## The Global History of Christianity as an Example of Polycentric Governing

Koschorke's text on the global history of Christianity serves as a good example of historical polycentric governing, or even 'polycentric history'. It is also the example that takes us furthest back, beginning in ancient times. As Koschorke (2016, 28, 34) shows, 'polycentric structures'—as he calls them—marked Christianity from its very beginnings in Galilee, Jerusalem, and Antioch, the place where the Apostle Paul began his missionary travels.

Overall, Koschorke argues, the history of global Christianity can best be understood as 'a history of successive waves of global expansion ... and of far-reaching integration' (and at other times of contraction and fragmentation). This history must consider the various 'regional centres of expansion, plurality of actors, multiplicity of indigenous initiatives, and local appropriations' (Koschorke 2016, 32, 34). The ancient Church lacked a single 'religious or institutional center', especially in its process of expansion and of frontier growth (Koschorke 2016, 34). In short, in this view, multiple actors, sites, and power centres have been key features of governing in the history of Christianity since its inception.

The global church historian also offers a specific understanding of space and scales. He emphasizes the dynamic and transscalar quality of governing and recognizes non-Western actors and their agency. Koschorke (2016, 31, 40) invokes the concept of polycentric structures to revise a traditionally Western-oriented notion of Christianity as a worldwide movement. This concept helps to highlight the important agencies of local societies and local Christians in appropriating, translating, and negotiating imported Christian beliefs and practices. For example, during the Iberian expansion from the sixteenth century onwards, forms of 'native Indian Christianity' emerged, and, importantly, facilitated the significant spread of Christianity in the Americas (Koschorke 2016, 35). Christianity was interculturally negotiated and mixed with local traditions. In the case of Brazil, African slaves and their descendants used Christianity as a veil to disguise their forbidden traditional religion, simply attributing Christian saints to their existing pantheon to fool the Portuguese colonizers and continue worshipping their old gods secretly. The example of *Candomblé* thus serves as an example of colonial resistance and subversion. Similar developments occurred in other Latin American regions, including *Santería* in Cuba. In summary, a nuanced study of the everyday experience of the missionized, colonized, or enslaved rather than the supposedly almighty colonizers offers a more pronounced and dynamic understanding of power relations. They exemplify what the concept

of polycentric governing tries to capture when referring to governing as a 'dynamic and interrelated process'. As the case of religion shows, even in hierarchical situations, local subjects appropriated beliefs and habits intended to discipline or control them. This kind of 'translation work', which has been theorized with a range of concepts including *transculturación* (Ortiz 1940), vernacularization (Merry 2006), or 'third space' (Bhaba 1994, 37), to name but a few, deconstructs binary understandings of power and focuses on the dynamic interplay between different actors involved in governing processes.

This is not the only way in which Koschorke's (2016, 42) understanding of 'polycentric structures' responds to the substantive feature of multiple geographical scales ranging from the local to the global. Similar to Gadinger and Scholte in the introduction of this book, Koschorke argues against neat spatial entities like 'the global', 'the national', or 'the local' level and suggests to view these levels as connected in their dynamic relationship. 'Polycentric structures' involve a global conception of Christianity based on 'multidirectional transcontinental interactions', which, far from moving in a strictly North-to-South sense, also flowed in the opposite direction. European missions also gave rise to non-European progeny, claiming their independence and running their own mission societies, as in the case of India since 1900. Korean Christianity, which started back in 1794, serves as another example, as Korean missionaries subsequently played a key role in the history of the religion (Koschorke 2016, 38–40).

There were also oppressive moves, however, and European Christian attempts to 'recentralize' extra-European Christianity. In practice, however, they often boomeranged. While Christian missionaries had been relatively tolerant towards local traditions and reappropriations, a turning point was the Council of Trent in the sixteenth century. It was followed by policies such as amplified Latinization, a less tolerant attitude towards Hindus in Portuguese Asia, and a ban or repression of Church literature in Indian languages (Koschorke 2016, 44–45). Tolerant missionary policies in China, meanwhile, became the subject of debate. In the famous Chinese Rites controversy in the seventeenth and eighteenth centuries, Jesuits started to debate what kind of Confucian traditions were compatible with Christianity and should be permitted (Koschorke 2016, 46–47). At the same time, these policies—aiming to reinstate the power of European missionaries—were not always successful and caused a 'xenophobic reaction' or even the expulsion of missionaries, as in the case of Ethiopia (Koschorke 2016, 47). This example shows that power dynamics evolved over time. While the Catholic Church was more tolerant in the beginning, it tried to get a firmer grip on its missionized subjects when its authority came under attack from rival confessions in Europe. Still,

their attempts to gain control over new Christians abroad often backfired, underscoring the dynamic nature of governing.

There is a last defining characteristic of Koschorke's (2016, 36, 44) notion of 'polycentric structures', albeit an implicit one: rival factions existed among different Christian groups. These were sharpened through the Reformation, which triggered counter-reformations and Christian intolerance. Not only were European Christians divided, but during their missions in Asia, Africa, and Latin America, they also encountered other Christian groups, which could lead to new rivalries and frictions or increase existing ones. While internal frictions challenged clear power hierarchies within the Catholic Church and nourished multiple centres of power and authority, the less-tolerant policies abroad also triggered increasing criticism at home. European enlightenment thinkers such as G.W. Leibniz, for example, started to criticize repressive and intolerant actions of missionaries abroad (Koschorke 2016, 47). In summary, rivalries abroad and at home could increase the number of actors and sites of governing, decentralize power, and undermine legitimacy.

Overall, the descriptor 'polycentric structures' or even 'polycentric history' seems most appropriate for a global history of world Christianity, as Koschorke convincingly demonstrates. Governing in the global history of world Christianity was marked by the substantive features of polycentric governance: various and competing regional actors and sites, especially at points of expansion ('frontier situations'); indigenous appropriations and contestations of the missionaries' beliefs and actions; criticism that intolerant behaviour abroad aroused among European enlightenment thinkers; an overall dynamic interplay between various actors at various 'scales' (from the European centre that sent the missionaries, to the frontiers where the missionaries worked in their local communities)—all these features show that the substantive features of polycentric governance were by no means a novelty of the 1960s, 1970s, or even 1990s.

## **Polycentric Governing Practices in Early Modern Spain and Portugal**

While church and missionary history is one example of historical polycentric governing, a second one relates to the early modern Spanish and Portuguese Empires between the fifteenth and nineteenth centuries. Here, too, we find historians who invoke a similar term—'polycentric monarchies'—and, more importantly, who describe the very substantive features that characterize the



umbrella concept of polycentric governing. The Ibero-American historians [Cardim, Herzog, Ibáñez, and Sabatini \(2014, 3\)](#) invoked the term ‘polycentric monarchies’ to examine how the Spanish and Portuguese monarchies achieved and maintained the first empires on a worldwide scale. The authors also call it the first ‘Global Hegemony’ ([Cardim et al. 2014, 3](#)). Although after the break-up of the Spanish-Portuguese Union (1580–1640) the power of both kingdoms waned, each monarchy survived fairly successfully thereafter. Similarly to Koschorke, the authors emphasize multiple actors and sites of power, dynamic power relations, and a dynamic connection between actors on different scales (the Iberian kings and the local populations in the Latin American and Asian colonies).

Cardim and colleagues (2014, 3–4) challenge the traditional and national reading of history: the image of bilateral relations between a powerful centre (the king) and the rather marginal periphery (local elites). Instead, they describe the form of governing of the Iberian monarchies as ‘polycentric’, understood in the sense that ‘they allowed for the existence of many different interlinked centres that interacted not only with the king but also among themselves, thus actively participating in forging the polity’ ([Cardim et al. 2014, 4](#)). While religion and loyalty to the monarch were vital, what mattered most to the local population were the possibility of socio-economic mobility and political and cultural opportunities. Hence the authors spotlight how *contemporaries themselves* experienced and judged their time ([Cardim et al. 2014, 4, 5](#)). They regard the conventional, nationalist reading of the Ibero-American Empire as anachronistic, because the nation-state proper is a historically novel phenomenon. Striving towards a post-national account of power structures, they call for a ‘truly internationalized historiography’ ([Cardim et al. 2014, 8](#)). Moving beyond a simple centre–periphery model with distinct entities, they argue for recognizing the inseparable link between local and global actors and events (in other words, dynamic relations rather than artificially divided entities, reminiscent of the practice theory discussed by Gadinger in [Chapter 11](#) of this volume).

Many other historians have described the efforts and techniques of the Spanish and Portuguese crowns to govern settlers in the New World. Evidence from first-hand experience at a local level (rather than from elitist sources of the ‘centre’) shows that the ‘governed subjects’ often undermined authorities’ rule and formed their own local or regional authorities, comparable to what Koschorke describes regarding the local appropriation of Christian beliefs and building of authoritative local churches in the extra-European world. As most *conquistadores* (Spanish and Portuguese settlers) financed their expeditions from private sources, mechanisms of monarchic

control involved contracts for expedition rights granted by the king, as well as the payment of taxes (e.g. Lockhart and Schwartz 1983; Elliot 2015, 12–13). In practice, however, rules of the distant monarchic state were often violated, depending on the specific region and era. In particular, the offspring of poorer European colonizers (most of them impoverished knights unemployed after the *Reconquista*, so-called *hidalgos*), who married into the local elites and became prosperous, enjoyed and took advantage of off-site, weak, or even absent state control by the crowns. Examples include smuggling and tax fraud or non-payment. Hence, the lived history in the Spanish and Portuguese Empires serves as another example of historical ‘polycentric governing’, marked by a variety of actors and sites (including non-state protagonists and arenas), a dynamic and interrelated process, and multiple geographical scales ranging from the local to the global. Regina Grafe (2013, 255–256) goes a step further than arguing that local and regional elites disobeyed the rule of monarchic Spain, noting that polycentric governing was a constitutive feature of early modern Spain’s mode of governance. The early modern Spanish monarchy was grounded in a contractual understanding of governance (Grafe 2013, 256). This contractual basis was not just the result of resistance from towns, regions, and local oligarchies; it had historical roots in the peculiar nature of Spanish kingship. Unlike the French or English monarchy, where kings were legitimized as divine or direct personifications of the divine, Spanish kingship was never divine. Rather, the Spanish king was simply a defender of the faith (Grafe 2013, 250; 2017, 16), a lieutenant or minister of God rather than his personification, and was therefore fallible. If a Spanish king was a tyrant, it was constitutional to kill him (Grafe 2013, 250). Spanish political philosophers including Juan de Mariana legitimized the contractual nature of the Spanish kingship, in contrast to French political thinkers such as Jean Bodin, who justified the absolute power of French kings (Grafe 2013, 250). Thus, one root of the contractual nature of governing in Spain was the peculiar tradition of kingship enshrined in Spanish political philosophical thought.

Another explanation for the contractual form of governing was that territorial consolidation and centralization throughout the Spanish Empire was not a simple task for rulers facing obstacles from local nobles, regional parliaments, the rights of free towns, and the rights of the church (Grafe 2017, 7). This reinforces an argument made by Koschorke with regard to the history of the world church: locals creatively resisted a powerful centre, and attempts to centralize and impose rules could boomerang.

One example of non-centralization is the taxation system. Each town had the right to individually decide which goods were taxed and at what rate

(Grafe 2013, 249–250). Rather than a centralized taxation system covering the entire Spanish Empire, tax burdens across Spanish territories and towns differed greatly (Grafe 2017, 13, 17). The rates for both key taxes—trade and consumption taxes—were decided locally and varied regionally and over time. While royal revenues from the Americas amounted to 20 per cent in the sixteenth century, it made up as little as 5–12 per cent in the seventeenth and eighteenth century (Grafe 2012). Rulers did not press their subjects too hard for revenues, including because collection costs would be higher than the revenues generated (Grafe 2017, 8).

Moreover, in the Spanish case specifically, local power was granted through a government tool called ‘*pasé foral*’—a form of veto against the monarch held by towns, territories, and corporate bodies (Grafe 2013, 252). In summary, Grafe (2017, 12) shows how in practice sovereignty remained shared between territories, towns, corporate bodies, the church, and the monarch. Grafe does more than provide evidence that the early modern Spanish empire was governed in a polycentric manner, however, confirming the argument made by Cardim, Herzog, Ibáñez, and Sabatini (2014, 3). What is of great interest to us here is how Grafe corrects the larger normative narratives about early modern Spain’s polycentric governing.

## New Normative Assessments

Traditionally, early modern Spanish rule has been regarded as a political and economic failure. Contemporary mercantilist thinkers regarded this to have been because Spain failed to unify its territory and centralize its political and fiscal system (Grafe 2013, 241). Most modern-day political and economic historians also base their judgement of European state-building on the model of the military state, which assumes that European states were formed because they needed to centralize and control subjects in order to collect taxes required to ward off military competitors.<sup>1</sup> Grafe, however, argues that the polycentric form of governing undermines this simple model of state formation and the dichotomic thinking of early modern statehood as either city-states or territorial states (Grafe 2017, 1–2, 4–7). Power was *de facto* shared between the sovereign and territories, towns, the church, and corporate bodies (Grafe 2017, 11). Centralization was not a simple given or a political choice for rulers, as they faced obstacles that they had to manage either by persuasion or coercion (Grafe 2017, 11). She also casts doubt on the old narrative of the territorial absolutist Spanish king who was all-powerful and who ruined the economy through taxation (Grafe 2017, 33).

Importantly, she also contributes to the normative debate about the advantages and pitfalls of polycentric governing, contradicting the often-raised argument that polycentric states are automatically unstable and lead to fragmentation: '[p]olycentric states were not per se unstable and there was no automatic movement to either centralization or dismemberment' (Grafe 2017, 33). On the contrary, she shows that while early modern Spain lacked coordination and a more integrated market, it succeeded in maintaining a form of governing that was 'legitimate, non-predatory and fiscally viable' (Grafe 2017, 33). It was precisely the practice of polycentric governing that enabled the Spanish monarchy (as well as the Dutch Empire) to govern their faraway territories in a stable way and over a long period of time. Polycentric governing was not a failure, but resulted in lasting power and legitimacy. Unlike much political science literature on present-day polycentric governance, empirical evidence from the past shows that polycentric states are neither automatically unstable nor necessarily destined to result in either centralization or disintegration (Grafe 2017, 33). Polycentric Spain collapsed because of the Napoleonic invasion, just as non-polycentric states in Europe did (Grafe 2017, 33). Grafe's findings from past polycentric states thus help to correct false assumptions about polycentric governing in present times.

Grafe (2013, 267) regards the polycentric governing structure of early modern Spain as being both politically and economically progressive, precisely because it was characterized by political participation through a variety of municipal and regional institutions. The question remains how far other early modern states were also polycentric. Grafe argues that the Dutch Empire, like early modern Spain, was a polycentric state. It was also faced with very powerful towns and was forced to share power (Grafe 2013, 255–256; 2017). In the historical literature, however, as problematized at the beginning of this chapter, few accounts can be found that explicitly refer to 'polycentric' governance structures or related terms.

Overall, for most of human history, societies were ordered by forms of government other than the (nation-)state, the form that so strongly encroaches on our current view of history. People have been governed by empires like the Roman (27 BC–AD 395), Byzantine (or Eastern Roman Empire, AD 395–1453), the Iberian, or British Empires, or by chartered companies like the Dutch East India Company (Vereenigde Oost-Indische Compagnie, 1602–1799) or the English East India Company (1600–1873). In most of these cases, if to varying degrees and depending on the specific region and moment in time, we find frontier situations, difficulties in expanding and maintaining control over the population at the empire's fringes, and power rivalries. Historically then, the image of a single authoritative centre that effectively

controlled its obedient subjects without resistance seems to have been rather the exemption.

## References to the Middle Ages ('New Medievalism')

On the few occasions that political scientists make reference to the past in their debate about 'polycentric governing', they mostly refer to the Middle Ages, when large parts of Europe were characterized by overlapping networks of authority. This in turn has inspired political scientists to invoke terms like 'new medievalism' (Friedrich 2001; Akihiko 2002; Rapley 2006). Friedrich (2001, 475), for example, defines new medievalism as 'a system of overlapping authority and multiple loyalty, held together by a duality of competing universalistic claims'.

Why do these scholars invoke the Middle Ages? Historians conventionally denote the 'Middle Ages' as being the period between the fall of the Roman Empire (395 AD) and the 'Early Modern Period' marked by the advent of the Gutenberg printing press (1436–48), the arrival of Europeans in the Americas (1492), and the upsurge of modern monarchies in Europe and their new empires in the sixteenth century (Holt 2010; Kümper 2010). With the downfall of the Roman Empire, different forms of rule emerged that varied significantly according to region and time (Arnold 1991; Holt 2010). Some provincial nobles started sharing their power with nomadic tribe leaders, trading tax collection in return for military protection. Others established their own armies and operated their own political domains. Lacking the centralized structures of the Roman metropolis, medieval nobles were empowered to directly control their land and vassals, who were taxed and forced into military service.

Even the Holy Roman Empire (*Sacrum Imperium Romanum*), which started to develop in the ninth century, operated as a loose confederation, a multi-ethnic composite of lands concentrated in western and central Europe. The Holy Roman Empire was united by the Christian ideal of a universal state, yet marked by internal conflicts rather than a strongly hierarchized regime. The power of the emperor was restricted. Although formally the numerous princes, lords, bishops, and cities owed the emperor their loyalty, *de facto* they held privileges that strengthened their independence and power within their respective territories. The growth of cities from approximately the twelve and thirteenth century onwards and increasing overseas travel led to a rising middle class and an economic waning of the nobility (Rapley 2006, 98). Again, we find parallels to the global history of

Christianity and the Ibero-American Empire, as the supposed power centres were de facto challenged by traditional or emerging local figures on the ground.

Since the 1990s, various scholars have started to refer to ‘new medievalism’ as a result of capitalism increasingly operating on a global scale, a supposed waning of the nation-state, and growing regionalism. Initially, the term ‘new medievalism’—associated with ‘overlapping loyalties and coexisting local and transnational identities’—was used with special reference to the rising European Union. In the view of the West Indian political scientist, John Rapley (2006, 99–101), however, the idea better applies to the ‘developing world’ or Global South.<sup>2</sup> The Global South is marked by zones like favelas, where the state has withdrawn and where private actors like drug gangs are not just in territorial control, but also able to offer basic social services in exchange for loyalty (e.g. paying for inhabitants’ medical treatment).

In the view of many scholars (Miyoshi 1993; Rapley 2006, 101), contemporary neoliberal policies have caused power in the economic field to shift away from centralized national economies capable of regulating trade and raising taxes. Here neoliberalism is understood as the free flow of capital, goods, and services, and a deep scepticism towards state interference in the form of regulations and taxes. The neoliberal rise has shifted power not only from national governments to managers of multinational or global corporations, but also, in the peripheries, to ‘warlords’. While the nation-state has not ceased to function (for example, it still defines citizenship), Miyoshi (1993, 744) increasingly regards it as a ‘biased and compromised’ political authority that works for the privileged few: ‘The nation-state ... no longer works; it is thoroughly appropriated by transnational corporations’. According to Miyoshi (1993, 742–743) nation-states are unable to curb the power of transnational corporations. In these scholars’ reading, we are witnessing the formation of a ‘transnational class’ that works and travels across the globe and is distinguished from those excluded (the jobless, the underemployed, the expatriated, and the homeless).

Most recently and simultaneously, however, there seems to be a trend back to growing national sentiments (e.g. Trump, Bolsonaro, and right-wing nationalist populism in general). This counter-trend may increasingly test or at minimum complexify the view associated with ‘new medievalism’. Also, not everyone regards the withdrawal of the state as a negative development. For example, Rapley (2006, 102) has argued that in postcolonial states, nation-state authorities have often suppressed traditional actors like ethnic communities or religious groups. As state power wanes, these actors regain power and freedom.

In sum, while the term ‘new medievalism’ was first applied mainly to the European Union, Southern scholars regard it as even more appropriate for the Global South marked by off-state ‘war zones.’ Importantly, and in contrast to [Grafe \(2013, 2017\)](#), [Cardim et al. \(2014\)](#), and [Koschorke \(2016\)](#), authors associated with ‘new medievalism’ (mainly political scientists rather than historians) appear to judge polycentric governing negatively, just as the Middle Ages are commonly viewed pejoratively. Although forms of governing varied greatly during the Middle Ages depending on the specific moment in time and region, we can summarize certain characteristics similar to the substantive features of polycentric governing: a variety of actors and sites (including non-state protagonists and arenas), a dynamic and interrelated process, and multiple geographical scales ranging from the local to the global.

## New Research Questions

Overall, the three examples—the global history of world Christianity, the history of the Iberian empires, and the ‘Middle Ages’—have shown that we find instances of polycentric governing earlier in history. This observation raises a series of new questions: has past polycentric governing necessarily led to fragmentation or dismemberment, as has been debated in the recent polycentric governance literature? To what extent has polycentric governing varied over time? Can we identify different ‘phases’ or ‘forms’ of polycentric governing throughout history? Which historically specific conditions facilitated or hindered polycentric governing? As to the past, scholars may ask more specifically: to what extent did polycentric governing differ amongst the various empires, or between ancient times, the ‘Middle Ages,’ and the early modern period? While we cannot address these large questions here, they provide ample material for future enquiries.

A historical approach also leads to another question: why has the term ‘polycentric governing’ (or governance) gained popularity at the current moment in time? Scholars have asked similar questions about the salience of other key concepts. [Wendy Larner and William Walters \(2004\)](#), for example, have examined the term ‘globalization.’ Their example shall serve us here to briefly discuss the necessity of scrutinizing and historicizing our own concepts, in this case ‘polycentric governing.’

[Larner and Walters \(2004, 496\)](#) explore the term ‘globalization’ as a practice of government (either of states, enterprises, or one’s own health) that ‘involves the production of particular “truths” about relevant entities. Globalization is understood as a way of imagining the world—that is, as

a certain *'dispositif'*, a dominant mode of thought (among 'Western' powers) (Larner and Walters 2004, 500). To demonstrate the historical grounding of their example, they compare 'globalization' with key terms of the past. In the nineteenth century, for one, 'civilization' was a key concept. Related to the colonial context, it served as a demarcation between colonizers and colonized, and thus as a tool with which to assert imperial superiority. Later, it was substituted by frameworks such as 'development' or 'modernization'. Thus, the authors invite scholars to rethink conceptual categories as more than simple representations of the world. Rather, categories are a constitutive part of governing, as they create the very world they aim to analyse and describe and are inseparable from power relations (Larner and Walters 2004, 500, 503).

While this notion of scrutinizing concepts is not entirely new, it responds today to postcolonial, feminist, and critical geopolitical thought. It burdens scholars to interrogate the very concepts they use (see also Chapter 10 by Marchand and the commentary by Fakhoury and Icaza, Chapter 3, this volume). Scholars interested in 'polycentric governing' do not have to focus exclusively on the discourse of the term, but they may inquire how 'polycentric governing' is able to both describe and explain empirical and real-world changes. A self-reflective approach to the concept of 'polycentric governing' and its context of emergence and salience is required, and more research on this subject may be needed.

## Concluding Reflections

This book aims to start a conversation about a myriad of recent approaches to governing, captured by the umbrella term 'polycentric governing'. This chapter has shown that this debate can be deepened by including the dimension of time. A few political scientists have referred to the term 'new medievalism' with regard to polycentric governance, though mostly in a pejorative way—decrying a lack of centralization and unity. However, the vast majority of scholars in the political and social sciences regard polycentric governing as a novel form of governance, often associated with the 1980s or even more recently. This chapter, by contrast, has offered three historical examples that demonstrate that polycentric governing has a much longer past. We find evidence for polycentric governance as far back as ancient times. Also the Spanish and Portuguese monarchies, together building the first worldwide empire, were marked by polycentric governing practices. A historical perspective on polycentric governing thus helps to correct the false assumption that polycentric governing is a recent novelty.



A historical approach to polycentric governing also connects to the transnational feminist and decolonial feminist chapters in this volume by Marianne Marchand (Chapter 10) and Tamirace Fakhoury and Rosalba Icaza (Chapter 3), because a historical approach essentially asks: what is new and what is old? Where do we see continuity and change with regard to power relations, techniques, and legitimacy? Marchand and Icaza screen the concept's potential to overcome practices of oppression like the silencing of voices (epistemicide) and disempowerment. They, too, examine continuity and change in power relations, suggesting that certain structures including patriarchy, colonialism, and racism continue unchallenged. A historical perspective helps to reveal that certain structures of oppression and silencing are yet to be overcome and rather continue today as in the past. The question remains, as also posed by Marchand and Icaza and Fakhoury: to what extent does the concept of polycentric governance hide or expose these ongoing forms of oppression?

On the other hand, as this chapter has shown, polycentric governing in the past also allowed for local resistance and appropriation. In Koschorke's history of the world church, for instance, the polycentric framework ultimately helps to revise a traditional Western-oriented notion of Christianity as a worldwide movement. The concept highlights the important agencies of local societies and local Christians in appropriating, translating, and negotiating imported Christian beliefs and practices, along with the mutual influence between the periphery and the centre (peripheries also shaped societies associated with the centre of power). A nuanced study of the everyday experience of the missionized, colonized, or enslaved rather than the supposedly almighty colonizers offers a more distinct and dynamic understanding of power relations. Oppressive moves and European Christians' attempts to 'recentralize' extra-European Christianity in practice often boomeranged (Koschorke 2016, 44–45). Similarly, as shown very vividly in the case of early modern Spain, polycentric governing allowed for a distribution of power—in that case between the Spanish monarch and local towns, the church, and local and regional institutions (Grafe 2013, 2017). Like Grafe, Cardim and colleagues (2014, 3–4) challenge the traditional and national reading of history: the image of bilateral relations between a powerful centre (the king) and the rather marginal periphery (local elites). Past polycentric governing histories thus also help to correct old normative assumptions and narratives about practices of a powerful and omnipotent centre or ruler monarch.

Overall, a historical perspective also helps to raise a series of new research questions regarding continuity and change, and similarity and difference between past and present forms of polycentric governing. Questions

revolving around the three core issues of this book—techniques, power, and legitimacy—can also be applied to forms of governing in the past. Concerning techniques, we may ask: what were the main tools of social ordering in the Middle Ages, or in the early modern period, or in specific regimes such as empires? Concerning power, we may enquire: what forces drove governing; are the so-called ‘new’ actors (private actors, local elites, businessmen, philanthropists) really that new or rather old ones rediscovered by post-nationalist scholars; and what about actor hierarchies in the past—were they perhaps much more diffuse and dynamic than hitherto recognized? Evidence based on ordinary people’s lived experience from the past suggests that simplistic centre–periphery models and nationalistic histories need to be substantially revised, as Koschorke and Grafe have vividly shown. As to legitimacy, we may ask: how did new kinds of governing obtain support and trust in the past, both normatively and sociologically (Quack 2010; Zürn 2018; Chapter 1 in this volume)? How did emperors, nobles, kings, religious leaders, or different types of colonizers win rightful authority, confidence, trust, and support? And if they failed, with what consequence?

The main benefits of a historical approach to polycentric governance can be summarized as follows: it reveals that polycentric governing—in all its varieties—has been a much more common form of governing than heretofore acknowledged. Secondly, a historical gaze with the benefit of hindsight provides an arsenal of concrete cases, helping to ground theory on the basis of empirical evidence. Thirdly, a historical approach may also contribute to radically new narratives of power and resistance (or shared power); to a post-nationalist, more global scholarship, highlighting formerly neglected agents (e.g. the missionized and colonized); to spotlight dynamic power relations (through practices of translation and appropriation and multi-directional influences); and to de-dichotomizing and complexifying our understanding of governing (e.g. it can illustrate the effect of internal rivalries or the fluid character of ‘entities’ and ‘scales’). The economic historian Regina Grafe, for instance, has forcefully called for a more complex and detailed conceptualization of governing that defies schematic dichotomies (2013, 2017). A historic approach to polycentric governing may also challenge normative assumptions. Grafe, for example, unlike many ‘new medievalists’, regards early modern Spain’s polycentric way of governing as politically and economically progressive overall, rather than as a failure.

All these questions can be applied to events across time and space, offering a precious portfolio of cases with which to study ‘polycentric governing’ in all its captivating dimensions. The beauty of empirical research about the past is that the outcome is already known. This quality can make studies of

polycentric governing more ‘worldly’, in Said’s parlance. It can ground theory and test it against the backdrop of real-life experience. In sum, a major benefit of a historical approach to polycentric governing is hindsight. Subsequently, diachronical comparisons allows researchers to ask: what are the differences and similarities between forms of polycentric governing in the past and the present? And, importantly, what is truly ‘new’ in the contemporary period?

Henk Overbeek also argues ([Chapter 13](#), this volume) that polycentric governing may best be studied in specific subject areas rather than as a single comprehensive global system of governing. While in some areas of governance like the labour market, we can currently note an increase in polycentric governing, other issue areas follow a contrary trend; either no practices of, or a shrinking of, polycentric governing (e.g. migration). His suggestion—to divide analyses by subject areas—may also be applied to past instances of polycentric governing. Yet, it may also be interesting to look at a larger, interconnected structure. The history of empires, for example, has most fruitfully been explored as a holistic form of governing, where the political, socio-economic, and cultural dimensions intersect, as all the historic examples in this chapter have shown. Viewed as complementary forms of inquiry, both forms of analysis—holistic and segmented studies—could function as mutual correctives, balancing micro and macro research.

Given diverse understandings of polycentric governing, however, the question may also be raised as to whether a historical view on the concept’s defining features may risk further ‘overloading’ the term. This volume has already adopted a broader approach to the term than the initial institutionalist reading developed by Vincent and Elinor [Ostrom \(2010\)](#). Would adding a historical perspective broaden the definition too much and make polycentrism too generic a category? Would it perhaps be useful to limit the concept, as most of the literature does, to recent times? If scholars decide for the narrower option, they should at a minimum stop marketing it as a key novelty, which is factually incorrect. A historical approach to polycentric governing raises fascinating questions and offers much room for future enquiry.

## Notes

1. This perspective has been associated mainly with Charles Tilly (1975, 2000).
2. For a discussion of the contested term ‘Global South’, see Nina Schneider (2017). Here it refers to Africa, Asia, Caribbean, Latin America, and Pacific.

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# 3

## Undoing Coloniality?

### Polycentric Governing and Refugee Spaces

*Tamirace Fakhoury and Rosalba Icaza*

In ‘Borderlands/La Frontera: The New Mestiza’, Gloria Anzaldúa writes that ‘the act of writing is itself a sensuous act, an act that heals trauma and an act that is embodied through which we re-write ourselves into our bodies and the world’ (1987/2007, 88–89). Anzaldúa’s understanding of writing is our first step in the task of undoing the coloniality of polycentric governance.

This intervention is situated in the enquiry and praxis of decolonial thinking that gravitates around the notion of modernity as coloniality or modernity/coloniality/decoloniality. The first slash indicates that there are no modern epistemologies, institutions, norms, and subjectivities without coloniality, and that coloniality is not merely derivative but co-constitutive of modernity (Mignolo 2002). The second slash indicates there is something beyond modernity ‘because there are ways of relating to the world, ways of feeling, acting and thinking, ways of living and inhabiting the world that come from other geo-genealogies, non-Western and non-modern’ (Vázquez 2014, 173). Here, non-modern denotes that these are not pre-modern, but rather reduced as such by ‘the modern apparatus’ and in this way ‘are logically constituted to be at odds with a dichotomous, hierarchical, “categorical” logic’ of Western modern thinking and critique (Lugones 2010, 1).

While the various contributors to this volume offer comprehensive analyses of what polycentric governance can and cannot interpret and analyse, we foreground what this notion erases and silences. In other words, we account for its coloniality. Nonetheless, this is not an easy task. How can one account for what is no more (Vázquez 2020)?

Our entry point is to unsettle modern epistemologies that inform the ‘we’ in the opening question of this volume: *how are we being governed today?* (Gadinger and Scholte, Chapter 1). We are conscious that in the discipline of international relations, there have been recent attempts to unsettle or decentre dominant forms of knowledge and knowing about (dis)order

(Tickner and Smith 2020). These efforts are welcome, but insufficient if the inclusivity of more voices and perspectives from beyond the Anglo/North-European sphere leave intact the terms of the conversation to where non dominant perspectives are invited to.

Our take on that ‘we’ is more than opening the door while holding on to the lock. It is not about seeking to decentre or unsettle an ongoing conversation on polycentric governance. Our take is a different one, informed by decolonial calls for onto-epistemic disobedience (Mignolo 2011; Motta 2018). From our point of view, the ‘we’ that is mobilized reinforces imperial difference and actively produces as non-existent and unintelligible those who dwell on its borders, the less than human and the more than human, and those positioned in between across the colonial difference (Mignolo 2002; Lugones 2020). This is presented as a central technique of power characteristic of universalisms by decolonial feminist Rosalba Icaza.

Dwelling on the borders of an unproblematic assumed ‘we’ aims to bring us closer as contributors in this intervention. It is also a pathway towards the second part of this response. In this section, Tamirace Fakhoury introduces her work on refugee spaces, establishing an empirical base by drawing on illustrative cases from her scholarship on the politics of displacement in Lebanon. The section offers concrete ways through which (mis)representations of refugee spaces as sites of vulnerability are unsettled by reflecting on how power and norms are questioned by refugees’ voices and bottom-up activities.

As a final step, we reflect on refugee spaces, asking what lies beyond the interpretive analytic of polycentric governance. In other words, we question the apparently unproblematically critical contribution of this notion by marking its limits from the vantage point of its coloniality.

From this perspective, what is presented as a highly relevant focus on (structural, normative, institutional, networked entanglements of) power, legitimacy, and techniques of (self) governing to understand planetary complexity and draw policy lessons that contribute to global social justice is not only that. The key lesson we draw from this is that the planetary complexity of contemporary governing cannot be solely analysed and interpreted through a focus on polycentric governance.

There is a teaching from one of our grandmothers that one of us feels is relevant here: *so much does the clay jug go into the water that it ends up breaking*. In other words, so much does one concentrate on understanding and learning how to transform what (dis)orders and regulates life that one ends up being, thinking, sensing, embodying, and articulating that order and that regulation. This is the limit of polycentric governance, and, in general, of conceptual proposals rooted in Western modern genealogies. The

result is that the coloniality that such concepts carry with them renders as non-existent the plurality of ways of living life and inhabiting Earth that are not about governing. This is the violence of the coloniality of polycentric governance.

## Coloniality and Colonial Difference

Early writings on coloniality defined it as a structure of management that emerged at the onset of the early modern world in the sixteenth century with the conquest of the Americas and the control of the Atlantic commercial circuit. This structure worked through control of the economy, authority (government and politics), knowledge and subjectivities, gender, and sexuality (Quijano 2000; Mignolo 2002).

For some, the definition of coloniality as a historical structure of management would seem as a synonym or close to what the editors in this volume classified as structural approaches or historically situated perspectives to polycentric governance (Overbeek (Chapter 13); Schneider (Chapter 2), in this volume). However, this is far off the mark. This is especially significant when one considers that coloniality unmutes a distinctive positionality across the colonial difference, as we explain next.

As an analytic, coloniality contributed to delineate a non-Eurocentric critique to capitalism and theory of domination that considered a world system analysis of historical capitalism important and necessary. However, these were also insufficient once the experience of earlier Spanish and Portuguese colonialisms were considered precisely in relation to the notion of colonial difference (Mignolo 2002).<sup>1</sup>

Colonial difference has been described as ‘the changing faces of colonial differences throughout the history of the modern/colonial world-system’ (Mignolo 2002, 61) and brings to the foreground the planetary dimension of human history silenced by discourses centring on modernity, postmodernity, and Western civilization (Mignolo 2002).

Colonial difference has been conceptualized in relation to imperial difference. Colonial and imperial difference should not be understood as a fixed binary, but as terms that name a binary but that are not thought of as such but as historically situated movements that co-constitute positionalities. To consider where our frameworks of understanding stand across the colonial and imperial difference grounds the possibility of a critical awareness of our locus of enunciation, from where one speaks, thinks, does, and imagines.



## Polycentric Governance as a Concept

Our engagement with polycentric governance starts by acknowledging that the ‘critical commentaries in the book draw attention to ahistorical and Euro-centric tendencies in much existing research on polycentric governing’ (Gadinger and Scholte, [Chapter 1](#), this volume). Nonetheless, our intervention redirects this critical observation to the very concept of polycentric governance.

Inspired by Maria [Lugones’ \(2003, 2020\)](#) theory of resistance and the decolonial method developed in her engagement with the universality of the concept of ‘gender’, our commentary on polycentric governance emerges from the vantage point of its coloniality to name what this notion erases ([Lugones 2003, 2020](#)).

Coloniality of power, originally coined by Peruvian sociologist Anibal [Quijano \(2000\)](#) introduced a non-Eurocentric understanding of domination. Quijano’s perspective de-silences the role that ‘the basic and universal social classification of the population in terms of the idea of “race” [as] introduced for the first time’ with the conquest of the Americas ([Lugones 2010a](#), 371) plays in the constitution of so-called Western civilization and the so-called modern world.

Once coloniality of power is named, for us it becomes possible to engage with polycentric governance by foregrounding the historical experience of being dehumanized. In other words, coloniality of power allows us to make room and legitimize our interest in what modern/colonial frameworks of academic and expert knowledge actively produces as inexistent, unintelligible, backward, and traditional.

In this volume, we learn that polycentric governance in its different iterations, informed by a variety of theoretical perspectives, is mobilized to interpret and analyse multi-scalar planetary operations of power, legitimacy, and techniques of control and domination. More recently and according to new-materialist perspectives on polycentric governance, the focus lies on complex entanglements to human and more-than-human forms of resistance, resilience, and adaptation (see various authors in this volume).

Nonetheless, polycentric governance as a concept and an analytic in its liberal, structural, post-structural, and critical variants belongs to what [Vázquez \(2011\)](#) conceptualizes as the epistemic territory of modernity. Modern disciplines, epistemologies, and methodologies, including critical and post-positivist ones, belong to this specifically provincial geo-genealogy ([Dussel 1993](#); [Mignolo 2002](#); [Motta 2018](#)). As these are re-signified, renegotiated, creolized, and hybridized by the inclusion of the ‘othered’ and their worlds

of meaning, they become useful in the diagnosis, representation, and classification of modernity's own maladies, genocidal violence, disciplinary and productive power, unfinished projects, liquidity, and so on. Deconstruction, self-reflexivity, hybridization, provincialization, and pluralization have been prescribed as a way forward. However, from a decolonial perspective these are critiques from within the epistemic territory of modernity.<sup>2</sup>

Coloniality does not belong to this modern epistemic territory and is not a critique in that sense, but something else (Motta 2016; Lugones 2020; Vázquez 2020). Coloniality does not name an absence of hierarchies of validity among different forms of knowledge either. It names what modern ontologies, epistemologies, and methodologies silence and produce as non-existent. In other words, coloniality names what is non-intelligible under the analysis and interpretation of governmentality, or the structural, institutional, normative, operations of power, legitimacy, and techniques of hierarchical, circular, fluid, bottom-up, or entangled forms of power that govern 'us' today.

For example, critical discourse analysis has well equipped scholars to interpret and analyse the modern operation of textual representations and classifications of power and governing. In so doing, this critical approach diagnoses how modern discourses produce realities such as polycentric institutions, norms, and structures of governance (see Beckman, Chapter 14, this volume). However, this approach cannot account for what is erased by its own diagnosis. That erasure is the coloniality of discourse and co-constitutive of its critical diagnosis and subsequent prescriptions (Icaza and Vazquez, forthcoming).

The historical movement of erasure, coloniality, as co-constitutive of modern ontologies, epistemologies, methodologies, has been denied under assumptions of totality via macro-narratives of civilization, humanity, development, and democracy (Mignolo 2002, 2011). This results in a double denial: the contribution of the 'othered' to the co-constitution of modernity and of their worlds of meaning, living, and sensing.

In the early 1990s, Enrique Dussel argued that modernity, in particular modern rationality, was founded on two principles: the domination of others outside the European core, and the denial of the violence of that domination. For Dussel, this violence and the denial of such violence was an epistemic operation (a way of knowing and being) with deep socio-political, economic, ecological, and aesthetic implications that to this day organize many of our interactions in the production of academic knowledge.

Nonetheless, the historical movements of modernity/coloniality are not the totality of the reality, as explained at the outset of this response. The third movement, decoloniality, articulates a liberation from the denial of

being denied. And in this sense, the task of decoloniality is not to interpret or analyse polycentric governance enacted by the ‘othered’ ‘outside there’, but to de-silence, de-mythologize, and decolonize (Rutazibwa 2018) worlds of meaning, being, and sense that lie underneath disembodied modern rationality and dwell on its borders (Motta 2018; Lugones 2020).

## Self/Other: Constituting a ‘We’

In the epistemic territory of modernity, a self who is not seen, but nonetheless can see, study, classify, and appropriate worlds of meaning, inhabits, constitutes, and is constituted by reality, or in this case, polycentric governance. This positionality is what Castro-Gomez defines as the ‘hubris of the zero point’ (Castro-Gomez 2005). This self’s interpretations produce the ‘world out there’ which means that there is no object of analysis (polycentric governance) a priori or independent to the interpretative struggles in which he is committed/involved. To display the colonial and monocultural foundations of polycentric governance as a concept, though it is important to expose this outsider’s positionality, his disembodied modern rationality, and the construction of realities outside himself, it is not enough. We need to de-silence colonial difference in the understanding of that self. This is what we do next.

It has been argued that the historical movement towards classification and representation of the ‘real out there’ was a necessary condition for the construction of non-European white males as ‘the other’ and of Earth as ‘nature’ as pre-requisites for the appropriation of lands, bodies, and territories at the onset of the modern world (Dussel 1993; Lugones 2007; Maldonado Torres 2007).

This drive to represent, classify, and appropriate as particular of Western modern ‘civilization’ is what underpins a Cartesian subjectivity (I think, hence I am) and was established alongside domination around race and global markets (Maldonado Torres 2007). This Cartesian subjectivity or modern ego was nonetheless ‘born in its self-constitution over against regions it dominated’ (Dussel 1995, 35). In short, the modern subjectivity is marked by his will to power. For decolonial feminists, this individual self is characteristically modern in his incapacity to acknowledge the feminized racialized ‘othered’ as plural selves (Lugones 2007).

In her engagement with the coloniality of power, Maria Lugones coined the term coloniality of gender to analyse racialized capitalist gender oppression (2007, 77), while researching why people were so indifferent to violence against black women and women of colour. She examined the ways in

which colonization and the dehumanization of indigenous and black bodies were part of the explanation of this contemporary phenomenon and further extends a non-Eurocentric understanding of domination.

In so doing, Lugones not only identifies the problematic heterosexual readings of coloniality by Quijano but introduces the notion of coloniality of gender to explain how racialized people were reduced to bodies for labour and subsumed under a gender structure that guards the access to socialization and to 'humanity'. Coloniality of gender helped Lugones to theorize class and race, but also gender as social categories imposed in the colonial encounter through different technologies of dehumanization and genocide, such as the systematic rape of colonized woman. From a feminist decolonial perspective, these categories act as universalism and as such erase and silence the feminized racialized *othered* (Motta 2018).

It is precisely that sense of loss and disregard that grants the possibility of observing the universalism of the modern/colonial notions we deploy in the interpretation and analysis of reality (Lugones 2020), of seeing ourselves as products of those universalisms (Carastathis and Tsilimpounidi 2018, 16) but also as active resisters to them (Lugones 2003). So, who are 'we'?

## How Are 'We' Governed?

One of the opening questions formulated by the editors of this volume is 'how are *we* governed'? We have already questioned the unproblematic characterization of polycentricity as an angle, an abstract disembodied vantage point, or gaze from where a self observes, classifies, and grapples with the phenomena of *how we are governed today* (Gadinger and Scholte, Chapter 1, this volume). We would now like to pose the following questions: what is there to be governed and by whom? And in so doing, what is produced as inexistent by that 'we'?

Recent decolonial analyses on social resistance to global and regional governance (Icaza and Vázquez 2013; Icaza 2018) have undertaken the task of unveiling their universalisms expressed as monocultural and Euro-centred gestures. One of these gestures has been the promotion in academia and policy circles of the notion of governance as a way out of methodological nationalism within the disciplines responsible for examining the global and the regional and their numerous interplays.

Nonetheless, this movement to overcome methodological nationalism leaves governing, power, and hierarchy intact in terms of the academic and expert conversation of the disciplines driving it (Mignolo 2002; Carastathis

and Tsilimpounidi 2018; Icaza 2018). In other words, polycentric governance, far from breaking away from analyses of governing as a top-down process, emerges from and in relation to an already unequal political economy of academic and expert knowledge production. This is, of course, not new, but by situating the concept in this way, we aim to establish its limits and its incompleteness vis-à-vis the vast range of ways of knowing about governing today.

From this clear demarcation of the limits of polycentric governance, it is possible to articulate the following: despite the critical scholarly interest in interpreting and analysing every day, bottom-up forms of governance and resistance to multi-scalar forms for governance, it is precisely that focus on governing that narrows down the possibilities of accounting for what is not. In other words, to open up space for bottom-up forms, norms, and institutions of governance is not only not necessarily conducive to a greater plural understanding, but also renders as inexistent what is not just governing but that concretely delinks and disobeys from its confines.

Equally relevant for our task of unveiling the coloniality of polycentric governance is to ask: who is the 'we'? This sort of question aims to name the epistemic totalization underneath that 'we' by unveiling its provinciality within the confines of the Anglo/North-Euro-centred geographies of reason that uphold it as a global design (Icaza 2018; Mignolo 2002). This drives our interest in the geopolitics of knowledge, that is to say, an eagerness to problematize the question of who produces knowledge. Like any other concept, polycentric governance is geo-historically and body-politically situated, or in other words, it has been generated in concrete places and ecologies and by concrete bodies (Icaza 2018).

Related to this last point, our questioning of polycentric governance is directed towards the claim that polycentricity can materialize in spaces of vulnerability such as refugee camps. To be more precise, polycentric governance as an angle-gaze from which the case of forced displacement might be studied in the search for bottom-up governing by refugees, their negotiated agency, open possibilities for unsettling of power relations, and for crafting a politics of claims-making foregrounds access, representation, and reform of already given norms and institutions. In other words, it might account for patterns of complexity and plurality that nonetheless leave intact the phenomena of governing.

Polycentric governance as a prism that engenders coloniality produces as inexistent ongoing resistance efforts for the abolition of national sovereignties, borders, and hence refugee (en)campments (Carasthathis 2018) due to their 'non-intelligibility' in the eyes-gaze of that unproblematic 'we'.

The deployment of polycentric governance to analyse governing in refugee spaces as a pathway to counter their over (mis)representation as sites of vulnerabilities engenders coloniality. In other words, to privilege analysis and interpretations of the phenomena of governing does not contribute to dismantling it, which one can praise as an example of freedom to know and research in academia. However, that privileging comes with its underside: it produces as inexistent refugee camps as places of resilience and creativity, and of refugees as enacting their active agency expressed as disobedience to norms and policy legacies (Lugones 2003; Carasthathis 2018; Icaza 2018). This incapacity to acknowledge difference is the coloniality of polycentric governance.

Recent calls for the integration and visibility of spaces and lived experiences of refugees that were previously ignored or produced as inexistent have proliferated in polycentric governing research. These calls are driven by assumptions of the analytical purchase that refugees' voices, representations, and narratives might carry key challenges to frameworks and conceptualizations. But as we have previously indicated, the focus on governing not only fails to dismantle governing but produces as inexistent disobedience, creativity, and what cannot be assimilated by the analysis and interpretations of governing. And what cannot be assimilated becomes unspeakable (Motta 2018; Lugones 2020).

From a decolonial perspective concerned with epistemic justice, calls for the inclusion of previously excluded voices are welcome but insufficient, as these become assimilated into pre-established inter/intra disciplinary conversations and frameworks of understanding. And as we engage with a decolonial perspective, our interest is to highlight the (im)possibilities of epistemic justice in calls for the integration of refugee voices into the broader literature on polycentric governance.

## **Border Thinking**

This volume presents an array of relevant interventions that situate polycentric governance in (North-Euro/Anglo-centred) history, identify layers of complexity in its formulation, raise the importance of this notion's development with multiple stakeholders' views, and take into consideration plural scales of power. All of these are important but insufficient interventions if our aim is to de-silence what polycentric governance renders mute. And what precisely is it that polycentric governance universalism mutes? Our answer is: that which exceeds the logics of domination expressed in epistemic

totalities and universalisms, that which is non-assimilable by interpretations and analysis of governing.

Calling for the self-ascribed onto-epistemic privileges of the West to lay bare and refuse Euro-centred geo and body ontologies, epistemologies, and methodologies, and for unmuting the coloniality of polycentric governing is a first step. To be able to know through non-assimilable means is a decolonial move. This is the case of border thinking as a re-orientation towards unlearning as a de-familiarization of ourselves from the imperial North in order to learn from the South (Mignolo and Tlostanova 2006; Motta 2018; Icaza 2021).

Border thinking was originally introduced by Chicana lesbian feminist Gloria Anzaldúa to unmute ‘the borderlands experience as epistemological and political choice [that] offers a way of imagining, being and inhabiting our bodies and relationships that is beyond fixed categories that separate, simplify and silence’ (Motta 2018, 107). As an onto-epistemic and methodological approach, border thinking has been a useful tool for decolonial feminists to (re)think ‘the global’ from an epistemology of vulnerability (Icaza 2018). By epistemology of vulnerability, we mean forms of knowing/being/sensing power from the historical experience of being dehumanized. From this epistemology of vulnerability, we ask: what happens when polycentric governance is challenged through the epistemic visibility of knowledges that have been produced as backward, subaltern, etc.? This is what the second section of this response aims to answer. We look at Lebanon as a polycentric battlefield of policies that refugees question, disrupt, and renegotiate on an everyday basis.

## How Refugees Reshape Polycentric Governing

*‘Only refugees can forever write the archive’*

(Qasmiyeh, 2017)

Refugee spaces in Lebanon have historically emerged as complex and incoherent sites of polycentric governing (Sirhan 1975; Fakhoury 2021a, 2022). Amid successive refugee-producing conflicts that have played out in the neighbourhood and seeped into its borders, Lebanon has shied away from developing an asylum system that would formalize the stay of displaced individuals. In this context, refugee policy has arisen as a collage of fragmented sites of authority ranging from the local to the global. On the one hand, local actors including landlords, political parties, municipalities, and recruitment firms have performed refugee-related functions that are not necessarily

within their mandate (Sanyal 2017; Moawad 2021). On the other, governments have delegated refugee assistance to external actors such as United Nations (UN) agencies and the European Union (EU) to cater for refugee livelihoods and needs (Fakhoury 2019). In this regard, the legacy of colonial authority has deeply shaped humanitarian governance in Lebanon.

Beneath this surface, however, what happens when refugees seek to decentre and reconfigure this landscape of polycentric governing? What happens when they strike back from subaltern spheres to renegotiate everyday forms of humanitarianism and livelihoods? And lastly, what happens when we rewrite the history of polycentric governing through the lens of refugee agency?

We chronicle below some forms of everyday practices in which refugees have delinked the act of governing from dominant rationalities of institutionalized polycentric orders. We show how they have disrupted narratives and scripts of governing, and reimagined polycentric governing in Lebanon as a site of resistance (Fakhoury 2022) and bottom-up *refugee-led humanitarianism* (Fiddian-Qasmiyeh 2016).

Since 2011, Lebanon has welcomed more than 1,500,000 displaced Syrians. What first started as an open-border policy soon changed into a policy of strict control over refugees' lives and trajectories. In 2015, the Lebanese government ordered the UN High Commissioner for Refugees (UNHCR) to stop registering Syrian refugees. Since then, the UNHCR has been monitoring data on the registered population whilst advocating for resuming registration activities. Against this backdrop, supranational organizations including the UN, the EU, and the World Bank have allocated substantial aid to boosting refugee livelihoods. This politics of aid is yet to be contextualized in a broader rationality of governance (Fine and Thiollet 2020). This rationality seeks not only to cater for refugees' needs within the neighbourhood of Syria, but also to provide a legitimating narrative for such multilevel interventions. Indeed, at the heart of this rationality lies the narrative of resilience-building, which seeks to boost refugees' and hosts' capacity to respond to challenges (Badarin and Schumacher 2020; Fakhoury 2021b). In coordination with a plethora of local, national, and global actors, the UNHCR has, for instance, developed the so-called Refugee Resilience Plan with the aim of coupling the stabilization of Lebanon with protection and humanitarian assistance needs for refugees. Similarly, the EU has developed various policy instruments that aim to consolidate refugees' resilience or their capacity to withstand challenges while boosting Lebanon's capacity to deal with displacement. A case in point is the adoption of the 2016 Lebanon–EU Compact, which aims to improve refugee access to livelihoods and jobs in exchange for financial and developmental



aid. Such initiatives including the UNHCR's resilience plan and the Compact call on various sites of authority from the international to the local to cooperate together.

From a critical perspective, however, resilience-building has reified polycentric governing as a 'push-pull dynamic' or a set of colliding logics (Fakhoury 2019, 2021b). First, donors including Western and Gulf actors as well as international non-governmental organizations (INGOS) and UN agencies have held turf wars when it comes to delineating their mandates (Deardorff Miller 2017; Facon 2021, 2022). In this way, the coloniality of polycentric governance has been enacted and reified. Second, supranational actors have negotiated resilience-building practices in terms of facilitating refugee access to education, labour, and livelihoods, albeit in conditions lacking an underlying protection environment. Indeed, as early as 2015, and as soon as the Syrian regime gained the upper hand in Syria's internationalized war, the Lebanese government started boldly advocating for refugee return, implementing return initiatives in coordination with the Syrian government. In the context of the country's cumulative crises ranging from its economic deterioration to the 2020 Beirut blasts, displaced Syrians and Lebanese citizens alike have been pushed into extreme poverty. This has provided a pretext for governing authorities to further restrict displaced Syrians' rights, banning them access to labour and housing. Within this context, refugees have been locked into spirals of protracted precarity. They have further embarked on dangerous returns to Syria or onward journeys into the unknown (Sewell 2020). Pushbacks, deaths in the Mediterranean, stalled lives and re-returns to Lebanon are some of the scenarios that the displacement continuum has had in store for them (Refugee Protection Watch 2021).

In this context, it is safe to say that the polycentric response to Syrian displacement in Lebanon has not met its objectives. Indeed, as multi-level actors ranging from international organizations to informal networks have sought to manage refugees' lives, it has become increasingly difficult to locate who governs who and what the rationale of such governmentalities may be (Fakhoury 2019). Do these multi-level 'bonding forces' (Koinova et al. 2021, 1988) converge to resolve displacement, coordinate aid responses, and stabilize Lebanon as a key regional refugee-hosting country, or rather enable supranational entities such as the EU to engage in governing at a distance (Anholt and Sinatti 2020; Fakhoury 2022a), re-enacting 'imperial governance' (Gravier 2015)?

In this context, most work on Syrian refugees has portrayed their stay and survival in Lebanon through the lens of suffering and securitization (Kikano and Lizarralde 2020). Predominant strands of thought have focused on how

polycentric governing articulated through the lens of INGOS, UN agencies, and national bureaucracies shape the lives of ‘helpless’ and ‘aid-dependent’ displaced individuals. Within these strands of thought, an increasing number of publications have explored how uncoordinated responses have pushed refugees into liminality (Carpi 2019; Fakhoury 2021; Facon 2022). Such lines of inquiry have become ‘archetypal’ (Fiddian-Qasmiyeh 2020) in the ways polycentric refugee governing is assessed in terms of its impact on refugees’ lives.

What happens, however, when we go beyond the act of reading and analysing ‘governing’ through the lens of institutions and bureaucracies? And what happens when we flip the narrative and instead look at the various ways that refugees destabilize this tapestry of polycentric governing, and go beyond rationalities of institutionalist orders?

In the below, we provide some examples that account for how refugees in Lebanon have renegotiated humanitarianism as led by INGOS and supranational organizations. We also account for how they transgress, as political catalysts and actors, the polycentric tapestry that orders their livelihoods, aspirations, and journeys. The objective is not merely to account for refugee voices but to challenge ‘governing’ through knowledges that have been produced as subaltern and insufficiently visible to gain traction as authoritative governing orders.

## Refugees as Humanitarian Actors, Aid Providers, and Hosts

Rather than mitigating tensions and ‘managing complexity’ between different refugee groups on the one hand and refugees and hosts on the other, polycentric humanitarian responses have often stirred new conflicts and entrenched structural asymmetries of power. Characterized by a ‘presentist bias’,<sup>3</sup> such responses have also glossed over prior plights and histories of displacement. In the context of refugee flight from Syria, international actors such as the UN agencies and the EU have rushed to provide aid to Syrian refugees in Lebanon, relegating the concerns of other refugee groups such as Palestinians, Kurds, and Iraqi populations. As the Refugee Hosts Project documents, such tensions come fully to the fore in refugee settlements and camps. The Baddawi camp in northern Lebanon, which has historically hosted displaced individuals from Palestine, has recently welcomed displaced Syrians, Iraqis, and newer ‘Palestinian’ refugees fleeing the war in Syria. Against this backdrop, aid actors have created parallel systems of humanitarianism, which often undercut each other (Refugee Hosts Project 2021).

The UNHCR, which was in charge of registering displaced Syrians until 2015, has largely focused on Syrian refugee groups. In contrast, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, which has seen its funding power diminish in recent years, has continued to cater solely for Palestinian livelihoods. The World Food Programme has dispensed food vouchers to displaced Syrians, arguably sidelining other refugee groups' needs in the Baddawi Camp (Fiddian-Qasmiyeh, 2020).

However, camps are not the only sites where tensions come to the fore. In the wake of Lebanon's colossal financial crisis that has pushed more than 50 per cent of Lebanese citizens into poverty, displaced Syrians have been queuing to retrieve money from the banks' automated teller machines in some of Lebanon's overcrowded urban districts, fuelling tensions with local residents. Against this backdrop, international organizations have engaged in heated debates over whether they should dispense money to Syrians in Lebanese Lira, a currency that has lost more than 90 per cent of its worth, or in US dollars, a currency that Lebanese citizens are hardly able to access.<sup>4</sup>

Such accounts of how humanitarian responses to displacement entrench rather than mitigate inequalities are not new. What is often unaccounted for, however, is how refugees themselves may rewrite humanitarian scripts and evolve into aid providers and 'hosts', seeking to implement new ordering arrangements. Examples abound; in 2006, Syrian refugees hosted Lebanese citizens fleeing the Israeli–Hezbollah conflict of that year. Also, within the Baddawi camp where multiple refugee groups coexist, Palestinian refugees themselves have chosen to provide aid to 'older' or 'newer' refugees including the recently displaced Syrians (Fiddian-Qasmiyeh 2016, 2020). More recently, in the wake of the 2020 Beirut blasts, Syrian refugees opened their homes to Lebanese who found themselves without shelter, playing the role of providers rather than dispossessed individuals (Da Silva 2020; Fakhoury 2022b).

Such practices rewrite the humanitarian economy of the refugee spaces on a daily basis, and turn the table on the dichotomy of aid recipients and donors (Refugee Hosts Project 2021).<sup>5</sup> They also lay the ground for what Fiddian-Qasmiyeh (2020) frames as *refugee-led humanitarianism* and *refugee-refugee relationality*, shifting the focus away from institutionalist ordering structures and rationalities, and hence their coloniality.

In yet another perspective, while organizations reify a binary logic opposing refugees and hosts through their aid programmes, research has documented how refugees' and hosts' identities and actions merge within Lebanon's urban spaces, leading to shared entanglements and overlaps. Rather than constituting non-city enclaves, refugee spaces in Beirut have

stretched within the city, generating a dense web of commercial, economic, and social networks with surrounding areas. In such spaces, refugees and hosts have tangled economies and livelihoods. In Nab'ah, a poorer neighbourhood in Beirut, Lebanese citizens have for decades shared the space with various migrant and refugee groups such as Egyptian workers, the recently displaced Syrians, or the Kurdish-Syrian refugees who fled Syria way before the 2011 war (Fawaz 2016). It is within this continuum of entangled fates and everyday interactions that refugees and hosts create their own polycentric networks in which governing as a totalizing rationality, but not the totality of the story, can be unveiled.

## Refugees as Political Catalysts and Protagonists

Looking at refugees as negotiators of humanitarian scripts, aid providers, and hosts helps to destabilize the institutionalist lens of polycentric governing. At the same time, this endeavour remains incomplete if we do not account for the various ways in which they contest and reshape policy and politics through acts of collective organizing and transgression.<sup>6</sup>

In the context of deteriorating living conditions and Lebanon's restrictive policies, Syrian refugees have not remained idle. Researchers have documented a series of contentious performances such as sit-ins, protests, or roadblocks that the displaced Syrians have initiated either to voice cross-border grievances in the light of the war in their country, or to denounce their deteriorating conditions in Lebanon (Abiyaghi and Younes 2018; Clarke 2018). Contentious action spanned both remote areas such as Aarsal in northern Lebanon (Clarke 2018) and more central urban centres such as Beirut (Abiyaghi and Younes 2018). It also extended beyond episodic mobilization, crystallizing into forms of collective organizing. Displaced Syrians have thus been actively engaged in setting up refugee-centric organizations that focus on manifold claims. Some of these organizations have focused on improving refugee livelihoods and protection needs (Al-Saadi 2015), sharply criticizing the politics of short-term humanitarian aid.<sup>7</sup> Others have engaged in higher-level activism, denouncing deportations from Lebanon or human rights violations in Syria, as well as engaging in conflict regulation efforts in their home country (Al-Saadi 2015; Werlander 2015; Clarke 2018).

Lebanon's 2019 nationwide revolutionary episode, commonly framed as the 'October uprising', provides insightful terrain for understanding how Syrian refugees have acted both as political catalysts and protagonists. The

nationwide protests that erupted in the wake of a WhatsApp tax aimed at overthrowing Lebanon's political leaders and changing a political model that promotes corruption and impunity. As most Syrian refugees lack legal residency papers, few of them participated in Lebanon's iconic protest marches. Still, they acted as political catalysts whose struggles helped to uncover, identify, and further expose the failures of Lebanon's political system. Though refugees were at the margins, some protesters adopted their cause as one of the key references in their graffiti and protest performances (Nagle and Fakhoury 2021). Protesters further capitalized on crosscutting struggles from workers' to refugees' rights, debunking the narrative of the refugee as a liability and shifting instead the focus to Lebanon's political regime and its failings. It is within this perspective that Baylouny attracts our attention in highlighting that refugees' struggles help to unmask deeper citizens' grievances and structural inequalities within domestic and international settings (Baylouny 2020).

Though refugees were physically at the margins in Lebanon's protest marches, they still orchestrated major sit-ins at the UNHCR headquarters in Tripoli and Beirut throughout 2019 and 2020. During those sit-ins, they criticized underfunded aid programmes, lack of housing options, limited international responsibility sharing and shrinking resettlement plans (Matar 2019; Enab Baladi 2020). Slogans displayed during those protests centred on their rights, dignity, and future aspirations.

Such mobilizations have not left the UNHCR indifferent (UNHCR 2020). Indeed, the UNHCR has since then carefully rethought how its cash assistance programmes to Syrians and non-Syrian refugees as well as Lebanese citizens could be reconfigured to align with the 'leaving no one behind approach' (UNHCR 2022).<sup>8</sup>

Contentious refugee action has not only centred around mobilizations and organizing. It has also articulated itself through everyday politics. Thus, refugees have wrestled daily with administrative hurdles either with Lebanese bureaucracies or UN agencies (Ozkul and Jarrous 2021). On the bustling streets of the Hamra neighbourhood in Beirut or the popular souks in Tripoli, they have engaged in daily political debates on their entitlement to rights, space, housing, and water.

Everyday contentious action has further articulated itself through refugees' decisions to disrupt borders and restrictions, realizing what Achiume (2019) frames as an act of decolonization. In the wake of Lebanon's economic collapse, many have chosen to take the boat to Cyprus, or to reach the EU through via sea or land. Against this backdrop, their daily acts of despair, the continuous wrestling with administrative hurdles such as waiting in line

to receive cash assistance, as well as the decision to seek options beyond Lebanon, have constituted bottom-up sites of refugee resistance.

Such examples reflect powerful means through which refugees exercise the right to shape their fate, notwithstanding restrictive policy practices and limited resettlement options. At the same time, these examples are yet to receive recognition in mainstream policy studies and strands of literature that focus on institutionalist analyses of polycentrism. However, it is by retracing such subaltern scripts that we can explore how refugees rewrite ontologies of polycentric governing, and how they strike back, positioning themselves as central actors who can negotiate alternative forms of humanitarianism and systems of ordering.

## Preliminary Conclusions/Lessons?

Can a decolonial reading of polycentric governance in dialogue with the field of refugee studies, and more specifically, the politics of refugee voices, representations, and narratives, contribute to undoing coloniality in polycentric governing research? And can it delink polycentrism from institutionalist governance research, delving rather into relational comparative histories and geographies (Hart 2018)?

By engaging with empirical illustrations from refugee spaces in Lebanon, we do not intend either to glorify bottom-up refugee governance or present an idealized or idyllic account of it. Rather, we have sought through these examples to *decentre* then *recentre* the lens through which we conceive and perceive polycentric governance. We have shown that while accounting for structures and regimes of governance is crucial, it is still possible to ask questions differently. Some of the questions that our analysis could inspire are: how do refugees renegotiate polycentric aid systems and aid dependencies as laid out by institutions and governments? Under what circumstances do they play the role of political and social catalysts, identifying cumulative failures in colonial authority, political systems, and humanitarian aid? What strategies do they resort to break away from their 'stalled lives' and spirals of waiting; temporal orders that top-down institutions reproduce to maintain their *raison d'être*?

These questions open a myriad of ontologies that remain hitherto unexplored: how do refugee-led forms of governing stand in counterpoint to the totalizing movement of top-down polycentricity led by governments and international organizations? How do they 'account for what is no more'? And how do they explain 'the planetary complexity of contemporary governing

beyond elements borrowed from power, structures, legitimacy, and hierarchies'? And what do refugees' ways of *unsettling* and *re-governing* governance tell us about the spaces and temporalities that the notion of polycentric governance erases? In a yet more critical perspective, does accounting merely for bottom-up refugee strategies enable us to break away from an analysis of governing as a top-down process? And to what extent does including their 'previously excluded voices' allow us to 'desilence' what polycentric governance mutes? Finally, how do we escape the trap of glorifying refugee sites as sites of resilience and creativity, a logic that colonial authority and top-down polycentrism have used to legitimize their importance (Edkins 2000; Harrell-Bond 2002; Turner 2012)?

Given the parameters of possibility granted to us by a volume like this one, we see that our task in this response is naming an outside of the epistemic totalizing movement of polycentric governance. As a concept and analytic, we invite a positioned understanding of its explanatory possibilities. A positioned understanding means that it is localized within the epistemic territory of modernity, modern selfhood, and subjectivity, and when it is articulated as a response to planetary operations of power, domination, control, and so on, it reveals its own geo- and body political location from its coloniality.

So, to be clear, this response is not about representing a decolonial proposal on polycentric governance, nor does it claim the possibility of decolonizing polycentric governance. We embrace a productive tension that emerges from the task of undoing the coloniality of polycentric governance and delinking it from institutionalist governance research, and that is what we explain through our take on the notion of coloniality of power and gender, and our illustration of how refugees decouple polycentrist from institutionalist and colonial pathways.

To undertake coloniality as an onto-epistemological point of departure while accepting the task of undoing its manifestations in polycentric governance as two women of colour working in European academia is nonetheless a highly problematic task. It requires us to undo silencing and dehumanization with conceptual tools and means of academic validation such as expert use of theories in colonial languages and writing styles that are complicit precisely with our own silencing and dehumanization (Sheik 2020).

So far, there seems to be no way out without pain, without reactivation of trauma, and without sensing the colonial wound. This carries a huge ethical responsibility for us as researchers, teachers, and mentors within academic institutions that deny our full humanity and wholeness (Motta 2018). If our aim is to illustrate how to conduct a feminist decolonial critique of

polycentric governance to radicalize knowledge praxis, we can only hope to find solace in *learning each other* as women of colour (Alexander 2005, 2, 300) and invite others to encounter each other as we have done here through our co-authored piece aiming at naming the logics and disembodied rationalities that try to enclose our imaginations (Motta 2016).

## Notes

1. For the analysis of commonalities and differences between world system analysis, Immanuel Wallerstein's historical capitalism analysis, and coloniality as an analytic, see Mignolo 2002.
2. The argument of an exteriority of modernity is informed by Enrique Dussel's dialogue with Gianni Vattimo's work (see Dussel 1999). For a genealogy of the emergence of this critique see Mignolo 2002.
3. Aydan Geatrick, interview with the author, London, February 2022.
4. Informal conversations and interviews with Lebanese residents, Beirut, December 2021 and January 2022.
5. Refugee Hosts Project—Recommendations for Research and Practice #3 Refugee-Host Relationality October 2021.
6. For an account on how to capture migrant and refugee agency, see Paret and Gleeson, 2016.
7. One of the authors' informal conversations and interviews with refugee-centric organizations in Lebanon (2014–20).
8. Informal conversations with UNHCR officials, Beirut, 2020.

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**PART II**  
**ORGANIZATIONAL APPROACHES**



# Institutional Complexity and Political Agency in Polycentric Governance

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## Introduction

On 1 June 2017, US President Donald Trump announced that his government would withdraw from the 2015 Paris Agreement on climate change. He justified this step by claiming that he expected severe economic damage to the US economy if he failed to do so. Instead of the Paris Agreement, he lauded the Group of Seven (G7) as a forum that yielded the kind of fair and reciprocal deals that he was willing to honour and promote ([White House 2017](#)).

This was not the first time that a US president had announced a step back from a major United Nations (UN) climate treaty whilst stressing the benefits of smaller multilateral arenas. In June 2001, US President George W. Bush formally rejected the Kyoto Protocol, which he considered ‘fatally flawed’ ([White House 2001](#)). Like his successor sixteen years later, Bush criticized the climate treaty as unfair and inefficient, as it put a disproportionate burden upon the economy of his own country. Following this withdrawal announcement, the Bush administration initiated a series of ‘minilateral’ climate and energy arrangements as alternative solutions—institutions that, in their small and economically wealthy membership and their liberal trade orientation, were akin to the G7. An example of such a ‘rich country’ club cooperating on climate change is the now-defunct Asia-Pacific Partnership on Clean Development and Climate (APP).

These two remarkably similar events, and the rhetoric that accompanied them, highlight three major aspects that have marked the development of international climate governance, and global governance in general, over the past two decades. Firstly, multilateralism is undergoing a crisis, as the fairness and efficiency of leading and internationally encompassing institutions such as the UN and the European Union (EU) is frequently questioned. Instead



of seeking to dismantle such international institutions, their critics endorse creating or supporting alternative, often smaller, institutions whose agenda better fits their particular preferences. Such alternative institution-building is not only performed by powerful governments, but equally by the leaders of developing countries as well as civil society and business actors who feel that the existing institutional architecture does not help them to reach their goals.

Secondly, while this practice implies the increasing complexity of global governance—by the proliferation of institutions that overlap or conflict on certain objectives—the building of new intergovernmental or transnational institutions demonstrates a strong determination upheld by their founders and members; specifically, the will to exert political agency in a complex governance system. Put differently, institution builders and members believe that they can successfully navigate and alter the very complexity they are creating.

Thirdly, the optimism about these possibilities paradoxically coincides with a limited perception and knowledge of the institutional landscape that political agents are manoeuvring through. Members and audiences of global governance institutions today tend to criticize the deals struck by leading institutions, such as the UN climate agreements, and hold them accountable for developments in ‘their’ policy field of global governance. Audiences and members do so because they simply cannot keep track of the hundreds of institutions operating in a contemporary policy field like climate change. Beyond the world of practitioners and scholars, only a minority of stakeholders will have heard about the APP or know that the G7 has played a relevant role in climate governance. Criticizing the main institutional hub is therefore often a heuristic or mental proxy for criticizing global governance efforts for a political problem in general.

Taking these three aspects together, institutional complexity both opens and closes certain doors for political initiatives. For instance, while some individual actors see the proliferation of institutional platforms as an opportunity to achieve their goals, the resulting intricacy of political relations and arrangements poses challenges to general oversight and accountability. To render this insight in the form of a question that guides the focus of this chapter we therefore ask, *which opportunities and restrictions for political agency exist in today’s complex global governance?*

In the following pages, we argue that, in an increasingly complex institutional global governance, with its growing levels of unpredictability and uncertainty, we need to go beyond certain classical institutionalist understandings about power and agency. Institutional complexity is an inherent structural characteristic of global governing today that may affect the

core functions ascribed to institutions by both neoliberal and sociological institutionalist scholars, such as the shaping of actors' preferences and norms. Against the backdrop of a growing number of institutional alternatives, these and other functions of individual institutions may be significantly compromised and lose traction.

We argue that a more suitable approach to understanding such dynamics lies in the reconceptualization of global governance in terms of complex systems. Complex systems are dynamic instead of static, dispersed instead of centralized, and unpredictable instead of being predictable. All of this presents profound challenges to agency, which is then seen as a function of complex structures and ties rather than of 'actorness'. In such dynamic systems, the core categories of institutional theories—such as power, interests, or norms—cannot be assumed as stable.

We will argue that the ability to meet these challenges depends upon the epistemic and organizational qualities of political agents, amongst other elements. These qualities may serve certain actors in attaining and upholding meaningful political agency in a state of complexity. As our specific contribution to this volume and its three core themes, we develop the argument that such qualities may facilitate new forms of power, techniques, and legitimacy for navigating complex institutional landscapes and their uncertainties. To illustrate this argument for each of the three themes we will use examples from global environmental governance. Before we attend to the themes, the next section will introduce our understanding of institutional complexity and the most recent scholarly views of this phenomenon.

## **Institutional Complexity in International Relations**

### **Main Concepts**

Political agency is defined here as the capacity of individual and collective actors to consciously address social affairs. In this sense, political agents direct attention in a targeted manner to affairs that transcend their own private sphere (Hay 2002; Coole 2019). Understood in this social and intentional manner, political agency can be set apart from other definitions of human agency, for example from sceptical and restrictive views of agency, such as post-structuralist understandings, as well as from moral definitions that imply an ethical directedness, e.g. neo-Kantian understandings (Kuus 2019).

In our understanding, agency uses power as a source to produce certain effects, and rationality as the underlying mechanism that informs the choices and processes of this production. That said, this definition does not engage

in further theoretical and philosophical debates by leaving open which types of power and rationality are involved, thereby allowing for a large spectrum of sources and logics of agency, from material to non-material power (e.g. financing capacities vs knowledge) and from rationalistic to sociological logics of action (e.g. being driven by one's interests or one's values) (Marchetti 2013).

A core debate in political theory regards the relationship between agency and structure, i.e. to what extent the structures in which they are embedded enable or restrain agents in their efforts to produce certain social effects. Structures can refer to a series of intangible phenomena (e.g. discourses, power constellations, interest asymmetries, fields, or assemblages), which are addressed in this volume by Overbeek, Marchand, Beckmann, Gadinger, Sandor, and Esguerra. Here we look at one of the visible and tangible structures in which political actors are embedded today, namely political institutions and the complex relationships among them.

We follow the broad understanding of a system's complexity as 'a matter of the quantity and variety of its constituent elements and of the interrelational elaborateness of their organizational and operational make-up' (Rescher 1998, 1). Along these lines, institutional complexity has been defined by Biermann et al. (2009, 16) as a 'patchwork of international institutions [addressing a given issue area of global governance] that are different in their character (organizations, regimes, and implicit norms), their constituencies (public and private), their spatial scope (from bilateral to global), and their [predominant] subject matter'. As its various attributes suggest, the definition leaves considerable room for interpretation, depending on which types of inter-institutional relations are being stressed and which understandings are applied to key terms like 'global governance', 'institutions', 'policy field', or 'public' and 'private'. We shall therefore briefly clarify our perspective on each of these terms.

Most importantly, institutional complexity in global governance does not only refer to the large variety of public or intergovernmental institutions— as different to one another as the UN is to the International Commission for the Conservation of Atlantic Tunas—but also includes an abundance of private or transnational institutions driven by varying interests (e.g. the Forest Stewardship Council or the World Business Council on Sustainable Development) and public-private hybrids such as the UN Global Compact or the Renewable Energy and Energy Efficiency Partnership (see also Quack, Chapter 6, this volume).

Institutional complexity research has thus moved on from its early days in international law literature when the focus was solely or largely on intergovernmental institutions (Koskenniemi and Leino 2002; Hafner 2004).

International relations (IR) authors who joined the debate early on soon extended the focus towards transnational institutions and public-private partnerships (Bernstein and Ivanova 2007). In the same vein, the understanding of global governance in the above definition is a very broad one, encompassing ‘all coexisting forms of collective steering of social affairs, by public and private actors, that directly or in their repercussions, transcend national frontiers’ (Zelli 2018a, 222).

International institutions, be they intergovernmental or transnational, are one major instrument in providing such collective ‘steering’. We follow Robert Keohane (1989, 3) who defined institutions as ‘persistent and connected sets of rules (formal and informal) that prescribe behavioural roles, constrain activity, and shape expectations’. This leaves space for various types of institutions including *organizations*, i.e. institutions with ‘purposive entities ... capable of monitoring activity and of reacting to it’ (Keohane 1989, 3). Organizations are, therefore, institutions that can have agency in their own right by performing certain functions, often through specific agencies like a secretariat or an appellate body, such as the World Trade Organization.

Other prominent types of institutions are regimes, i.e. ‘institutions with explicit rules [...] that pertain to particular sets of issues in international relations’ (Keohane 1993, 28). Regimes do not have actor quality but can function as a legally connected set of treaties governing the same issue area, e.g. the Ozone regime that unites UN-based agreements to address Ozone layer depletion (from the 1985 Vienna Convention and the 1987 Montreal Protocol to the 2016 Kigali Amendment). In addition to these traditional types of international institutions, there are more loosely coupled types, which include initiatives, i.e. connected rule systems with a relatively low degree of persistency (meaning that they may be short-lived or very malleable), e.g. the now-defunct APP, and networks, i.e. institutions with low degrees of both persistence and connectedness (Zelli et al. 2020; see also the contributions to this volume by Rajah (Chapter 8), Liste (Chapter 9), and Esguerra (Chapter 12)).

The institutions that address a specific policy field, subject matter, or domain of international relations together form the institutional complex for that field—with ‘institutional architecture’ being used as a synonymous term on occasion. Importantly, while the above definitions may help to clarify what counts as an institution, there is still considerable leeway for determining which institutions are part of an institutional complex, and which are not. For instance, one can identify an institutional complex for climate change that ‘only’ unites those international institutions that seek to address climate change as one of their core goals and mandates. An alternative and broader reading, however, could also include institutions whose mandates

are relevant for climate change (e.g. the UN Security Council on questions of climate-induced disasters and migration).

As these two different readings show, the delineation of a policy field is key for the definition of an institutional complex. As rationalist as our definition of institutions may be, this delineation has a necessarily constructivist or subjective aspect. It ultimately depends on how certain observers or participants frame an issue in question—for instance, whether climate change is also considered a security problem, or whether renewable energy governance includes or excludes nuclear energy (Van de Graaf and Zelli 2016).

In line with these clarifications, the above definition implies that institutional complexity concentrates on one particular aspect of polycentric governing, namely governing through and across institutions in global governance. Following Gadinger and Scholte in their introduction to this edited volume, ‘polycentric’ is understood here as a generic term that does not only allude to institutional pluralism and the emergence of different institutional centres in the sense of Vincent and Elinor Ostrom (Ostrom 2014; see also Thiel, Chapter 5, this volume) but also takes into account governing modes within and across other political and social dimensions, such as scales and sectors.

## Unpacking Complexity

Over the last fifteen to twenty years, scholars identified coordination problems between institutions and their competition for regulatory primacy. One research tradition scrutinized dyadic overlaps between two or more individual institutions, e.g. between the United Nations Framework Convention on Climate Change (UNFCCC) and the World Trade Organization on questions of emissions trading and border adjustments (Oberthür and Gehring 2006; Zelli 2010). This research perspective includes literatures on inter-organizationalism (R. Biermann and Koops 2017) and regime interaction (since the 1990s, esp. Young 1996; Oberthür and Gehring 2006; Stokke 2012).

Scaling up the level of analysis, other research programmes looked at complexity among institutions of an entire policy field, thereby keeping in line with the broad definition offered above. Arguably the most influential of these programmes addresses ‘regime complexes’ for particular issue areas like climate change or plant genetic resources (Raustiala and Victor 2004; Keohane and Victor 2011), with similar studies conducted under labels such as institutional fragmentation, polyarchy, contested multilateralism, or the

nexus approach (Morse and Keohane 2014; Zelli et al. 2020). These research traditions led us to today's consensus that a thorough understanding of an intergovernmental or transnational institution is not possible without taking its wider governance environment into account.

However, the more scholars brought complexity into their institutional research, the more they came to recognize the considerable need for a stronger theoretical foundation, conceptual clarity, systematic empirical analyses, and cross-disciplinary fertilization (Jervis 1997; Geyer 2003; Kaval-ski 2007; Keohane and Victor 2011; Zürn and Faude 2013; Haynes 2015; Room 2015). The complexity sciences, a loosely coupled group of theories, methods, and techniques, may offer a promising avenue for addressing these challenges. Taking cues from the so-called 'hard sciences', as well as from certain strands in social science, the complexity sciences have given rise to a diverse field of inquiry that focuses on non-linear dynamics, the temporality of structures, and (subsequently) the limits to predictability that come as a consequence of these elements.

The complexity sciences are first and foremost concerned with uncovering the causality of seemingly complex structures and processes. As such, there is no complete theory of agency. Instead, the limitations of agency in complex systems are put into focus. As evidence mounts that agency is primarily located in relationships or ties between nodes, we must accept that conventional understandings of political agency—where an agent has more or less direct control over the outcome—require a thorough updating. Obtaining such an advanced understanding is pivotal, as the institutional complexity impacts agency not only in what can be achieved politically, but also in other crucial aspects such as legitimacy, accountability, and the skills required to navigate this complexity.

Taking on board complexity-related tenets and tools from other fields would therefore help to advance our theoretical thinking and methodical repertoire significantly—in particular in embracing major properties of complexity such as uncertainty and unpredictability (Reed and Harvey 1992; Jervis 1997; Gerrits 2012). The benefits of integrating such concepts and methods into research on international institutions have been demonstrated in pioneering studies, e.g. in organizational ecology (Abbott et al. 2016), social network analysis (e.g. Kim 2013; Hollway and Koskinen 2016), agent-based modelling (Axelrod 1997), actor-network theory (Law 1992; Latour 1996), and science and technology studies (Mayer and Acuto 2015). In the following arguments, we will sketch out how some of these approaches can help us to understand political agency, power, techniques, and legitimacy in complex institutional systems.

## Power in Institutional Complexity: From Epistemic and Organizational Capacities to Nodal and Protean Power

Power is closely related to political agency. It is a key source of successful agency, i.e. of producing effects that have been (at least partly) intended. We need to improve our understanding of how different and potentially new forms of power are facilitated or obstructed in a complex institutional setting. Only a few scholars writing about institutional complexity have so far addressed questions of power and changes thereof in a systematic way (Morrison et al. 2019). Orsini (2013) distinguishes three types of capacities that actors may apply to exert power in complex governance systems: (1) material capacities, i.e. all material assets (manpower, financial resources) that actors may use in exchanges with other actors across institutional arenas; (2) epistemic capacities, i.e. the ability to process, produce, or reproduce the typically large flows of information in a complex institutional system; (3) organizational capacities, i.e. to build and ensure the functionality of institutions and to network with members and non-members.

Our main argument in this chapter is that material capacities are becoming, on balance, less relevant in complex (governance) systems, and that effective political agents need to rely on epistemic and organizational capacities to nudge the system towards intended effects. This goes back to the observation that the dynamics of complex systems stem from the interconnected nature of such systems (Rescher 1998). Material capacities can still be used but only in conjunction with the other two capacities, and as long as it is understood that material capacities alone are not enough to swing things in a certain way.

The outcomes in complex systems derive from the interaction between all elements or nodes. In such settings, an actor's power, no matter what it is based on, cannot be held constant, since the environment to which this power relates is dynamic and depends on many other factors. Static material aspects are hard to improve upon effectively, but assets like knowledge and networks can often be more easily deployed in order to enhance effectiveness in the network (Slaughter 2017, 174). Complex governance systems benefit agents who can quickly navigate across these spheres due to their epistemic and organizational understanding of the situation and ability to connect across the network. Insights into the complexity of the setting and the connectors between the different spheres is pivotal. Actors without such qualities, even if they have considerable material power, are disadvantaged (Zürn 2018).

Which particular epistemic and organizational qualities best help agents when they exploit the spaces in a complex governance network? Following

theories of organizational ecology, such as so-called density-dependence and fitness set theories, it seems that highly complex problems such as climate change with numerous sub-fields and at times transient debates (e.g. on carbon taxes, carbon markets, short-lived climate pollutants, geoengineering) favour political actors, both as individuals and collectives, with broad and generalist knowledge, and with connective capacity (Freeman and Hannan 1983; Singh and Lumsden 1990, 165; Abbott et al. 2016). This would explain why the UNFCCC and its secretariat, in spite of various crises (e.g. failed summits at The Hague 2000 and Copenhagen 2009) remains the hub of global climate governance today and, as we explain further, successfully shifted its role from a top-down regulator to a watchdog-style orchestrator through its skilful adaptation (van Asselt and Bößner 2016). We will come back to this example in further detail in the next section.

That said, in a complex environment, specialist individual or collective actors also need to be highly flexible in order to adapt to new niches and to keep a certain level of agency. Some expert organizations might enter and exit together along with ‘their’ theme, while others in this population might survive and be influential even though the particular theme is in decline. The evolving discussion around a set of climate-related technologies discussed under the label of ‘geoengineering’ helps to illustrate this point. The term originally summarized ideas revolving around the intentional altering of the Earth’s atmosphere at a global scale, with the aim of reducing the impact of global warming. Their potentially disruptive nature led observers to call for some form of oversight, giving rise to a handful of non-governmental organizations and research institutes dedicated to advancing the geoengineering governance agenda. In the absence of intergovernmental governance arrangements, these private actors partly filled the governance niche by defining an agenda and providing frameworks for self-regulation, thereby becoming prime movers of international institutionalization in this field (Zelli et al. 2017).

Recent years have seen a change of narrative, however, in which geoengineering as an overarching term has lost traction (see next section). Many geoengineering governance initiatives lost visibility and influence during this discursive shift. Those actors that did survive it, including the ‘C2G’ initiative, which changed its name from ‘Carnegie Climate Geoengineering Governance Initiative’ to ‘Carnegie Climate Governance Initiative’, adapted their language and focus (Möller 2020). These are the hallmarks of epistemic and organizational qualities, rather than material ones.

These lines of argument about the relevance of epistemic and organizational qualities imply that new forms of power become relevant in complex



institutional systems. We briefly refer to two of these forms, both of them relying strongly on epistemic and organizational capacities.

The first one, nodal power, gives agents the possibility of identifying, reconsidering, and frequently improving their position in certain networks, e.g. to act as gatekeepers and communicators across different spheres of authority. Under conditions of institutional complexity, those resources that help exploit such specific points and ties in a network will be especially advantageous. These resources are largely epistemic and organizational in that they provide the opportunity to identify important themes and actors to address (Ormerod 2012). Social network analysis distinguishes how different types of nodal centrality and brokerage (e.g. degree, betweenness, and closeness) condition an actor's abilities to pursue different goals (e.g. controlling information flows or forming strong alliances) (Granovetter 1977; Kahler 2009; Borgatti and Halgin 2011).

Taking the earlier examples, the UNFCCC secretariat exerted nodal power when using its network centrality—as the universal intergovernmental institution with the broadest mandate in global climate governance—to grow into an orchestrating role (see also next section). Meanwhile, the much smaller and flexible C2G initiative used its nodal power to successfully navigate and adapt to discursive changes in the discussion around geoengineering, thereby maintaining its political agency in advising decision makers worldwide (Möller 2020).

This property is closely related to another type of power, which itself is essentially linked to adaptability. Katzenstein and Seybert (2017) call this quality 'Protean power', i.e. creatively responding to conditions of uncertainty and congestion. Novel alliances like public-private partnerships, for instance, have been credited as innovative means of breaking institutional gridlocks in global climate governance (Hale and Held 2012). One example is the Climate and Clean Air Coalition created in 2012. This institution addresses short-lived climate pollutants—a topic that at the time of the coalition's inception had not gained major traction at UN climate summits. The coalition managed to include climate laggards like Canada and to facilitate collaboration on the issue among governments, businesses, civil society actors, and research institutions (Zelli and van Asselt 2015; Zelli et al. 2017).

Slaughter (2017, 174) refers to this joint creativity as 'power with' in contrast to 'power over', and stresses that, like other types of power, this power 'cannot be held or amassed; rather it occurs spontaneously and must continually emerge anew'. This resonates strongly with the points made above: in complex systems, power is located in the ties in networks. These ties are not a given and may change over time, as the context is anything but

static. Contrary to what Slaughter's statement may suggest to some, we like to stress that this dynamic does not rule out the ability of actors to learn how to navigate networks. There is a level of self-organization—network structures simply evolve under pressure as actors seek to realign—but that does not rule out intentionality. Indeed, actors that are better at maintaining connectivity and alignment with like-minded actors will be in a better position to achieve the desired outcome (Abbott et al. 2016). Dynamic social network analysis can help to study the conditions under which actor networks catalyse or hamper these emergent forms of nodal and adaptive power.

## **Techniques in Institutional Complexity: Navigation, Orchestration, and Simplification**

In the following sections, we illustrate how political agency is achieved through particular techniques, and how these techniques depend on nodal and adaptive forms of power. Following our definition of political agency given above, we understand techniques as sets of intentional strategies by which an actor tries to address social affairs in an institutional environment characterized by uncertainty and unpredictability. In our analysis, we will use the term 'technique' to indicate broader approaches and 'strategies' to indicate more specific examples. We have singled out three techniques to demonstrate the relevance of epistemic and organizational capacities: navigation, orchestration, and simplification. We concentrate on these three approaches to show how far the literature has come in identifying such techniques, where we can learn from other disciplines, and under what conditions these techniques succeed or fail, depending on the factors on which they are based.

The complexity literature in IR has come quite far in identifying *navigation* as a technique for acquiring political agency. Navigation, in our understanding, refers to the phenomenon that occurs when different types of actors, both public and private, make intentional use of different institutions, or 'forums', to further their goals. Navigating a complex institutional environment requires actors to survey a surrounding network and, crucially, to recognize their own position within it. For this, they need the epistemic capacity to be continuously aware of a large variety of institutions, their goals, their main members, and opportunities to influence their agenda. They also need the organizational capacity to move flexibly and take advantage of recognized gaps and opportunities, to be networked enough to spread

information about certain forums widely, and to gather the attention of potential followers.

Specific examples of strategies that illustrate this technique particularly well include ‘forum-shopping’, which is defined as ‘the strategic use of different institutional settings to make progress on a given agenda’, as well as ‘forum-shifting’, which refers to ‘the changing of discussion forum, i.e. moving the debate on a particular issue to an area that better reflects an actor’s interest’ (Orsini 2013, 41). Nodal power—as a crucial network position utilized to identify beneficial settings and gather support for them—and adaptive power—allowing agents to creatively juggle and shift forums—are essential assets for these strategies to be successful.

To illustrate the technique of navigation, and in particular the strategy of forum-shifting, we can learn from ongoing changes in the geoengineering debate. When geoengineering was first proposed in the mid-2000s, it circulated among a small network of natural and social scientists known to some as the ‘Geoclique’ (Morton 2015). Within this informal network, two major and significantly contrasting types of engineering approaches, large-scale carbon dioxide removal (CDR) and large-scale solar radiation management (SRM), were considered together. Given its invasive character, the latter approach was quickly met with considerable resistance and concern from different scientific communities. CDR was also not given a warm initial welcome. Both the informal nature of the Geoclique group and their decision to include the highly controversial approach of ‘stratospheric aerosol injection’ under the umbrella of geoengineering inhibited the wider acceptance of CDR as a solution to climate change.

This reluctance was overcome through an act of forum-shifting. CDR techniques (now reframed as ‘negative emissions technologies’, or NETs) became included in the 2014 Intergovernmental Panel on Climate Change scenarios and were translated as ‘net-zero’ approaches in the 2015 Paris Agreement (Anderson and Peters 2017). Based on this reframing within the leading scholarly and political forums on climate change, actors interested in CDR had much more powerful and authoritative institutions at their disposal through which to promote their interests. To further increase the level of acceptance in and through these forums, CDR supporters pushed this reframing even further. They began to negate the connection between CDR and SRM, and even the usefulness of geoengineering as a concept. The Intergovernmental Panel on Climate Change has since reinforced this development by eliminating the term geoengineering from its analyses. The result of this regime-shifting strategy is an increasing normalization of CDR/NETs

as a particular form of mitigation, rather than being part of an entirely different, and largely problematic approach like geoengineering. This development is reflected in the almost ubiquitous presence of ‘net-zero’ targets in key political documents on climate change (Carton 2019).

Another technique for attaining political agency in complex institutional systems that has become widely recognized in IR literature is orchestration. Orchestration refers to a set of governance strategies that use a non-binding and self-regulating approach, and that address target actors via a third party (Abbott et al. 2015, 21). When facing a complex system of actors and institutional arrangements, intergovernmental or transnational organizations have far less capacity to adopt hard or direct rules for their sphere of global governance than governments usually do in a domestic context (Abbott et al. 2015, 11). As a potential remedy, international organizations may use the more indirect and soft technique of orchestration. Such forms of governing ‘via the back door’, inasmuch as they offer incentives and nudge others to realize the agent’s own goals, require the elements we discussed above: nodal power in the sense of a central network position in a policy field, adaptive power in the sense of a creative reinvention of one’s role in that policy field, and the epistemic and organizational capacities underlying these forms of power.

To illustrate the technique of orchestration, we shall look once more at the UNFCCC, which has increasingly relied upon these qualities and forms of power as a way to overcome crises. After the failure of the Copenhagen summit in 2009 to produce a successor to the Kyoto Protocol, UN climate negotiations changed tack. Instead of insisting on staying a hub for a top-down approach with specific overarching emissions targets, the UNFCCC increasingly played the role of an orchestrator towards governmental and non-governmental actors. Under the 2015 Paris Agreement, countries have been tasked with producing their own objectives and plans of action, known as Nationally Determined Contributions, while the UNFCCC secretariat and other agencies have served as reviewers of that information.

Similarly, the Non-State Actor Zone for Climate Action platform established a registry that allows the UNFCCC secretariat to keep track of commitments by a wide variety of non-state actors, including municipal and regional networks, private-led initiatives, investor networks, and public-private climate governance partnerships (Zelli and van Asselt 2015). Likewise, the UNFCCC’s Lima-Paris Action Agenda, launched in 2014, encouraged new governance initiatives and became a major pillar in the Paris negotiations one year later (van Asselt and Bößner 2016, 58–60).

With a third and final technique, simplification, we point at the limits of nodal and adaptive power. For this, we look beyond the current literature on institutional complexity and refer to evolutionary psychologists and organizational sociologists. Simplification concerns the idea that actors turn to more simplified logics and ‘truths’ when faced with an increasingly complex system (Schwenk 1984; Kontopoulos 1993; Lefebvre and Letiche 1999; Boisot 2000; Cooksey 2000; Gerrits 2012, 102–131; Haynes 2015). As the body of knowledge on such logics shows, the use of simplified heuristics is inherent to human behaviour in general and to behaviour towards political institutions in particular (Alter and Meunier 2009; Lenz and Viola 2017). As such, simplified heuristics are also likely to be found in complex institutional settings. Our examples given at the beginning of this chapter showed how the UN climate regime was deemed as being flawed by core actors, the identification of which thereby discursively replaced a much more complex system of large and diverse institutions with a simplified mono-institutional proxy of climate change governance.

Heuristics are helpful in coping with complexity, as a multiplicity of options can result in an inability to compute the many possible consequences (Gigerenzer and Goldstein 1996; Rescher 1998). In the face of such intractable complexity, actors are highly likely to rely on cognitive shortcuts in order to navigate the situation. For example, they are more likely to follow the same strategy or decision repeatedly instead of selecting an alternative that is further removed from their previous experience (Gerrits and Marks 2017). In the US context, this heuristic meant, at least for the recent Republican administrations, withdrawing from a core UNFCCC treaty. Another example of a cognitive shortcut being deployed to simplify a complicated issue is the Brexit debate: the EU has been simplified over the course of the debate as being the culprit for economic shortcomings instead of taking into account the much wider institutional complex of economic and trade agreements and Britain’s own internal policies.

The number of types of such heuristics is vast, encompassing such shortcuts as: the affect heuristic, i.e. selecting the option an actor likes most (e.g. Slovic et al. 2007); the availability heuristic, i.e. selecting the option that can be compared to a readily available current example (e.g. Miller 2009); or the effort heuristic, i.e. selecting the option that had the most effort put into it when it was being prepared (e.g. Kruger et al. 2004). The important point across these and other types is that heuristics are a core survival mechanism in the face of complexity, but also a source of that same complexity. They allow actors to get things done, and they do not seem to perform less well than rational approaches. However, the simple rules that help agents to cope

with complexity are the same ones that give rise to that complexity (Holland 1995; Goldstein 1999; Gerrits 2012).

These heuristics thrive because much of the complexity is ignored. Agents act upon a simplified understanding of reality and therefore leave many aspects unattended. What appears to be a solution in the short run may create many unforeseen effects later on, which requires further acts of political agency in their own right (Gerrits 2012). Simplification is therefore not the antithesis of complexity; it is one of its actual drivers or reinforcers of it, as the example of Brexit and the aftermath of complicated negotiations and new institution-building illustrates. Against this backdrop, Cilliers warns against oversimplification and the risks of maladaptively developing or repeating counterproductive actions based on insufficient information (Cilliers 2002). Put differently, lack of more generalized knowledge in a complex institutional setting undermines adaptive power and political agency in the long run.

## **Legitimacy in Institutional Complexity: Perception Gaps, Technocratic Bias, and Horizontal Accountability**

A plethora of questions link legitimacy to questions of agency, e.g. the different strategies for legitimation and delegitimation, the sources of agent-based legitimacy, or how agents deal with the consequences of legitimacy crises (Tallberg et al. 2018). In the following sections, we will focus on sources of legitimacy, and develop three arguments about how the importance of epistemic and organizational capacities in institutional complexity may either strengthen or undermine the legitimacy of institutions.

Firstly (and in continuation of the previous argument about simplification), the challenges that institutional complexity sets to epistemic capacities may have an immediate impact on the sociological legitimacy of many institutions. Sociological legitimacy refers to an audience's belief that an institution has the right to rule (Buchanan and Keohane 2006, 405). Sociological legitimacy prevails when authority and rule makers have the consent of those who are subject to it, while the major alternative concept, normative legitimacy, can be established if the authority conforms to predefined standards (Bäckstrand et al. 2018).

Yet how much sociological legitimacy can be expected or achieved if a legitimacy audience fails to know anything in particular about an institution, or is not even aware of its existence in the first place? We can expect this to be increasingly the case the larger the number of institutions governing a certain policy field becomes and the lower the epistemic capacities of an audience are.

The result is a growing ignorance or ‘shadow of legitimacy’ (Bäckstrand et al. 2018; Zelli 2018b).

As described previously, cognitive and evolutionary psychologists hold that, in order to navigate intractably complex systems, audiences will refer to simplified heuristics. Lenz and Viola (2017) adopted this insight in their cognitive model about the formation of legitimacy perceptions. Accordingly, in the absence of full knowledge about the institutions governing a policy field, stakeholders stick to certain perceptions of institutions that they are most familiar with, or with an ideational prototype of what they believe a perfect institution would look like (Nasiritousi and Verhaegen 2020). Returning to the example of global climate governance, an additional burden has been put on UNFCCC summits, as legitimacy audiences are relatively unfamiliar with the vast majority of transboundary governance efforts in this policy field. As the only major processes known to these audiences, any successes or failures of other climate institutions may therefore be linked to the legitimacy perception of the UNFCCC (Bäckstrand et al. 2018).

How about the minority of actors that exhibit stronger epistemic and organizational capacities—those with substantial nodal and adaptive power? Can their political agency balance some of the projection and oversimplification exerted by larger legitimacy audiences? We are sceptical about this point, tending to follow scholars who caution that polycentric governance, with its loosely coupled spheres of authority and lack of coordination between them, is marked by a technocratic bias. As argued above, complex institutional settings benefit experts and other actors who can provide epistemic or material coordination across institutions and scales—while actors without such resources are further disadvantaged (Lazega 2014; Zürn 2018).

In this sense, growing institutional complexity may exacerbate existing epistemic inequalities. Also, and with a view to our previous argument respecting incentives for forum shopping, the result may be an increasingly specialized governance system that comes at the expense of more inclusive modes of governance—or at least the perception that this is the case. For example, frequent criticisms of the legitimacy of what is presumed to be an intransigent EU bureaucracy in Brussels, as well as the negative referendum results on major EU treaties, are also related to an increasing governance complexity towards which most audiences feel overwhelmed and alienated (Schmidt 2011).

While the first two arguments point to severe challenges to legitimacy, institutional complexity may also provide new opportunities for accountability. Accountability ‘implies that some actors have the right to hold other actors accountable to a set of standards, to judge whether they have fulfilled

their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met' (Grant and Keohane 2005, 29). Following the above argument, epistemic and organizational capacities give certain actors the political agency to perform such assessments and to recommend certain sanctions.

As Bäckstrand and colleagues (2018, 344) discuss, accountability 'becomes more complex in polycentric governance with no single, coherent principal but rather a plethora of public and private actors that operate in various transnational networks'. In such a complex system, new forms of accountability are needed in addition to existing ones. This calls for more horizontal modes that stress mutual monitoring and peer accountability—functions that can be exercised by agents with sufficient information (epistemic qualities) and the possibility of organizing respective processes (organizational qualities). Such horizontal or mutual accountability relations also imply that, under conditions of institutional complexity, sanctions are often reputational in nature—especially where actors are both regulators and regulated, e.g. carbon market actors or standard-setting organizations (Bäckstrand 2008).

Nodal power enables certain political agents to exert such reputational sanctioning towards a wider audience. Take the example of global forestry governance—a policy field that lacks a central intergovernmental institution comparable to the UNFCCC in the climate domain. In the absence of such a hub, the EU used its organizational capacity and relatively central network position to build an accountability mechanism. To this end, the EU reached out to transnational and local actors, e.g. the Forest Stewardship Council, to organize a system that 'successfully combines public regulatory oversight with peer review and multi-stakeholder participation' (Bäckstrand et al. 2018, 346).

## Conclusions

We began this chapter with the insight that institutional complexity matters for political agency, i.e. it creates opportunities and restrictions for individual and collective actors in reaching their respective goals. We developed the argument that, in a complex institutional environment, epistemic and organizational qualities become increasingly important for actors in maintaining access to political agency—while material qualities, relatively speaking, do not gain the same traction. We disentangled this general argument in the context of the three major themes of this book in order to show how empirical



and organizational qualities, or their absence, affect power, techniques, and legitimacy.

This chapter could only give a flavour of potential new lines of argument on institutional complexity and the potential of cross-disciplinary collaboration. There is a great deal more theoretical ground to cover. Firstly, we considered epistemic and organizational qualities in a monolithic manner in this chapter. However, the same qualities can lead to very different behaviours. Actor-network theorists, for instance, speak of the varying epistemic cultures that actors may follow, with each culture building on different principles that inform their cognitive and procedural orientations (Knorr Cetina 1999; Esguerra, Chapter 12, this volume). Likewise, cybernetics distinguishes various types of scientific practice with different implications for a complex environment (Pickering 1992).

Secondly, we focused on actor-based qualities in this chapter. However, the options for political agency are equally dependent on structural qualities, i.e. the shape of the institutional complexity in which the political agents are operating. This topography may vary depending upon inter alia the density and centrality of institutions, their memberships, their governance functions, and the synergistic or conflictive relations between their goals (Zelli et al. 2020). Moreover, these topographies can develop differently over time. Some scholars expect institutional complexity to emerge along punctuated equilibria, with new balances among institutions evolving after periods of rapid proliferation (Gehring and Faude 2013; Oberthür and Pożarowska 2013; Zürn and Faude 2013; Abbott et al. 2016). This would mean that spaces for agency and certain techniques only open up at certain times, i.e. there are particular windows of opportunities.

Other scholars are more optimistic about the application, production, and reproduction of techniques in a complex world. They highlight that increasing complexity also means increasing opportunities for governance experimentation and innovation (Hoffmann 2011). Most importantly, consideration of structural conditions means taking into account the more foundational settings in which not only political agents, but also institutions and their complexity are embedded, such as constellations of discourses (Beckmann, Chapter 14, this volume), fields (Gadinger, Chapter 10, this volume) or assemblages (Bueger and Liebetau, Chapter 11, this volume).

Thirdly, in addition to the sources of political agency, there is a series of further questions about agency in institutional complexity that needs addressing. For instance, do certain actors (international bureaucracies, state governments, transnational organizations, etc.) prefer certain types of techniques over others? What goals do they pursue with which technique, e.g.

securing public goods, avoiding duplication or conflict, or managing inter-institutional relations? In this vein, we also did not distinguish multiple levels of governance in the course of our considerations. Further attention could therefore be paid to cross-scale or vertical techniques and their effects. For example, how can national-level techniques make a difference in a multi-level institutional complex? For global climate or trade governance, relevant issues range beyond which forums actors shop or orchestrate internationally; the success of future governance efforts continues to depend on how positions of governmental and non-governmental actors are formed at the national and sub-national levels.

Fourthly and finally, there are normative implications. If given political agency, are there particular techniques that we should apply to navigate institutional complexes today? Are there new responsibilities and urgencies evolving from the interconnections of our behaviours and the institutions and processes we initiate (Zelli and Pattberg 2016)? Similar questions can also be asked for legitimacy: in a highly complex institutional environment, what are the overarching rules or standards by which the right to rule or performances should be measured?

These and other open questions show that the research on institutional complexity is still at an early stage, notwithstanding the great progress in IR and other disciplines over the past twenty years. Institutional complexity is not a temporary phenomenon, it is here to stay. If we want to know more about the spaces and options available to shape global governance in the future, we need to start asking and addressing these questions.

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# 5

## Polycentric Governing and Polycentric Governance

*Andreas Thiel*

### Introduction

In general, many quasi-autonomous actors interact in water management. They include water users, government agencies (covering agriculture, environment, public works, and police forces), private companies (working on water, sanitation, industry, and forestry), and civil society organizations (addressing environmental, economic, cultural, and social issues). Interactions between these multiple actors affect a host of policy issues, including water quality and quantity, agricultural production, water for consumers, landscape, and biodiversity. This setting illustrates polycentric governance from the perspective of the Bloomington School of Political Economy. This approach asks: when, how, and why does such ‘polycentric’ governance function sustainably to the benefit of affected populations; and under what circumstances might it not deliver on expectations or even cause harms?

This chapter explains the concept of polycentric governance in the tradition of the Bloomington School and how this notion can contribute to understanding polycentric governing, including with reference to this book’s three themes of techniques, legitimacy, and power. Polycentric *governance* is here a more specific perspective than polycentric *governing*. While the latter is more vaguely bounded, covering the many different approaches pursued in this book, the present chapter treats polycentric governance as rooted in the Bloomington School (Cole and McGinnis 2014). This perspective, founded in the 1960s by Vincent and Elinor Ostrom, understands polycentric governance in an institutionalist sense to involve interactions between multiple formally de facto independent but interdependent decision centres.

The Ostroms were particularly interested in the provision and production of collective goods (both public goods such as public safety and common

pool resources such as groundwater, where consumption by some affects others' possibilities to consume). 'Production' in this context refers to the process of combining inputs to generate a collective good. 'Provision' refers to how much of particular collective goods are supplied to a population, including also processes such as monitoring and enforcement of rule compliance, or financing. Provision and production may involve the same or different decision centres.

The Ostroms and their colleagues wondered how best to deliver collective goods (such as policing, schooling, water services, sports facilities, clean lakes, and other infrastructure) in large metropolitan areas. In these contexts, actors who may hold different values and preferences seek to have their demands met. The Ostroms investigated what societal organization could meet citizen needs for collective goods most effectively and efficiently. They hypothesized that bottom-up self-organization of local users, together with relevant public, private, and civil society actors, would provide the highest societal welfare. Elinor Ostrom's work on collective action mainly looked at the local sphere ([Ostrom 1990](#)). However, in later life she extended these ideas also to global governance, especially of climate ([Ostrom 2010](#)).

At the time that the Ostroms developed their ideas, discussion of governance arrangements mainly revolved around two models (see also [Hardin 1968](#)). The first emphasized private decentralized provision through the market, but this approach was largely discredited as a way to effectively and efficiently deliver collective goods. Where markets did not deliver, prevailing academic discourse of the day advocated central state governance, so that the national government would in top-down fashion supply education, infrastructure, clean air, and so on. Particularly Vincent Ostrom and colleagues suggested polycentric governance as a third alternative model. Using examples from several metropolitan areas in the US, they hypothesized that multiple overlapping actors were better than monocentric statist arrangements at trading off criteria such as efficiency, cost-effectiveness, democratic representativeness, and political control ([McGinnis and Ostrom 2011](#)).

Polycentric governance in the Ostrom sense refers to a configuration of individual and group actors that self-organize to cater for the particular demands of a collective. The group of actors engaged has also been called the Public Service Industry (PSI) ([Advisory Commission on Intergovernmental Relations 1987](#)). The Bloomington School perspective calls relevant players 'decision centres', in order to highlight that what matters is autonomy in decision-making of the individual or collective actors involved. Such decision centres include producers, distributors, and consumers as well as

public sector and civil society actors. These decision centres coordinate their efforts because of their functional, biophysical, and/or institutional interdependence with each other. An individual can potentially be involved in multiple polycentric landscapes, each of them supplying a different collective good. Such polycentrism allows citizens to best discipline providers of collective goods in order to have their preferences heard and realized (Thiel and Moser 2018).

The Ostroms' hypothesis that polycentric governance performs better than centralized governance in providing for collective goods was inspired by a normatively celebrated vision of the United States of America as a bottom-up polity. Such a concept is reflected in the eighteenth-century Federalist Papers by Alexander Hamilton, John Jay, and James Madison as well as in Alexis de Tocqueville's nineteenth-century extolment of the American experiment (Aligić and Boettke 2009). Bottom-up self-organization of actors at different levels to form overlapping federations figures crucially in this conception.

The Ostroms developed their work on polycentric governance over several decades along several tracks. On one track, they further elaborated their normative conception of polycentric governance, adding progressively more detail on how polycentric governance should ideally be constructed in order to support collective problem-solving. Second, they scrutinized empirically whether polycentric governance for different collective goods indeed performed better than centralized governance. Third, they studied the conditions under which polycentric governance for the provision of collective goods performed well in the medium to long term. This third track or research became widely recognized in academia and beyond, particularly with regard to the governance of environmental issues. It led to the identification of what Elinor Ostrom called the 'Design Principles' for sustainable collective action (Ostrom 1990; Aligić and Boettke 2009).

The rest of this chapter identifies both contributions and limitations of Bloomington School ideas of polycentric governance as an approach to polycentric governing. First, we describe the Ostrom concept of polycentric governance and the dimensions that this analytical lens highlights in explaining performance and change of institutions (Thiel 2017; Blomquist and Schroeder 2019). Subsequently, we explore polycentric governance more normatively. We then relate polycentric governance, in the Bloomington sense, to this volume's three unifying themes of techniques, power, and legitimacy. Finally, we summarize how polycentric governance contributes to our understanding of polycentric governing and the way forward.

## Theorizing Polycentric Governance

Concepts, heuristics, frameworks, and theories shape the attention of researchers. They are like magnifying glasses that focus the attention of researchers and reduce complexity to enable better understanding and potentially even explaining of empirics. Implicitly or explicitly, these perspectives make assumptions about what matters for comprehending and shaping empirical phenomena.

### Key Concepts

Starting with governance, we define it as a ‘process by which the repertoire of rules, norms, and strategies that guide behaviour within a given realm of policy interactions are formed, applied, interpreted, and reformed’ (McGinnis 2011a, 171). Such regulation can happen in a centralized top-down fashion through the nation-state, but governance can also take other forms, of which polycentrism is an example.

As for ‘polycentricity’ (which we here consider to be synonymous with polycentric governance), Vincent Ostrom and his colleagues took this term from biology and applied it to institutions. They defined the concept as follows:

Polycentric connotes many centers of decision-making which are formally independent of each other. Whether they actually function independently, or instead constitute an interdependent system of relations, is an empirical question in particular cases.

(Ostrom et al. 1961, 831)

This formulation indicates that, strictly speaking, the only constellation that polycentric governance is not interested to study is monocentric governance, i.e. situations of top-down rule where outcomes are determined by one decision-making centre. In this case, a single individual or collective actor decides how to provide collective (public) goods or common pool resources.

The initial definition of polycentric governance further highlights its realm of interest and the purpose of studying polycentric governance. Thus, Ostrom, Tiebout, and Warren wrote that:

[t]o the extent [that decision-making centres] take each other into account in competitive relationships, enter into various contractual and cooperative undertakings or have recourse to central mechanisms to resolve conflicts . . . the various

political jurisdictions . . . may function in a coherent manner with consistent and predictable patterns of interacting behaviour. To the extent that this is so, they may be said to function as a 'system'.

(Ostrom et al. 1961, 831)

Thus, the study of polycentric governance is interested in the ways that decision-centres relate to each other and whether this interplay generates coordination through information sharing, mutual adaptation, and predictable patterns of behaviour among actors, as opposed to fragmentation, rent-seeking, or unregularized interactions. For example, an ideal-type polycentric governance system for water would involve well-articulated interaction of consumers and authorities to provide for, produce, and finance technological interventions, develop knowledge, pursue policy measures, and so on (Lankford and Hepworth 2010).

With regard to conceptual underpinnings, it should be noted that research on polycentric governance in the vein of the Bloomington School adopts a position of methodological institutionalism (Vatn 2005). This ontology roots explanations of social conditions (such as governance) in the choices that actors make, which in turn are crucially guided by institutions such as rules, norms, and strategies that structure social interactions. This assumption concerning the core role of institutions differentiates the Bloomington School from some of the approaches to polycentric governing from the legal, relational, and structural perspectives discussed elsewhere in this book. Those other modes of analysis locate the primary causes of governance not in actor choices, but respectively in laws, practices, and underlying social orders.

In the Bloomington conception, institutional rational choice theory awards norms and rules a particular role. The approach holds that individuals make their choices under conditions of 'bounded rationality': bounded in the sense that individuals only have the information that is available to them and also have limited capacities to process that information. Given these limitations, institutions obtain a central role in shaping behaviour. They give orientation about the options available, as well as about the most beneficial options. Correspondingly, institutions have also been conceptualized as rules of the game in instances of strategic interdependence (North 1990).

While all research on polycentric governance rests on methodological institutionalism (Vatn 2005) and institutional rational choice, one can distinguish between positive and normative strands of Bloomington School work. Positive perspectives aim to understand *actual* interactions between

multiple centres of decision-making. These approaches examine which concrete conditions matter for the performance of polycentric governance and how one can with reference to these conditions explain change in polycentric governance. In contrast, normative perspectives seek to establish *desirable* kinds of polycentric governance, for example, because it supports sustainable provisioning and production of collective goods. Normative approaches seek to identify ideal types of polycentric governance and to establish why these ideal types are desirable. The following paragraphs first elaborate on positive questions of explaining performance and change of polycentric governance and thereafter turn to normative understandings of polycentric governance.

## Positive Analysis

In a positive vein, Thiel and Moser identify foundational conditions that shape the performance of polycentric governance. They highlight the role of three types of factors: namely, related to community characteristics, social problem features, and overarching rules (Thiel and Moser 2018; Thiel and Moser-Priewich 2019). This framework builds on Elinor Ostrom's Institutional Analysis and Development (IAD) framework, but extends it beyond the local level to larger scales of activity. The IAD framework examines decisions of each component decision center within a system-level perspective of polycentric governance (McGinnis 2011b).

As regards foundational conditions shaping polycentric governance, community characteristics particularly concern the level of heterogeneity among members of the collective: e.g. in relation to values, socio-economic characteristics, etc. Thus, for example, it would matter for outcomes of polycentric governance if a collective that strives for climate protection or watershed management includes similarly or diversely inclined actors. Heterogeneity in demands for collective goods across a community affects its overall organizability. Likewise, provisioning of collective goods may be compromised if capacities to pay for them varies across the population involved. Actors with different characteristics can also prioritize different performance criteria: e.g. effectiveness, political representation, equity, resilience, sustainability (Ostrom et al. 1961; Aligica and Tarko 2012). Different types of actors may also shape polycentric governance of a collective good, such as water quality in a river delta, in different ways, as is the case for farmers, environmentalists, and urban populations. However, while heterogeneity of

community characteristics is presumed to be significant for outcomes of polycentric governance, research has so far found no clear pattern as to the direction of the effects (Ahn et al. 2003).

Next to community characteristics, polycentric governance is also shaped by variations in features of the social problem being addressed. Here the underlying idea is that actors will establish governance arrangements that minimize transaction costs in relation to the characteristics of the problem at hand. Relevant in this regard, for example, could be the spatial scale (local, national, global) on which collective goods are provided most cost-effectively. Alternatively, problem features such as uncertainty and complexity could shape whether and how polycentric governance transpires (Williamson 1991). Or joint production through polycentric arrangements could be encouraged where the issue at hand involves high benefits of coordination. Or frequency of transactions can matter for the occurrence and shape of polycentric governance where per unit transaction costs reduce with large amounts of activity (Hagedorn 2008; Hagedorn 2015; Thiel et al. 2016). Owing to such variation in social problem characteristics, polycentric governance likely takes different forms, say, between a local watershed and global climate.

Alongside community characteristics and problem features, overarching rules are a third main element that is expected to shape how actors engage in polycentric governance. In the Bloomington School perspective, overarching rules refer to the formal and informal institutional arrangements that order day-to-day decisions that are institutionalized at the operational level (Ostrom 2005). For example, overarching rules prescribe who takes decisions on day-to-day practices of water management. The definition of polycentric governance itself highlights the role of overarching rules when it refers to the role of multiple independent but interdependent decision centres. Overarching rules define the degree of formal independence of decision centres as well as their capacities to affect decisions and the options available to them. Similarly, overarching rules frame the options that each decision centre has in relation to other decision centres, be it through contractual relations, hierarchical relations, competitive relations, or cooperative relations. Empirically most likely mixes of contractual, hierarchical, competitive, and cooperative arrangements are observed (Thompson 1991; Pahl-Wostl et al. 2020).

In sum, then, we may explain the performance of polycentric governance in providing collective goods by examining the heterogeneity of the

population being governed, the characteristics of the problem to be governed, and the overarching rules that structure the polycentric system. In principle, we may apply this framework of analysis to any kind of collective good that polycentric governance may seek to supply, including a watershed, the Internet, or upholding human rights in respect of global migration.

Attention to the same factors can also help to explain institutional change in polycentric governance. In some cases, changes in homogeneity/heterogeneity of the community, the features of the issue to be governed, and the overarching rules may induce institutional evolution on their own, as contextual forces. In other cases, institutional change may be instigated by discontent of involved actors with the way that polycentric governance performs at a certain moment in time—and then changes in the three factors shape how that discontent plays out in rearrangements of the polycentric system at hand (what much political science literature calls ‘feedbacks’) (Thiel 2014).

Either way, institutional change in polycentric governance transpires through negotiation among the interdependent actors. It is therefore vital to understand the preferences and perceptions of the actors that dominate a particular set of negotiations about institutional design and change. Actors who engage in the negotiation will beforehand calculate the expected costs and benefits and accordingly decide whether and how to negotiate.

Several examples may illustrate these dynamics. With regard to community characteristics, for instance, changes in demography and/or the distribution of economic wealth may make many people who pay for a public health care system unhappy. As a result of such changes in the heterogeneity of the collective involved, polycentric governance of health may be renegotiated. As an example regarding social problem features, remote sensing could make monitoring of farmers’ water use more economical. As a result, actors who previously refused to take responsibility for monitoring governance of water may become keen to renegotiate their role in this process. To take another example, this time regarding changes in overarching rules, an altered constitution or new legislation may give provincial governments a new responsibility to implement climate protection goals. As a result, these authorities may decide to renegotiate access to climate protection funds and monitoring of related activities. Thus polycentric governance undergoes an evolutionary process of institutional change in which different mechanisms come to the fore depending on the context at hand (Norgaard 1994; Folke et al. 2005; Thiel 2014; Thiel et al. 2019).



## Normative Analysis

Early writings of the Bloomington School on polycentric governance hardly distinguished explicitly the positive perspective from the normative perspective. While the former concentrates on how polycentric operates in particular concrete cases, the latter describes how polycentric governance should be constituted in the interest of overall societal welfare, in the sense of maximal satisfaction of citizens and consumers.

Polycentric governance has been hailed for several normative aspects. For example, redundancies between decision centres in polycentric governance are held to promote the system's resilience, even if it was to the detriment of efficiency. Connected to resilience, adaptability is considered to be another key virtue of polycentric governance. Also, polycentric governance allegedly more easily supplies collective goods where institutions fit the social problem characteristics at hand (Folke et al. 2007; Ekstrom and Young 2009; Biggs et al. 2015; Carlisle and Gruby 2017). Normative proponents of polycentric governance affirm that, when members of a collective are unhappy with a particular arrangement, the system will induce negotiations for an evolutionary adaptation or self-correction of the system so that it better delivers on the people's wishes and priorities.

More specifically, normatively defensible polycentric governance should meet three criteria. First, actors should be able to express and make heard their concerns over how a polycentric governance arrangement (fails to) provide collective goods. This is the criterion of *voice*. Second, members of a collective should be able to leave an existing collective and with that option exert pressure to change the polycentric governance arrangement. This is the criterion of *exit*. Third, members of a collective who are unsatisfied should be able to establish a new collective that better meets their needs. This is the criterion of *self-organization*. Together, these three criteria cater to orderly contestation (McGinnis 2019; McGinnis et al. 2020). The fulfilment of these three criteria is part and parcel of the adaptiveness of polycentric governance. Rights to voice, exit, and self-organization can induce competition among providers to better meet demands for collective goods. Colloquially, this dynamic is described as a system of checks and balances. However, the degree to which actors can exert such pressures depends in part on the social problem at hand, whose characteristics determine the transaction costs of creating alternative collectives. For example, polycentric governance of health should in this normative vision involve contestation by consumers and competition among providers.

Mechanisms for voice, exit, and self-organization need support from overarching rules, both formal and informal (Thiel 2017). Liberal theorists in the Bloomington School tradition expect an idealized market economy and democratic polity to provide the necessary conditions for effective polycentric governance. In such a situation, well-informed consumers have ample opportunities to choose providers, and well-educated citizens can exert checks and balances across polycentric governance arrangements.

An additional normative criterion relates to coordination. This quality surfaces already in the seminal definition of polycentric governance as having ‘consistent and predictable patterns of interacting behaviour’. Given the assumption that many autonomous decision centers are involved in polycentric governance, coordination is of crucial importance. Indeed, polycentric governance is often critiqued for having high transaction costs of coordination, for example in comparison to hierarchical governance (McGinnis and Hanisch 2005; Stephan et al. 2019).

Normative theory on polycentric governance is quite specific as regards the formulation of overarching rules, emphasizing the need for an institutional framework that enables effective performance and evolutionary change through contestation and adaptation. In addition, the normative approach holds that actor orientations need to be conducive to collective action through decentralized self-organization. Moreover, actors need to be learners who strive to improve their well-being over time. Ostrom (2014, 2) underlines the requirement for ‘informed citizens ... [who are] able to challenge efforts to take over their democratic system by powerful autocrats’. Ostrom also considers it necessary for effective polycentric governance to have leaders with public entrepreneurship and artisanship (Ostrom 2015).

Finally from a normative perspective, Bloomington School thinking maintains that, for polycentric governance to operate productively, the collective needs amidst its heterogeneity nevertheless to have a certain degree of common values: that is, a shared basic judgement about what is right or wrong, or what is valuable and what is not. A key standard in this regard is the so-called ‘Golden Rule’, which affirms that people should not do to others what they would not want to suffer themselves (Ostrom 2008). The Golden Rule provides a basis to make moral distinctions between what is permitted and what is prohibited (Ostrom 1990). Without normative grounding in the Golden Rule, polycentric governance could easily end up in totalitarian relations.

It should be noted that both the positive and normative strands of polycentric governance research tend to be rather ahistorical and culturally blind (see also Schneider (Chapter 2) and Fakhoury and Icaza (Chapter 3) in this volume). Bloomington School theory looks for explanatory factors and principles that apply irrespective of spatio-temporal context. For that purpose it abstracts from certain historical or geographical constellations and suggests these principles for scrutiny beyond particular cases.

## Transnationalizing Polycentric Governance

As theorized above, polycentric governance originally addressed the performance of collective action within nation-states, with special attention to local collective action. The question arises whether and how the approach could also relate to transnational governing. Indeed, more recently polycentric governance has been examined in respect of transnational and global spheres (Ostrom 2010; Galaz et al. 2012; Cole 2015; Dorsch and Flachsland 2017; Jordan et al. 2018). Is this move useful for an understanding of polycentric governing?

From the perspective of positive theory, the shift in scale would ask what factors facilitate and hamper coordination at and across these additional levels of governance? How do heterogeneity of the community, social problem characteristics, and overarching rules shape transnational polycentric governance? How do these aspects affect sustainable evolution of polycentric governance of collective goods in the long term? Indeed, comparisons across levels of analysis could enhance our overall understanding of polycentric governance processes, in line with the Ostroms' idea to use their institutional analysis to 'understand the universal building blocks' of governance (Ostrom 2005). Yet only the work of Jordan and colleagues (2018) on climate governance has specifically enquired how incorporation of the transnational level impacts polycentric governance.

From the perspective of normative theory, a further set of questions arises when one 'globalizes' polycentric governance. For example, can we expect that coercion or hierarchy are organized differently in transnational governance, where these qualities are not linked to the state and specific national jurisdictions? Indeed, lack of an overarching authority (like a world government) could make transnational governance an ideal context for polycentric processes. Transnational governance lacks the context of a federal state with clearly delineated and formally independent judicial, executive, and legislative powers. It is difficult to pin down the equivalent of these aspects in the

transnational arena. Thus, the emergence and functioning of each of these constitutional components needs to be fundamentally rethought in respect of transnational governance.

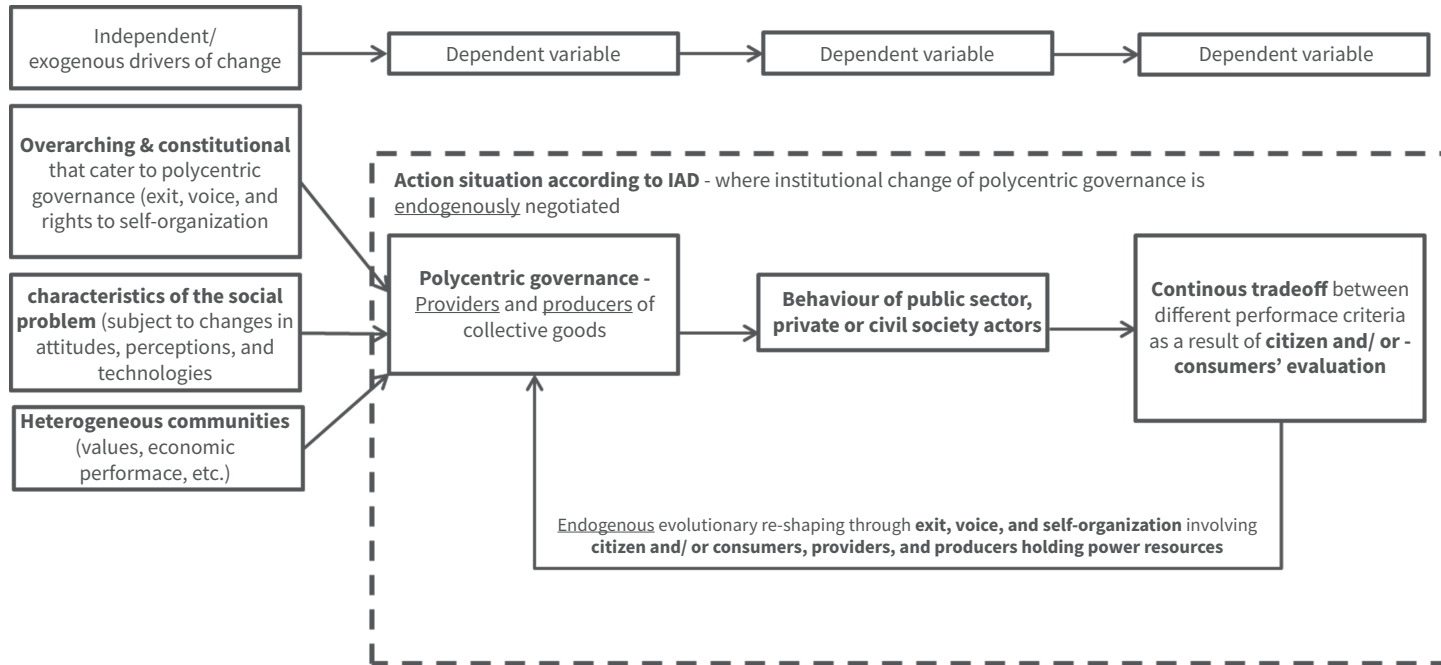
In addition, we need to enquire how voice, exit, and self-organization operate in the transnational realm in comparison to the national and local arenas. Mechanisms of voice are more opaque in transnational governance, where modes of accountability are less clear. For example, transnational governance normally lacks general elections and public referenda through which citizens can express their views and discontents. Meanwhile, exit can be more costly or even impossible in the transnational realm, for example, where global public goods are at stake. Also, the self-organization of public goods provision requires more resources in the transnational realm as compared to the national realm. Finally, underlying presumptions about the presence of shared values and adherence to the Golden Rule need to be corroborated for transnational governance. Values and further features of members of transnational collectives can be presumed to be more heterogeneous than for national and local collectives. In sum, transnationalizing the theory of polycentric governance is thought-provoking, but also needs much further consideration.

## **Themes: Techniques, Legitimacy, and Power**

Having set out above the general features of polycentric governance in the Bloomington tradition, we now compare the approach with broader ideas of polycentric governing, particularly around the themes of techniques, legitimacy, and power. We relate these three issues especially to Bloomington School concerns to analyse the performance of polycentric governance and to understand institutional change.

### **Techniques**

Techniques address the instruments of governing: how it is done. In this respect the polycentric governance lens (see Figure 1) focuses especially on the roles of institutions and values. The approach understands institutions as ‘rules in use’, meaning rules as actually practised in society. Meanwhile values refer to basic normative positions on how society should in principle be ideally organized. Thus, polycentric governance theory analyses interactions between multiple independent decision-making centres, with a focus on how



**Figure 1** Polycentric governance lens: dotted line indicates where evolutionary institutional change is negotiated

Source: Thiel and Moser-Priewich 2019. © Cambridge University Press 2019. Reprinted with permission.

institutions and values shape the strategic choices of actors as they pursue the provision and production of collective goods.

Institutions are core for the way that multiple decision centres and their interactions address societal problems of collective action. Institutions serve to establish order and predictability, thereby reducing uncertainty and better securing the gains from actor interactions and cooperation. For example, constitutional arrangements into which governance is embedded can promote predictable patterns of bottom-up self-organization for the provision of collective goods. A clear division of executive, legislative, and judiciary roles can be helpful in this regard.

The importance of institutional techniques is also underscored in Elinor Ostrom's Design Principles for sustainable cooperation. These guidelines identify a range of institutional conditions that enhance performance in polycentric governance. They include, for example: (a) clearly identifying the members of a collective; (b) determining fair distribution of gains; (c) setting up effective monitoring mechanisms; (d) setting out (accessible and easily implemented) procedures for conflict resolution; and (e) defining (graduated) sanctions (Ostrom 1990). According to Ostrom, conformity with these techniques increases the likelihood of successful collective action, while defiance of these guidelines helps to explain failure of collective action.

As for values, polycentric governance highlights the role of shared norms such as the Golden Rule in actor interactions. Tapping into these values and promoting them is also a key 'technique' of governing. For example, if one group of actors has no solidarity with the health status of others, while another group promotes equitable health treatment for all, then their different value positions will be difficult to combine in the same governance arrangement for the provision of public health.

Other values that, in the Bloomington perspective, work as techniques for successful polycentric governance include transparency and accountability, freedom of speech, freedom of association (e.g. in a political party), and freedom to exit from an association (Ostrom 1999). In a water management system, for example, such norms determine whether consumers have access to information about water quality, whether they can form associations for joint exploitation of groundwater, and whether they can make claims to higher-level government entities for the provision of water services.

A major challenge to shared values can arise when polycentric governance produces 'losers' or marginalized actors. Indeed, a major shortcoming of polycentric governance scholarship is that it tends to ignore political questions about inequalities, as well as the implications of marginalization for

societal order and ways to integrate subordinated actors into polycentric governance (Thiel and Swyngedouw 2019). Instead, the theory presumes that any collective will automatically self-correct for marginalization by initiating institutional change through voice, exit, and self-organization. We return to this issue below in the thematic section on power.

## Legitimacy

As an institutionalist theory, the polycentric governance approach analyses legitimacy primarily in relation to institutional qualities. In other words, scholars in the Ostrom/Bloomington tradition establish whether a polycentric governance arrangement has the right to rule by examining how well the workings of institutions are seen to meet certain criteria. Compared to other contributions in this book, an institutionalist perspective on legitimacy (with its primary emphasis on organizational matters) is different from a legal approach (which roots legitimacy in the law), a relational approach (with its attention to legitimation processes through routine practices), and a macro structural approach (which links legitimacy beliefs to reigning societal norms and the underlying social order). Key yardsticks for legitimacy from an Ostrom/Bloomington perspective include how far institutions perform effectively, to what extent procedures are democratic, and whether polycentric governance upholds the Golden Rule.

In terms of effective performance, polycentric governance is regarded as legitimate when it delivers on the expectations of consumers and citizens (the Ostroms frequently used the term ‘citizen-consumers’). Scholars of polycentric governance have suggested many criteria for evaluating effective performance as a source of legitimacy (Ostrom et al. 1993). For example, Ostrom (2005) has highlighted standards of economic efficiency (i.e. delivering highest benefits at the lowest costs), social equity (i.e. taking due account of ability to pay and distributing benefits fairly), adaptability (i.e. being flexible as well as resilient), and accountability (i.e. delivering in a transparent way and holding those who deliver responsible for their actions and omissions). Further particular emphasis is laid on effective coordination of polycentric governance versus its fragmentation.

In terms of democratic procedure, polycentric governance is viewed as legitimate when it enacts bottom-up self-organization of affected citizens. In particular, when polycentric governance processes do not fulfil desired performance, then consumers and citizens should be in a position to delegitimize the (non-)providers of these goods. For example, an environmental NGO

might withdraw from an underperforming global environmental production standard and organize its own label instead. With democratic procedures of voice, exit, and self-organization, citizen-consumers are able to legitimize/sustain or delegitimize/change polycentric governance, thereby operating it in a way that is coherent with their values.

In terms of moral standards, polycentric governance is seen as legitimate insofar as its processes adhere to the Golden Rule as the ultimate moral standard to overcome dangers of totalitarianism. Yet whether adherence to the Golden Rule is in fact sufficient to safeguard against totalitarianism needs further theoretical elaboration and empirical investigation. Other students of polycentric governance have assessed legitimacy on moral grounds of general fairness, the prevention of opportunistic behaviour, and equal punishment in the case of wrongdoing (Carlisle and Gruby 2017; Koontz et al. 2019).

## Power

In relation to the famous threefold distinction of power introduced by Lukes (2005), polycentric governance considers power especially in its first dimension as an actor's ability to achieve certain aims. This theory is less concerned with Lukes' second dimension of power (i.e. as the capacity to set the agenda) or third dimension of power (i.e. as emanating from social structure). Thus, Bloomington School analysis neglects how structural powers become instituted and how social forces form actor preferences, attitudes, values, and strategies (Scott 2012; Clement 2013). Likewise, the approach does not address how power shapes what is and is not considered legitimate in polycentric governance. However, recently several papers have expanded Bloomington conceptions to take account of such more subtle forms of power (Kashwan 2016; Bennett et al. 2018; Morrison et al. 2019).

In relation to water management, for example, a Bloomington assessment of power asks if a given instance of polycentric governance enables sustainable provision and production of water-related collective goods, such as water quality, quantity, and broader ecosystem services. In this regard the analysis examines issues such as access to water, its financing, democratic representation, and information about water use, as well as rights and capacities for self-organization. In contrast, this approach is not interested in the power that may lie in water management paradigms, as the relational perspectives addressed in Part IV of this book might emphasize. The perspective also neglects how capacities for water use relate to social structures, in the vein of the perspectives covered in Part V of this book.



Even within the narrower conception of power as actor capacities, questions of power tend to come in only implicitly. For example, Ostrom's first Design Principle, delineating clear boundaries of a collective, obviously confers power to some and not to others. Similarly, introducing actors that monitor collective action awards particular powers. Actors may have power through differential access to information or through accountability mechanisms. Yet polycentric governance analysis is not interested in these types of power per se, but in what its distribution means for the sustainable provisioning and production of collective goods.

Relatedly, polycentric governance is interested in justice issues mainly when they might put successful polycentric governance at risk. Where the distribution of power threatens to undermine collective action and coordination, then polycentric governance theorists would advocate reshaping the distribution of power through institutional change and crafting (Thiel et al. 2015). Yet, here too, the emphasis is on understanding institutional performance and change and not on rectifying negative implications for social justice.

Inattention to social justice questions is also reflected in the neglect in polycentric governance research of marginalized positions within the collective in question. Idealized normative versions of polycentric governance might argue that marginalized actors could self-organize to have their claims heard. However, such a proposition neglects the resources that are necessary for self-organization, which marginalized groups such as the landless, the populations of small island states, and future generations generally lack. Nor does polycentric governance theory contemplate any kind of redistribution of endowments, which could empower marginalized groups to self-organize. A reason for this neglect seems to be a worry, rooted in neoclassical economics, that redistributive mechanisms encourage inefficiency and inertia (Thiel and Swyngedouw 2019). As a result it leaves out broader political economy questions such as who holds resources for self-organization and making themselves heard in political struggles (Olson 1994).

## Conclusion

This chapter has provided an introduction to thinking on polycentric governance from the perspective of the Bloomington School of Political Economy. We have defined polycentric governance, elaborated its uses as an analytical lens, and distinguished positive and normative perspectives. Subsequently, the chapter showed how the approach theorizes evolutionary institutional

change, in the process examining issues of techniques, legitimacy, power, and agency.

The Bloomington research agenda aims at theory-building for problem-solving. Recently, literature in this field has grown significantly. Thanks to this research, we understand much better why particular institutions work well, especially in relation to local collective action (Ostrom 2007). Work on polycentric governance builds on this research, extending it to the supra-local and recently also transnational realm.

The Bloomington School of Political Economy explores which modes of polycentric governance contribute to sustainable production and provision of collective goods. It treats institutions as techniques and has particular interest in institutional change as an evolutionary adaptation of governance. The perspective regards legitimacy as instrumental to successful collective action. With respect to power, the approach tends to neglect subtle forms of power as well as marginalized people and their limited abilities to be heard in institutionalized politics.

Recent research in the Bloomington tradition seeks to specify how the tools of conventional, local collective action research (such as the IAD) can apply to higher, system-level polycentric governance. However, this endeavour confronts great complexity, given the diversity of objects of research and the multiple levels of analysis involved. In this regard it would help if polycentric governance scholars developed a shared analytical framework to aggregate knowledge and if they made more consistent usage of key concepts.

Further, polycentric governance research needs to address a greater diversity of venues of decision-making that shape polycentric governance and its performance. In particular, future work needs to address arenas where neglected forms of power are exercised (Morrison et al. 2019). Further, more attention is needed to the marginalization of actors in provisioning of collective goods. In this regard, recent efforts to enrich the Bloomington School with thinking from political ecology and constructivism are welcome (Clement 2013). At the same time, polycentric governance scholars need to keep focus on their core question of which types of institutional arrangements contribute to sustainable long-term production and provision of collective goods. In this regard, the Bloomington School should more explicitly acknowledge that sustainable supply of collective goods requires not only coordination and adaptation, but also how it relates to democratic qualities of respectful contestation. An extension to more systematic analysis of polycentric governance in the transnational realm promises to be an inspiring extension of this literature—and also a way to further develop its conceptual underpinnings.

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# 6

## Transnational Governance

### Polycentric Interactions

*Sigrid Quack*

#### Introduction

Over the past decades, transnational governance schemes have proliferated in many areas of global public policy, ranging from environmental and labour certification to standard setting in humanitarian aid and indicator use in health and safety regulation. Often developed by non-state actors, such as civil society groups, companies, and business associations, these schemes develop norms, rules, and standards that seek to steer the behaviour of consumers, citizens, firms, administrations, and others towards public goals in cross-border economic, social, and political life. Such transnational rules affect many everyday choices and decisions of citizens and consumers around the world, as nicely illustrated by Roger and Dauvergne:

Take buying a cup of Fair Trade coffee. To gain the Fair Trade label, the coffee would have met a checklist of rules to promote fair pricing and social sustainability. Coffee growers may have adhered to food safety and agricultural standards, such as GLOBAL G.A.P. Assuming the coffee cup is made of paper, the Forest Stewardship Council (FSC) may have certified it as environmentally sustainable. These are just the ones we might see at the register. Beneath the surface, a standard set by the International Organization for Standardization (ISO) would have determined the dimensions of the credit card used to pay for the coffee, while the manufacturer may have adhered to the ISO 9001 quality management standard. The coffee would have been moved in a standardized intermodal freight container bearing a standardized identification number overseen by the International Container Bureau (BIC). The banks that handled the transaction would also have adhered to a range of global standards detailing how to value assets and transfer funds, including those set by the International Accounting Standards Board (IASB) and the Society for Worldwide Interbank Financial Telecommunication (SWIFT).

(2016, 415)



Roger and Dauvergne highlight here the private transnational rules that consumers, producers, and banks follow in the course of the purchase of a cup of Fair Trade coffee. Yet, one can expand the example by including also interactions of such private with public rules that constitute together complex processes of transnational governance. If located in a public building, the coffee bar provider might have been demanded by a public tender of the municipality to comply with sustainability standards because the municipality is part of a transnational environmental network of municipalities. The waiter serving the coffee might, therefore, wear working clothes produced according to the Fair Wear Foundation standard and the table at which you are sitting might be produced of wood that was imported in compliance with European or US forestry legality regimes. The companies importing the coffee, cloth, or wood might have done so using an export credit scheme that evaluates the credibility of the country in which producers are located using economic indicators developed by experts of the World Bank.

Taken together, these two vignettes suggest that transnational governance affects not only many everyday practices of consumers and businesses, but also increasingly interacts with public administration and government, in both national and multilateral arenas. The abundance of co-existing and sometimes competing governance schemes and the multiplicity of their interactions have given rise to vivid and controversial discussions about the causes, forms, and effects of the rise of transnational governance.

This chapter seeks to systematize an interdisciplinary analytical perspective to understand the causes, forms, and effects of transnational governance. This research focuses on multiple actors claiming authority for their rule-setting across borders at various scales, with interactions and overlaps between their jurisdictional claims. The perspective therefore speaks closely to debates on polycentric governing at the heart of this volume.

The chapter proceeds as follows. The first section below delineates the core features of transnational governance research. The discussion then presents some common technologies of transnational governance before considering the implications of their polycentric nature for power and legitimacy in the global sphere. The chapter concludes that, out of the multiplicity of schemes and interactions, we see different pathways of transnational governance emerging over time, some of which are more inclusive, accountable, and transparent than others.

## Transnational Governance: An Analytical Perspective

Research on transnational governance has been sprawling across different disciplines over the last three decades. The transnational governance perspective directs attention towards the rise of an empirical phenomenon and draws attention to specific dimensions and dynamics of polycentric social ordering that have broader implications for research on global governance and international cooperation. The approach builds on three common observations.

First, the term ‘transnational’ deliberately signals that not all cross-border governance of planetary problems is global-universal in scope. The transnational governance perspective, instead, highlights the multiple forms of regulation that cross national borders or interlink national, regional, and global levels (Djelic and Sahlin-Andersson 2006, 3–4). Transnational governance also does not necessarily undercut national regulation, but rather often intersects with it. Thus, transnational governance is polycentric governing understood as cutting across scales (Scholte 2005, 186).

Second, the transnational governance perspective highlights the many private and civil society actors that participate in formulating, implementing, and monitoring various forms of cross-border regulation (Bartley 2007; Abbott and Snidal 2009). By highlighting the role of non-state actors, this approach thereby transcends state-centrism in international relations and international law as well as the primary focus on intergovernmental arenas that characterized early work on transnational relations (Nye and Keohane 1971; Risse-Kappen 1995). Instead, it highlights that cross-border regulation emerges from and takes place in a multiplicity of governance arrangements (which makes it polycentric) and that for any single policy field there are often many actors claiming governance authority (which makes it polyarchic).

Third, with the multiplicity of governing actors comes the recognition that governance takes place through a multiplicity of modes of regulation that expand beyond traditional command-and-control regulation. Transnational governance focuses on regulation through institutionalized organizational forms and procedures that facilitate governance by principles, standards, certification, codes of conduct, or disclosure. Some of them are private and others are public in nature. With actors in multiple arenas claiming rule-setting competence for overlapping issues, it is likely that those who are governors in one respect might belong to the governed in another, and publics might turn

into governors or governees. As a consequence, the transnational governance perspective highlights the importance of interactions between different institutional arrangements for determining their effects on the public good, rather than just bemoaning their fragmented character.

While converging on these three common propositions, the transnational governance perspective, like other perspectives presented in this book, is not homogenous. Various definitions of transnational governance are available (Hale and Held 2011, 14–15; Roger and Dauvergne 2016, 216). For its part, this chapter's discussion builds on the conception of Auld et al. (2018, 427) that transnational governance entails 'interactions across national borders involving at least one actor who does not represent the foreign policy interests of a state ... and where governance involves steering actors or practices toward a public purpose through rule making, implementation, or enforcement'. This conceptualization seems preferable, because it considers transnational governance as different from multilateral intergovernmental governance while still including hybrid public-private arrangements. It also distinguishes governance for public purposes from private self-regulation of companies exclusively directed towards their self-interest in forms of economic coordination (Cutler et al. 1999). This conception therefore seems best suited for the analysis of the polycentric character of transnational governance.

## Contextualizing Transnational Governance

While most authors link the expansion of transnational governance to the recent phase of globalization (Vogel 2010; Hale and Held 2011; Bulkeley et al. 2014; Hale 2020), there is no unified explanation for the rise of transnational governance. From a functional perspective, it has been argued that collective problem-solving in a complex global environment requires a range of different skills and competencies, which can be brought to the table through the involvement of private, civil society, and state actors in multiple settings along the regulatory cycle (Abbott and Snidal 2009). Other authors suggest that the emergence and spread of transnational governance can be explained by political struggles over interests and values. Particularly, the proliferation of polycentric governance schemes in which business and other private interests prevail is seen as the outcome of concerted efforts of transnational business elites to shape cross-border regulation according to their aims (Overbeek, Chapter 13, this volume; Bartley 2018b for a literature review). Still others have argued that the rise of transnational governance reflects

a growing power of global civil society, which through social movement campaigns and naming and shaming strategies seeks to shape cross-border regulation (Keck and Sikkink 1998; Dellmuth and Bloodgood 2019). Often these forces may combine, as Bartley (2007) shows in his analysis of the emergence of transnational social and environmental certification schemes as political market institutions. Finally, the proliferation of polycentric forms of transnational governance has also been linked to structural causes. In the context of world society theory, Djelic and Sahlin-Andersson (2006) identify five institutional forces of modernity as structural drivers of transnational governance: namely, scientization, marketization, organizing, moral rationalization, and deliberative democracy.

While pointing towards different drivers, a common thread of transnational governance research is its focus on governance through institution building and institutional development. Even structural approaches accord an intermediating role to such institutional arrangements. A common diagnosis of all these approaches—whether they focus on regulatory institutions, the constitution of transnational actors, or mobilization by transnational activists—is that transnational governance does not take place in a space of anarchy, but in an arena that is increasingly structured by transnational institution building and rule setting. Any new attempt to deal with transnational or global problems can to some extent draw on the pre-existing institutional scaffolding, can mobilize it and use it as a resource for future institutionalization—as well as it can ignore, dismantle, or abandon it.

Analyses of transnational governance conceptualize institutions in various ways, ranging from formal structures and organizational procedures to normative and cognitive frames that provide stability and meaning to social behaviour. Whereas some authors build on world society theory to identify global normative frames that shape transnational action through isomorphic pressures (Dingwerth and Pattberg 2009), others lean on rationalist institutionalism, which assumes preferences, resources, and capabilities as fixed (Büthe and Mattli 2011). Still others use pragmatist versions of institutionalism that see actors as socially embedded yet reflexive beings who can change and design institutions that foster recurrent revision (Avant 2016). Occasionally there are overlaps with the relational approaches reviewed in Part IV of this volume. For example, Djelic and Sahlin-Andersson (2006) draw on relational field concepts to make sense of transnational governance. Overall, transnational governance theories consider institutional arrangements to be more than epiphenomenal to underlying deeper power structures in (post)modern societies, but rather that these institutions can make a difference in processes and outcomes.

## Techniques of Transnational Governance

Transnational governance comprises the means used to influence behaviour towards established public ends and to shape the production and redistribution of capabilities and resources on which governors, governees, and interested publics can draw. Transnational governance unfolds typically as a set of interlinked processes whereby various actors take different roles in problem definition, rule setting, dissemination, implementation, and compliance. Attempting to steer behaviour and institutional infrastructures in diverse social settings across the world, transnational governance encompasses regulatory techniques such as standards, guidelines, and codes of conduct; assurances in the form of certification and audits; assessments and evaluations through indicators; and governing the standards of governing itself through meta-governance.

Other authors have referred to these features of transnational governance as its voluntary and soft-law character (Djelic and Sahlin-Andersson 2006; Bartley 2018a). In contrast to classic command-and-control regulation, transnational governance typically cannot rely on mandatory enforcement. Rather, techniques of transnational governance need to engage in building accountability and legitimacy relations with their addressees and the broader public (Black 2008; Quack 2010). Those who are expected to follow the rules need to be engaged rather than just forced to do so. Adherence can be achieved through a range of economic and social processes, such as competition, peer pressure, and socialization (Djelic and Quack 2003), which can generate acceptance of and compliance with rules even if they are not legally binding. The literature also shows how voluntary standards can become the basis for law making by incorporating or referencing them in international law and decisions of transnational arbitration boards (Halliday and Shaffer 2015; Liste, Chapter 9, this volume). To enlist addressees in very different economic, social, and political contexts all over the globe, technologies of transnational governance, while seeking to transform social order in distant places according to global rules, have shown flexibility and adaptability to local contexts (Merry 2009). Transnational governing, therefore, often results in recursive interactions between local and global arenas (Malets and Quack 2017).

One common technique of transnational governance is what Abbott and Snidal call 'regulatory standard-setting' (2009, 45). It is done by a variety of private, civil society, and public actors, such as firms, industry associations, NGOs, and multi-stakeholder organizations, and different combinations thereof, sometimes also with public actor participation. A defining feature

of regulatory standard-setting is that it seeks to promote substantive norms and standards for the environment, labour, human rights, anti-corruption, accounting, and other issues. Thus, even when business-driven, such transnational regulatory standard-setting is directed at least partly at public goals and not just at partial interests of business coordination (see also [Vogel 2010](#)). Such voluntary standard-setting for public goals by business and non-governmental actors—with or without public actor involvement—has proliferated far beyond sustainability and labour issues into other governance fields, ranging from global financial regulation to humanitarian aid ([Deloffre 2016](#)) and military services. [Avant \(2016\)](#), for example, analyses the emergence and practice of a multi-stakeholder developed International Code of Conduct for Private Security Service Providers and a related association to oversee these standards.

Such transnational standard-setting evolves in a decentralized way with combinations of the various actors participating to different degrees in agenda-setting, standard-setting, implementation, monitoring, and enforcement. Standards are typically developed collectively by a set of actors in global arenas and organizations. Examples include the ISO, a non-governmental organization with a membership of 146 national standard bodies, and the FSC, a multi-stakeholder organization with environmental, social, and economic decision-making chambers comprising civil society, business, and labour actors from both the Global North and the Global South. Standards can be global by definition or can be organized in cascading sets of global principles that are specified in national, sectoral, and local standards which in turn are reviewed globally. Accordingly, transnational standard-setting offers also different opportunities for national, sectoral, and local actors to participate ([Dingwerth 2008b](#); [Malets and Quack 2017](#)). Another important differentiating feature of transnational standard-setting organizations is whether or not they are membership-based, and to what extent they offer different stakeholder groups opportunities or rights for participation and accountability.

Research on transnational governance highlights the formation of transnational actors with a collective identity and capacity to act. They include transnational business associations as well as cross-border social movements, transnational expert communities, and transgovernmental networks. While transnational social movements and activist networks might not always be members of standard-setting organizations, their strategies and practices shape the diffusion and implementation of standards and codes. Many authors consider their campaigns, boycotts, resistance, and support of transnational civil society actors to be essential for transnational governance.

Studies of transnational certification schemes in forest and labour governance show that advocacy groups were not only instrumental to their foundation (Bartley 2007), but also form influential stakeholders in some schemes. Furthermore, transnational activist networks are important watchdogs of malpractices on the ground. Studies of transnational certification schemes in forestry and labour standards show that their implementation is most effective in countries where there is a strong civil society (Vogel 2010). The same has been shown for business-driven or internal company best practice schemes in labour governance (Locke 2013).

Governance by indicators is a second widespread technique that partly overlaps with standard-setting, since indicators are also used for auditing the implementation of standards. Yet, governance by indicators reaches far beyond voluntary standard-setting, as indicators are also commonly used by international organizations to implement international treaties and agendas (Davis et al. 2012). Indicators are numerical, rank-ordered data that simplify and purport to make comparable raw data about complex economic, social, and political phenomena. Examples are the Freedom in the World Indicator, published by the non-governmental organization Freedom House since 1973; credit ratings issued by private rating agencies; the Human Development Index constructed by a group of economists on behalf of the United Nations (Mahlert 2018), and indicators of violence against women (Merry and Conley 2011). Many fields of transnational governance such as sustainability have different co-existing sets of indicators with similar goals.

Indicators are an important technique for transnational governance, because they purportedly allow comparative evaluation and monitoring of performance in disparate settings across the world. Like standards often developed by experts and professionals, indicators give transnational governance an image of data-based objectivity (Hansen and Porter 2012). Many transnational governance bodies consider global indicators to be essential for their decision-making. In the process of governing, indicators develop a 'life of their own' and become part of ritualistic auditing practices (Power 1997; Freistein 2018). As demonstrated by Espeland and Sauder (2007), the use of global indicators potentially changes how people think about a problem, what they consider as comparable or not, and how a phenomenon is defined. Created by some and used by many, global indicators often create unintended consequences in polycentric governing processes. Locally specific phenomena become decontextualized and are inserted in a unified and flat vision of a global issue. Fisher (2012, 216–217) illustrates this point nicely with respect to one of the immunization coverage indicators developed by the World Health Organization and the United Nations Educational,

Scientific and Cultural Organization. While created by health professionals to measure population coverage with the third dose of diphtheria-tetanus-pertussis vaccine, the DTP3 indicator has become used as a proxy for the performance of overall health systems and as a benchmark for international financial institutions' evaluations of states' eligibility for credit.

The polycentric and polyarchic nature of transnational standard-setting and indicator development has given rise to debates on the effectiveness of these governance techniques. Faced with criticisms of the multiplicity of standards and indicators, new initiatives target the 'governance of governance'. Such meta-governance organizations seek to promote norm convergence between standard-setting organizations and thereby to raise the credibility and legitimacy of voluntary schemes (Murphy-Gregory and Gale 2019). Several governmental and non-governmental initiatives have brought together schemes in sustainability and other transnational governance fields to address undesirable fragmentation and competition. Examples include the International Social and Environmental Accreditation and Labelling Alliance, which establishes codes for inclusive standard-setting, regular impact assessment, and sustainability for its nineteen member organizations (Fransen 2015) and the International Task Force on Harmonization and Equivalence in Organic Agriculture, which develops accreditation criteria and assessment guidelines for equivalence of standards (Derckx and Glasbergen 2014).

Taken together, the above-illustrated techniques of transnational governance display characteristic features of polycentrism as understood in this volume, with multiple and overlapping roles between governors, governees, and publics. Transnational governance thereby often involves complex sets of decentralized and distributed techniques that blend global rule-setting, local implementation, and recursive feedback cycles. Transnational governance is also increasingly characterized by an amalgamation of so-called private and public rule-setting, with both voluntary and binding features from which hybrid governance arrangements arise.

## **Power in Transnational Governance**

Given these characteristics, it is not surprising that works on transnational governance approach power as a dispersed and distributed phenomenon rather than originating from a single hegemon, a unified process, or a central arena. Given that the various institutional approaches assembled under the transnational governance perspective hold different assumptions about



agency, it is also not surprising that they invoke different concepts of power (understood here as the capacity to bring about specific effects). Some treat power as a function of material or institutional resources. Others relate power to the capacity to develop and use institutional schemes for change or reproduction of the status quo. Others link power to the discursive capacity to mobilize audiences through frames and narratives for institutional change.

Beyond these differences, however, a common thread in the transnational governance literature is that cross-border regulation through seemingly technical institutions is a deeply political process with significant distributional outcomes (Bartley 2011; Bütthe and Mattli 2011). The political relates not only to the process of rule-setting, but also to the diffusion and adaptation of transnational standards, indicators, and other rules. Underlying the technical face of transnational governance, so the argument goes, is continuous political contestation along and across the different phases of the rule-setting and implementation cycle, with different actor groups struggling over power to shape the goals, processes, and outcomes of transnational governance (Botzem and Dobusch 2012).

The literature is also divided on the question of who or what holds power in the transnational realm. Going back to Susan Strange's (1996) seminal work on the rise of power of global corporations and the retreat of the state, work in international political economy has tended to see the lack of unity in transnational governance as a way for resource-rich actors to exert their material and discursive power at the expense of other actors. In this tradition, it is large multinational enterprises, business associations, corporate-supported think-tanks, and business consultants who can strategize and manoeuvre the complexity of transnational governance, shaping it according to their interests. For example, Nölke and Perry (2007) show how large multinational accounting firms exert influence on international accounting standard-setting. Many of the accountants who provide the expertise for transnational standard-setting are working for these firms; a large proportion of funding for this standard-setting is provided by large accounting firms; and accounting firms are part of a financial elite that helped to shape neoliberal regulation in international financial markets over the last decades. Similarly, the contributions in Clapp and Fuchs (2009) highlight how corporate power penetrates transnational governance in the agri-food sector. Hence, global corporations and transnational business elites regularly figure as influential actors in transnational governance.

A more careful look at the literature reveals that power relations are often more complex than depicted in the above-cited approaches highlighting production and financial power. Expert and practice communities, coalitions of

small but willing state actors, transnational social movements, and activist networks, and local constituencies can also exert power through a variety of channels to generate and shape transnational governance. Some of these actors can be considered resource-rich in terms of their expert knowledge. Others are not resource-rich in material or knowledge terms, but are still able to influence processes and outcomes of transnational governance through social mobilization, naming and shaming, and other techniques of framing public debates. Over time, power struggles shape a variety of governance trajectories in different policy fields that Djelic and Quack (2018, 135) characterize as monopolistic, coordinated plurality, or contentious competition.

A broad strand of research deals with the power of experts and expertise in transnational governance. Expertise refers to forms of knowledge that are socially recognized to be relevant for transnational governance. In many areas of standard-setting and indicator development, expertise encompasses various forms of technical and issue-specific knowledge as well as procedural and managerial knowledge about processes of verification, auditing, and monitoring. For example, it is hard to develop standards for forest governance without involving the specialist knowledge of forest scientists and practitioners, or to develop accounting standards without the professional knowledge of accountants. In any case, the power of expertise in transnational governance goes far beyond policy advice, since it pervades all phases of the governance process.

Historically, professional communities have built a strong record of establishing and maintaining knowledge-based (and often self-serving) control over specific transnational governance fields. Examples are the influence of elite lawyers in shaping international commercial arbitration (Dezalay and Garth 2010) and in making transnational financial regulation. Likewise, a newly emerging sustainability profession has strongly moulded voluntary standard-setting in the Marine Stewardship Council and the Roundtable for Sustainable Palm Oil (Ponte and Cheyns 2013). Transnational professional communities typically exert their power over problem-definition, rule-setting, and implementation through a combination of networking, alliance-building and cooptation with discursive strategies such as framing, persuasion, and socialization (Djelic and Quack 2010).

However, professional communities are by no means homogenous actors. Often different professional groups compete over knowledge-based claims to authority in transnational governance. In the field of population governance, for example, a small group of demographers managed to shape policy directions and evaluation criteria in directions not supported by more prestigious medical professionals and economists (Seabrooke and Tsingou 2015).

Similar contests for the authority of relevant knowledge have been observed in the fields of global accounting (Botzem 2012; Botzem et al. 2017), financial tax reporting, and copyright (Quack 2016).

Other streams of transnational governance research point towards the transformative power of cross-border activist networks and social movements in initiating, reshaping, and contesting transnational governance arrangements (Della Porta and Tarrow 2005; Scholte 2007; Malets and Zajak 2014; Auld et al. 2015). Transnational advocacy networks (Keck and Sikkink 1998) appear across all fields of transnational governance. Locally rooted and transnationally connected, these networks are important intermediaries that can enhance local resistance and provide leverage against more powerful actors through strategies of blaming and shaming, collective mobilization, media displays, and symbolic actions. Transnational civil activism often extends beyond protest. Transnationally coordinated civil society actors, in particular NGOs, have significantly reformulated policy agendas, initiated and developed governance schemes, and played a crucial role as watchdog in monitoring the effectiveness of transnational governance (Dobusch and Quack 2013; Auld et al. 2015).

In sum, power in transnational governance is a diffuse, relational, and dynamic phenomenon. It cannot be taken for granted or determined in the abstract, but needs to be analysed in a situated context. Given this diffuse power, transnational governance is incompatible with traditional notions of a hegemony. However, power struggles persist over access to governance institutions, their functioning, and their outcomes. The analysis of power relations in complex and interdependent transnational governance arrangements helps to understand why we see different pathways emerging over time.

## Legitimacy in Transnational Governance

Research on transnational governance has discussed legitimacy in both a normative and an empirical sense. The former has been more prominent in political and socio-legal debates, while the latter arises more frequently in sociological analysis. Authors approaching the issue from a normative standpoint have suggested three alternative standards for the legitimacy of transnational governance: inclusiveness of participation, expertise-based effectiveness, and procedural fairness. These criteria broadly correspond to what scholars have respectively called input, output, and throughput legitimacy (Quack 2010). From an input-oriented perspective, it has been

suggested that, in the absence of an identifiable transnational policy community, governance schemes should maximize the inclusiveness of potentially affected stakeholders so that they have a realistic chance of being heard (Hurrelmann et al. 2007). In contrast, output-oriented approaches evaluate the legitimacy of transnational governance schemes against their ability to produce effective solutions for public policy problems, which are typically regarded as a direct function of the technical, professional, epistemic, and bureaucratic expertise involved in decision-making (Mena and Palazzo 2012). The most prominent criteria for validating the legitimacy of transnational governance from a throughput perspective are procedural fairness and impartiality (Schleifer 2019). Thus, governance procedures that approximate the rule of law and have quasi-judicial conflict resolution mechanisms are seen as enhancing the normative legitimacy of transnational governance, particularly if they provide subjects with actionable rights (Djelic 2011).

Empirical approaches to legitimacy differ from normative understandings insofar as they highlight people's perceptions of the rightfulness and appropriateness of a given authority. Research can study both the legitimacy claims of rule-setters and the legitimacy beliefs of subjects. As a consequence, processes of building legitimacy unfold in tandem with the rule-setting activities of transnational governance bodies. Those claiming governance authority seek to build legitimacy relations with their addressees and relevant publics (Black 2008). These legitimacy relations are built through social practices and public discourse, which invoke underlying sources of legitimacy, such as institutional features of the authority in question, embedded social norms, or rational interest calculations. But the language of discourses in itself can also generate legitimacy beliefs, for example through notions of 'security' or 'efficiency'. The polycentric features of transnational governance, hence, imply that social and political legitimacy is constituted through a polyphonic concert of legitimation practices and discourses in which justifications for authority undergo the test of acceptability for broader publics (Dingwerth 2017, 76).

Empirical research on legitimacy has found that actors involved in transnational governance refer in their discourses and practices to all three normative criteria for input, throughput, and outcome legitimacy: perceived inclusiveness/participatory character; transparency, accountability, and fairness of process; effectiveness of outcomes (Quack 2010). Democracy, effectiveness, and fairness can also apply as legitimacy criteria at all stages of the policy cycle (Tallberg et al. 2018). Transnational standard-setting bodies, for example, have followed different legitimation strategies that mirror their decision-making, transparency, and accountability politics. Forerunner

schemes in sustainable governance, such as the Forest Stewardship Council, sought to legitimate their rule-setting and implementation through elaborate participatory decision-making and accountability procedures such as equal voting shares for environmental, social, and economic chambers, as well as for representatives of the Global North and Global South within each chamber. Contrary to such a quasi-democratic approach, other organizations, such as the IASB, have combined their claims for expertise-based output legitimacy with investments in due process and transparency (Richardson and Eberlein 2011). Other transnational governance schemes have used concepts of multi-stakeholderism, due process or effectiveness as justifications for their authority claims without necessarily establishing similarly ambitious participation and accountability procedures.

Over time, we can identify four broader patterns in respect of legitimacy in transnational governance. First, different institutional sources of legitimacy (i.e. input, throughput, and output) interact throughout the phases of governance processes. During the initial institutionalization of transnational governance schemes, inclusiveness tends to be more important, whereas later on procedural features and effectiveness become more salient (Tamm Hallström and Boström 2010; Botzem and Dobusch 2012).

Second, recursive features of governance increasingly become a source of legitimacy. Here governance process become more responsive to the specific and changing implementation contexts by introducing elements of regulator consultation or review (Halliday and Carruthers 2007; Halliday and Shaffer 2015; Marx and Wouters 2016; Malets and Quack 2017). Yet, most transnational governance arrangements still lack mechanisms for feedback from the weakest among their legitimacy audiences, such workers in Bangladesh factories or small companies in Africa. This deficit might undermine legitimacy of transnational governance schemes in the longer term.

Third, is the dynamics of legitimacy vary significantly across issue fields of transnational governance. This suggests that transnational governance schemes develop legitimacy cultures that are specific to their policy area, composed of meaning systems, values, and discourses within their legitimacy communities (Black 2008; Dingwerth 2017; Djelic and Quack 2018, 135). An example is the abovementioned differences in meaning systems, values, and discourses on which legitimacy draws in the forest certification and accounting field.

Finally, public-private interactions become increasingly important in the legitimacy dynamics around transnational governance schemes. These interactions can take a variety of forms. The best established and most widespread is 'delegated state authority', where a public actor hands over authority for standard development to a non-governmental body (Green 2018).

Standard-setting organizations, such as the ISO, base their legitimacy claims on the recognition of their activities and outputs by states and international organizations, as well as expert knowledge (Murphy and Yates 2009).

New and more complex forms of legitimacy interactions have emerged as the boundaries between public and private authority are becoming more porous. Three are particularly relevant. The first is reference to public regulation in order to obtain legitimacy for private rule-making (Green and Auld 2017). For example, labour codes of the Fair Labour Association refer to core labour standards published by the International Labour Organization as well as to existing labour law in the country of application. These references to public regulation serve to legitimate its aims and ambitions as a newly emerging transnational governance scheme. The second public-private interaction involves ex-post recognition by public actors of private transnational rule-setting. The most prominent example is the International Financial Reporting Standards, which were initially developed by a private foundation as voluntary standards and later became a legally binding requirement for stock-market listed companies in the European Union and subsequently in most states worldwide (Botzem et al. 2017). The third one is hybrid forms of transnational governance, in which public and private actors draw mutually on their competences and status to legitimize their governance authority (Graz 2019: 33). An example here is the Codex Alimentarius Commission for international food standards.

In sum, a transnational governance perspective suggests that we should resist 'one-size-fits-all' prescriptions for legitimacy in both normative and empirical terms (MacDonald and MacDonald 2017). Legitimacy is bound to the specific type of authority relations, and its forms may vary across the governance cycle, issue-fields, and legitimacy audiences. In a polycentric setting, legitimacy is never fully settled, but rather involves a perpetual process of justifications and challenges that need to pass the test of public acceptance. Some strategies of legitimation may only work under specific scope conditions. For example, deliberative legitimation strategies are unlikely to work in settings of high power inequality, while expertise-based strategies are likely to fail in settings where different groups can claim relevance for transnational governance based on diverse knowledge systems.

## Conclusion

Particularly at a time of gridlock and crisis in traditional forms of multi-lateral global governance such as the United Nations system (Hale et al. 2013), transnational governance helpfully highlights wider developments

around global cooperation. The perspective offers three main contributions to understanding polycentrism.

First, transnational governance identifies alternatives to traditional multilateralism for the regulation of problems that have been recognized as of global scale (or are in the process of being recognized as such). Such cross-border regulation does not necessarily start at the global level, but instead often develops from bilateral, regional or continental initiatives that may later be ‘scaled-up’ (Bernstein and Hoffmann 2018) or ‘progressively joined-up’ (Zeitlin and Overdevest 2020). We can thereby understand global cooperation as something that results from multiple joined-up pathways rather than from an a priori universal approach (Hale and Held et al. 2017; Zürn 2018). In the policy field of climate change, for example, multiple authors have recently employed the transnational governance lens to study multiple pathways towards global climate policy (Andonova et al. 2009; Sabel and Victor 2017). Moreover, this perspective invites research on the role of imagination in power struggles and legitimacy dynamics attached to different pathways (Freistein et al. 2022).

Second, the transnational governance perspective’s focus on multi-level processes and structures lends itself to the mapping of the actors and schemes (Dingwerth 2008; Abbott and Snidal 2009; Margulis et al. 2016) as well as the study of interactions between separate or overlapping, competing, or complementary parts of governance regimes (Eberlein et al. 2014; Green and Auld 2017; Wood et al. 2020). In this respect, studies of transnational governance interactions are closely linked to those on institutional complexity (Zelli et al., Chapter 4, this volume), but typically give more attention to the role of non-state actors and the fluidity of the institutional process.

Third, recent transnational governance research has devoted greater attention to recursive interactions between transnational rule-setting and national/local implementation. The perspective overlaps in this respect with transnational legal realism and global administrative law (Galàn, Chapter 7, this volume; Liste, Chapter 9, this volume). Approaches such as transnational experimentalist governance (Overdevest and Zeitlin 2014) and transnational legal orders (Halliday and Shaffer 2015) conceptualize transnational governance as processes in which actors adapt overarching universal principles to specific economic, political-institutional, and cultural conditions at the regional, national, and local levels. Review and monitoring systems, or feedback effects, provide iterative interactions that allow for adaptation. This perspective can help to better understand how governance can evolve in a socio-economically and culturally diverse world.

However, along with these potential contributions come also some limitations that the literature has not yet sufficiently addressed. For example, too little research has examined North–South disparities in transnational governance institutions. Likewise, knowledge about how transnational governance works out on the ground in the Global South is sparse. Similarly, we have little research on gender relations in transnational governance; nor has the role of social class in transnational governance been well researched. Without such analyses, it is hard to promote more access and influence for so far marginalized actors in transnational governance. In this respect, enhanced dialogue with critical global socio-legal analysis (Rajah, [Chapter 8](#), this volume) and intersectionality approaches (Marchand, [Chapter 15](#), this volume) would be beneficial.

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**PART III**  
**LEGAL APPROACHES**



## Taming Polycentric Governing

### Global Administrative Law's Reformist Ambition

*Alexis Galán*

Think of the shipping (or freight) container. Superficially, there is nothing remarkable about it. A rectangular-shaped box, the sole purpose of which is to move objects around. Yet behind that inconspicuousness, the container can tell us something of how our lives are currently organized. On the one hand, the container is crucial to the enjoyment of our daily lives. As much as 90 per cent of material goods—computers, furniture, books, clothes, etc.—goes through containers. Global value chains depend on their capacity to transport objects from one location to another (George 2013).<sup>1</sup> But the container itself is also an exemplar. Consider its shape; while one could easily think of this as being the result of some ‘natural’ process of the market whereby the most ‘efficient’ shape ‘won’, that is not the case. In fact, its shape was the outcome of a long and bitter fight between an amalgam of government agencies, firms, and other private associations, all under the auspices of a private organization: the International Organization for Standardization (ISO) (Levinson 2006, 127–150).<sup>2</sup> The result was the ISO 668 standard.

Like the container, ISO's work touches almost all aspects of our lives: from photography film, fermented milk, quality management and quality assurance (the famous ISO 9000 standards), environmental management, information technology, to social responsibility of public and private organizations, among many other issues.<sup>3</sup> It is therefore not surprising that ISO has published 24,296 standards since its founding in 1947 (ISO 2022). And in all of that, the role of the state is secondary. It is a private organization composed mostly of private associations and other actors. Though it might superficially resemble a standard public international organization like the Universal Postal Union, with its secretariat, general assembly, council, and so forth, it is registered as a private organization in Switzerland.



ISO is one of many entities impacting how our lives are governed. Other such bodies include the Internet Corporation for Assigned Names, the World Intellectual Property Organization (WIPO), the Marine Stewardship Council Sustainable Fishery Standards, International Electrotechnical Commission (IEC), and so forth. They are part and parcel of the production of polycentric governing. Furthermore, and as the editors of this volume note in the introduction, they operate in ways that depart from what is conventionally thought of by ‘governing’. They are scattered institutionally and spatially, and straddle conventional ways of conceiving the world such as the public/private or the national/international divide. More problematically, they diffuse responsibility and accountability, as power is not concentrated in governments and state institutions, but is spread out, which makes it difficult to control and influence.

Notwithstanding these difficulties, polycentric governing involves in some respects doing what state institutions have traditionally done. Some argue that in order to grapple with the challenges raised by polycentric governing, it is therefore worth looking back at the state for inspiration; in particular, to administrative law—the body of rules, norms, principles, and techniques aimed at regulating, channelling, and limiting the actions and activities of the state. This approach, which is discussed as global administrative law (GAL), begins with the claim that the way in which entities such as ISO operate are similar to how domestic administrative agencies work. Accordingly, administrative law can provide a useful lens through which one can analyse and evaluate the actions of ISO and others. In other words, GAL is a project that aspires not only to understand the processes that make up polycentric governing but to reform them so that they become normatively appropriate. Thus, the most important contribution of GAL to our understanding of polycentric governing is that of ‘naming’, as Susan Marks (2005) has put it. GAL has shed light and made coherent a series of processes that otherwise might have seem disparate. Because it is only when we can name things that we can act upon it. Accordingly, even if GAL falters at certain junctures, as we shall see, the fact of having helped in identifying a phenomenon makes the effort worthwhile.

This chapter proceeds as follows: the first section introduces the central claims and assumptions underpinning GAL. The second section focuses on its analytical scope, that is, the kind of entities, processes, or actors that fall under GAL. The third and last section examines how legitimacy, technique, and power are discussed within GAL. We shall see that while a lot of thought has been given to legitimacy and technique, power remains undertheorized, even if all three concepts are interrelated in one way or another.

## Global Administrative Law: Origins and Objectives

GAL is a project spearheaded by Benedict Kingsbury and Richard S. Stewart, both professors at New York University. The project encompasses practitioners and academics from around the world—Italy, South Africa, Argentina, etc.—and came to be in light of the ‘vast increase in the reach and forms of transgovernmental regulation and administration’ (Kingsbury et al. 2005, 16). There is no field left untouched: security, finance, law enforcement, telecommunications, intellectual property, labour standards, and so forth. This increasing regulatory activity has entailed the production and elaboration of norms, principles, rules, and standards aimed at regulating the form and reach of regulatory activity. For proponents of GAL, this emerging regulatory corpus can be conceptualized as a subset of administrative law.

As a project, GAL arises within the discipline of international law as a response to the inadequacies of international law’s conceptual and normative framework in capturing the transformations taking place within international law and beyond it (Casini 2022). Conventionally, international law has been a minimal set of rules regulating the relations between states. Now, international law has become a complex, highly institutionalized order composed of multiple and diverse regimes touching areas that not so long ago were alien to the field. The outcome of such expansion is that international law’s conceptual framework is either insufficient or cannot capture these transformations. Take the case of the individual. International law only recognizes states and international organizations as proper subjects of international law. The status of individuals, on the other hand, still is uncertain, oscillating between ‘subject’ and ‘object’, even though international law nowadays regulates the actions of individuals or bypasses the state when regulating certain issues (Janis 1984; Cogan 2011; Salako 2019). Likewise, due to its statist ‘bias’ international law does not address large swathes of transnational and global regulatory activity. Accordingly, organizations such as ISO remain a mystery within an international legal framework.<sup>4</sup>

International law’s conceptual inadequacy equally extends to normative considerations. The global expansion of institutions, norms, rules, and standards has created what is normally described as the legitimacy deficit. In international law, the question of legitimacy has been addressed through state consent; states need to give their consent in order to be bound by a norm (Besson 2016). For a while, this sort of consent worked relatively well, as there was a close connection between the consent and the obligation that states had to fulfil, and they had great latitude regarding its implementation. Likewise, international law only regulated a few selected areas. However, with the vast

increase in and greater complexity of international law, the consent of the state has become attenuated, minimal, or non-existent to an important extent. As a result, the legitimacy claim of the international legal order has weakened considerably. In other words, citizens who previously could have a say through the state now find themselves limited in their capacity to influence how decisions are being made in international law (Kumm 2004). This state of affairs is even more problematic when we move to the practices of organizations and entities that operate in the shadow of international law. Here we encounter private actors that wield important influence in how social life should be governed (Büthe and Mattli 2011), yet because of their private status, citizens have extremely few avenues through which they can participate in how these private actors should hold that power.

Why draw on administrative law? Two related answers are given. It is argued that administrative law can help in developing a 'more rigorous conceptual schema of the various institutional structures and relations' that make up polycentric governing (Kingsbury and Stewart 2008, 6) and to ameliorate the legitimacy deficiencies besetting it. Historically, administrative law has emerged as means of controlling and limiting the power of the state. Accordingly, an extensive range of concepts systematizing and limiting the activities of the machinery of the government have been developed (Kingsbury and Stewart 2008, 6). Put another way, administrative law offers a set of relatively precise categories from which we can examine how polycentric governing takes place and how to shape it so as to ameliorate its normative deficiencies. Namely, it can help in figuring out the extent to which taken-for-granted mechanisms in the domestic realm are lacking worldwide, and simultaneously in spurring the development of appropriate administrative techniques (Kingsbury et al. 2005). Domestic administrative law then serves as 'inspiration and contrast'. It provides a conceptual scheme from which one can identify converging and diverging developments in institutional practice as well as sharpening 'our sensitivity for the problems and possibilities of establishing' legitimacy mechanisms on the global level (Krisch 2009, 13).

The argument for administrative law is analogical. It is argued that how organizations, actors, or institutions such as ISO and many others operate can be understood and analysed as a type of administrative action, as they engage in 'rulemaking, administrative adjudication between competing interests, and other forms of regulatory and administrative decision and management' (Kingsbury et al. 2005, 17). Despite important similarities, Kingsbury, Krisch, and Stewart are aware that there are nonetheless noticeable differences between the domestic and the supra-domestic realm. For instance, in contrast to the domestic realm, where there is a functional sense of what an

administrative action is—those actions that are not legislative or judicial—there is no such clear functional understanding transnationally. Similarly, polycentric governing operates in a more diverse institutional landscape, in contrast with the state's tripartite division between the executive, legislative, and judiciary. Within polycentric governing, those functions can at times be combined (Kingsbury et al. 2005, 15–16, 19, 28–29). While it is not clearly articulated, there is an awareness that there are limits to the analogy and that it should be taken as a starting point of analysis from which a more differentiated and granular understanding of how administrative practices beyond the state take place.

Lastly, it is important to briefly discuss GAL's conception of law. For any legal approach, an understanding of what counts as 'law' is vital. There are consequences in considering something to be subject to the law or not. The range of possible actions that one can undertake can vary dramatically; to put it crudely, if we were to treat the prohibition against murder as a moral norm but not a legal one, it would mean that one could not prosecute those that would murder someone. Less dramatically, to accept something as legal means the possibility of having access to courts to seek remedy in case of a violation. Thus, unlike when discussing politics, where the boundaries of what constitutes politics is more open ended, in law the boundary is paramount.

GAL aims to broaden the kind of processes and institutions that can fall under the law—hence the fact that the project talks of *global* administrative law and not of *international* administrative law (Kingsbury 2009a, 29). At present, what is considered to be international law is based on its origin, that is, what type of law it is: treaty, custom, and general principles of law (art. 38.1 ICJ statute). The content and particular form of the law is irrelevant as long as it can be traced back to one of those sources. Thus, the rulings of the World Trading Organization's (WTO) appellate body are deemed legal because they can be traced back to the WTO's founding treaty. However, things become complicated when we move towards areas in which one cannot trace norms, rules, actions, or decisions back to one of the established sources of international law, creating a legal vacuum. Remember, international law has nothing directly to say about ISO; therefore, as an organization it cannot act within the established international legal order.

To remedy that, Kingsbury proposes moving away from a source-based understanding of law towards a content-based one. Part of this decision is based on there being no agreement on what those sources could be beyond those established in international law. For Kingsbury, a content-based account of law has the benefits of making easier to identify what

actually is law, because one needs only to pay attention to a set of characteristics. Drawing on the legal philosopher Leon L. Fuller, Kingsbury argues that law has set of immanent qualities that makes it distinguishable from other social practices. Thus, whenever we see practices of legality, transparency, due process, rationality, proportionality, the rule of law, and human rights, one can talk of being in the presence of law (Kingsbury 2009a, 31–32). This understanding demands a more concrete analysis of the practices of institutions and actors in order to ascertain whether we can talk of something being legal. Hence, organizations such as ISO can now be seen as legal entities. One can then use the qualities of the law—its ‘attributes, constraints, and normative commitments’—as means of evaluating the normative adequacy of polycentric governing (Kingsbury 2009a, 30).

## Mapping Global Administrative Law

As a legal project, GAL is concerned with a subset, albeit a sizeable one, of the processes that make up polycentric governing. It focuses on those institutions, organizations, practices, and actors that participate in the creation and production of regulation. Proponents of GAL describe those processes as occupying a ‘global administrative space’ (Kingsbury et al. 2005). How this space is spatially and institutionally structured is quite distinct from how administrative law takes place in a domestic setting (i.e. hierarchical) and closely follows how this volume’s editors present polycentric governing, being ‘transscalar, transsectoral, dispersed, variable, messy, elusive, [and] headless’ (Gadinger and Scholte, Chapter 1, this volume). In other words, instead of the top-down approach that one observes in the state, the global administrative space is fragmented, heterarchical, and disperse. It is a spontaneously evolving and untidy regulatory space ‘without center or hierarchy. There is no clear separation of function, activity, or in many cases of personnel between global bodies and domestic agencies. National systems of administration and law become porous; global norms flow into them, often circumventing the national legislature’ (Kingsbury and Stewart 2008, 5). This complexity extends to how the different regulatory regimes are structured: some only provide a framework in which states can orient themselves, while others produce guidelines aimed at domestic agencies. Still others have enforcement mechanisms or rely on national, regional, or international authorities or on judicial bodies in case of disputes, or otherwise on other procedures such as negotiation, conciliation, or mediation (Cassese 2012, 20). Furthermore, how these institutions, organizations, or actors interact with each other differs

as they 'are linked by ongoing informal communication and negotiation and more established ties through inter-organization and negotiation, representation and participation and consultation procedures' (Kingsbury and Stewart 2008, 5). That is to say, power is 'dispersed among a myriad of distinct administrative regimes pursuing specialized tasks without any overarching authorities or arrangements for supervision, accountability, coordination, or correction' (Stewart 2014, 212).

To provide further substance to this characterization of global administrative space, a typology differentiating how administrative action occurs is provided:

- (i) *Administration by formal international organizations.* This is the most straightforward type of administration. It covers formal intergovernmental organizations—the United Nations (UN), World Bank, International Monetary Fund, and so forth. They are formal because they came to be through an international treaty or executive agreement and are all similarly organized. They have a secretariat, which runs the day-to-day work, a council, an assembly, and several internal organs of administrative character. The WTO, for instance, has a secretariat, which is further divided into several directorates and offices such as the Office of Internal Investigations, among many other administrative bodies. The regulations approved by these institutions are generally implemented by their member states. Sticking to the WTO, there is something called *schedules of concession*, referring to the kind of tariffs that states will impose when trading goods with other member states. These schedules need to be incorporated by the states in their own respective domestic legal orders in order for them to gain effectiveness (Stewart and Sanchez Badin 2011). Besides this type of regulation, there is the growing tendency whereby regulation bypasses the state altogether and directly regulates the actions of individuals. An interesting example can be seen in international environmental law. Within the Kyoto Protocol, an international treaty operationalizing the United Nations Framework Convention on Climate Change, there is the clean development mechanism (CDM). The CDM supports developed countries to receive credits towards their emission reduction obligations for projects undertaken, often by private entities, in developing countries, with the aims of both promoting development and enabling emissions reductions at a reduced cost. The CDM has an Executive Board (EB), whose work is supervised by the inter-state Conference of the Parties/Meeting of the Parties (COP/MOP). In general, the EB and the panels have an authorial role, with the

COP/MOP exercising an editorial and approval role. The EB's power is hemmed in at the operational project level by the system under which designated operational entities (DOEs) validate proposed CDM projects and verify and certify reductions in emissions. The final certification by the DOE results automatically in the issuance by the CDM registry administrator of the specified number of certified emission reductions (CERs). Thus, much of the power to create CERs, which are in effect an internationally constructed property right, rests with the DOEs, which are themselves market actors that are not created by intergovernmental action and are contracted by the project parties in relation to each project. Hence, we observe an international institution with substantial powers directly regulating and affecting private actors as well as state agencies (Kingsbury 2008).

- (ii) *Intergovernmental and transnational networks of cooperative arrangements between national regulatory officials.* Administration here is collective, horizontal, and normally takes place in the absence of binding formal decision-making structures, although a treaty framework might exist. As the name indicates, informal cooperation among state regulators is the dominant form of acting. An example of such type of administration is the Basel Committee on Banking Supervision. The committee is an informal organization; no treaty has been established. What the committee does is to bring together the heads of various central banks, in order to coordinate on a vast range of policy matters such as capital adequacy requirements for banks. Because of the important power that central bankers hold, the committee's agreements can be quite effective, even if they are not legally binding (Barr and Miller 2006). Besides banking and financial regulation, one can find these informal networks in antitrust, securities, telecommunications, food safety, taxation, or transportation safety regulations (Slaughter 2004).
- (iii) *Distributed administration.* Due to the fragmented and heterarchical nature of GAL, it is possible that the actions of domestic administrative agencies might have a global effect. This may occur when addressing an issue under the jurisdiction of international law—such as a direct obligation. The WTO, for instance, requires that domestic agencies act with transparency or provide justification when making certain trade decisions. It might be that administrative agencies need to make certain decisions in order to achieve an internationally agreed objective because an international norm demanded it. It might also be possible that domestic decisions can be recognized and have legal effects beyond national borders. In the area of food safety and product safety,

for example, it is not uncommon that foreign government inspectors may be stationed in the exporting state to inspect products and production facilities. It is also possible that a domestic agency (or agencies) may act as enforcers 'on behalf of' a transnational regime. The United States State Department tracks how states comply with the *Protocol to Prevent, Suppress, and Punish Trafficking in Persons* and may even impose unilateral sanctions. The protocol does not explicitly authorize the US to do so, but it has taken up the mantle, nonetheless.

At times, the global regulatory impact of domestic agencies takes place when their own regulatory regimes have extraterritorial effects. An example would be the famous 1998 WTO Appellate Body ruling *United States-Import Prohibition of Certain Shrimp and Shrimp Products (Shrimp-Turtle)*. In 1973, the US passed the *Endangered Species Act*, which tried to impose a ban on the importation of certain shrimp and shrimp products that did not adhere to certain conservation measures in favour of five endangered species of sea turtle. The action of the US domestic regulatory agency aimed to influence the regulation of certain countries vis-à-vis the production of shrimps. Some of the countries affected, India, Malaysia, Pakistan, and Thailand, initiated a complaint procedure at the WTO Appellate Body, which ruled in favour of the US.

- (iv) *Administration by hybrid public-private arrangements.* Regulation takes place in the context of organizations or bodies in which public and private actors interact. ISO instantiates that kind of administration. The organization itself is private, but its main members are both governmental and private associations. The same goes for the IEC. The IEC, which also publishes standards, though restricted to electrical and electronic technologies, is a private organization whose membership is also composed of public and private actors. The force of these organizations is that their standards can become incorporated in international legal regimes. Differently put, they acquire normative force through indirect recognition of their standards. But not all hybrid private-public arrangements engage only on the elaboration of standards. Take the case of the World Anti-Doping Agency (WADA), which was created in 1999 as a response to the increase in cases of doping in sports. The WADA is a private foundation subjected to the Swiss Civil Code. It launched under the proposal of the International Olympic Committee, with the assistance and participation of intergovernmental organizations, governments, public authorities, and other public and private bodies. Like the IEC, WADA develops standards. One such standard is the establishment, adaptation, modification, and update a list of substances and



methods prohibited in the practice of sport. But WADA also engages in other activities such as coordinating the fight at the international level by promoting the adoption of in- and out-of-competition tests; or reinforcing, at the international level, ethical principles for the practice of doping-free sport, and helping protect the health of the athlete (Casini and Mannucci 2012).

- (v) *Private bodies with regulatory function.* This category refers to the exercise of administrative functions by private bodies. An example of such an administration is the Forest Stewardship Council. This organization, founded as means of promoting responsible management of the world's forests, is an entirely private institution. Domestically, these bodies are voluntary associations rather than bodies bound to administrative law, unless the state relies on them for some reason, in which case the body is treated as if it were a public entity. Beyond the domestic sphere, these private bodies can accrue great power, especially when there is a lack of regulatory alternatives (Donaldson and Kingsbury 2013; Stewart 2014).

## Legitimacy, Techniques, and the Spectre of Power

GAL as a project is eminently preoccupied with the production of normativity under conditions of polycentric governing. Accordingly, questions of legitimacy, techniques, and power are unavoidable. Within that conceptual tripartite, the literature has predominantly focused on questions of legitimacy and techniques. Power, on the other hand, has remained undertheorized.

### Legitimacy

As stated earlier, a central drive of GAL is to address the legitimacy deficiencies of polycentric governing. Differently put, GAL approaches legitimacy normatively rather than sociologically. A sociological understanding of legitimacy focuses on ascertaining whether citizens approve or not of certain institutions. A normative understanding of legitimacy, in contrast, focuses on providing a set of normative standards that institutions, actors or rules need to fulfil in order to be deemed legitimate. That is, GAL discusses legitimacy as a means of normatively assessing, criticizing, and ultimately reforming the practices of polycentric governing.

That said, GAL's approach to legitimacy needs to be qualified. First of all, proponents of GAL are not interested in proffering a comprehensive account

of legitimacy that would establish the conditions under which the whole of polycentric governing would be legitimate. Rather, they aim 'at elucidating the respective normative values and presuppositions of particular institutional alternatives' (Krisch 2009, 13). Instead of providing a blueprint for the establishment of 'overarching global institutions that could exert authority over the diverse' organizations, the preferred route is to reform the existing institutional mechanisms and arrangements available in particular regimes (Stewart 2014, 213). In this sense, GAL is a reformist, piecemeal project. Secondly, the narrower piecemeal approach to legitimacy is accompanied by a narrower conceptual focus. Instead of providing a whole account of legitimacy, they zero in on one part of it: accountability.

Accountability is defined as the obligation of someone 'to have to answer for one's action or inaction, and depending on the answer, to be exposed to potential sanctions, both positive and negative' (Oakerson in Krisch 2006, 249). Accountability demands provision of 'equal respect and regard for all relevant individuals and groups and their interests and concerns' (Stewart 2014, 212). The turn to accountability is driven by practical considerations. Legitimacy is seen as a very broad and complex concept, making the notion difficult to pin down. Discussions about the legitimacy of polycentric governing, or aspects of it, generally end up at a very abstract level. Accountability, on the contrary, offers, according to Kingsbury, Krisch, and Stewart, a more specific lens; while it is not denied that the definition remains abstract to an extent, it is maintained nonetheless that accountability is capable of eliciting a 'particular relationship between actors, and a particular response to legitimacy claims of particular actors' (Krisch 2009, 12).

Besides practical considerations, accountability is also seen favourably because of its normative modesty. A full account of the conditions that would make polycentric governing legitimate would necessarily raise questions about democracy or justice. However, these issues are seen as being highly contested in the global arena. Much of this is owed, or so it is argued, to the lack of an existing public *demos* whereby some shared agreement among citizens on the fundamental values of a state or institution exists. Instead, the situation is one of pluralism and fragmentation. As a result, a full reckoning of legitimacy accounts would entail the imposition of contested values (Kingsbury 2009b).

A related argument emphasizes the divergent structures between the domestic sphere and the untidiness of polycentric governing. According to Stewart (2014), legitimacy accounts have historically been developed against the background of the experience of democratic nation-states. These are states with a 'robust general authority to govern', as they have developed a

relatively stable set of institutions. This has provided the space for elaborating a general and coherent account of legitimacy. This 'one-size-fits-all' account becomes inadequate in light of polycentric governing's disjointed image. Authority is simply dispersed among multiple and distinct regulatory bodies, each of them pursuing particular objectives without any overarching authority coordinating them. Furthermore, many of those bodies are governed by different combinations of public and private actors or institutional set ups.

Accountability, according to GAL's proponents, does not suffer from these problematic issues. It does not impose a particular demanding way of structuring the world, as any account of democracy would, nor stipulate achieving certain substantive ends, as any account of justice would require. Accountability modestly demands the establishment of a series of appropriate procedures or techniques so that the interests of all are taken into consideration equally. Furthermore, it does not determine a particular way in which accountability can be accomplished. Relatedly, in light of the lack of worldwide democratization of polycentric governing, the 'question of non-electoral legitimation' becomes fundamental. In sum, accountability allows that a 'decentralized, incremental, yet realistic approach can achieve in the aggregate very significant progress in bringing about a more just and equitable system of global governance' (Stewart 2014, 213).

Proponents of GAL have realized that, in many respects, polycentric governing suffers from severe deficiencies in how accountability takes place. The problem is not that there is a lack of it; on the contrary, accountability is a daily occurrence. Institutions, organizations, or actors are constantly accountable to someone. The problem is that accountability is unequally distributed. Instead of giving due regard to all participants in a fair and equitable manner, institutions and actors pay more attention to the interests of powerful states and well-organized economic actors. Less powerful actors, states, and individuals struggle in having their voices and interests being heard (Stewart 2014, 211). A clear illustration of how lopsided accountability can be at times can be found in international investment law. Normally, foreign investors can sue states in front of international investment tribunals when investors think that their rights have been violated. In contrast, local communities affected by decisions of those tribunals, because sometimes the actions of the state were also taken against those communities, cannot participate and tribunals tend to ignore those concerns and only worry about the rights of the investor (Perrone 2016).

As an example of how GAL's use of accountability can help in remedying possible deficiencies, I will go back to ISO. A while ago, [Walter Mattli](#)

(2001, 331) noticed that the interests of consumers within ISO were not being given their due. In contrast with the industries' representatives, which dominate the membership of ISO, only one group representing consumers' interests was allowed: Consumers International (CI). Within ISO's structure, representatives of CI could only participate on the technical committees, which as the name suggests focus on developing the technical considerations of each standard, e.g. ISO/TC 6 on *Paper, board, and pulp*. This limited participation entailed that CI was not part of hierarchically superior bodies such as the Technical Management Board, the main body managing the work of the Technical Committees, which reported directly to the Council—ISO's principal managing body. CI's role denied consumers influence in policy and technical management decisions, as their input was limited to highly specific and technical areas. Likewise, due to general lack of funding by ISO, CI could not send observers to the relevant committees to participate. The marginal role of CI effectively entailed a relative unequal accountability from ISO with regards to the interests of consumers. In order to remedy this, ISO has expanded the role of consumers, through a specific committee dedicated to consumer considerations: the Committee on Consumer Policy (COPOLCO), one of three policy development committees. Among the several initiatives that COPOLCO can undertake is to advise the Council with regards to the opinions of consumers on matters relevant to ISO, such as the need for producing or renewing standards and policies. We see, therefore, how accountability can help in identifying possible and actual problems in how certain decisions have been made and the need to remedy them. Of course, how to remedy the deficiencies can vary, as we shall see below.

Generally speaking, GAL's circumscribed approach to legitimacy is positive. It shows awareness of the risks of a full throttle account of legitimacy could have when trying to evaluate something as complex and multifaceted as polycentric governing, either because it runs the risk of imposing, or at least pushing, a hegemonic and highly contested view of what polycentric governing should become, or because the new dynamics unleashed by polycentric governing demand a more disaggregated and nuanced view instead of imposing a historically bounded one-size-fits-all model of legitimacy.

That said, a couple of lingering issues are worth mentioning. The first could be described as 'missing the wood for the trees'. That accountability plays a relevant role in how to evaluate polycentric governing should not obscure the fact that the great bulk of criticism with regards to how power is wielded beyond the domestic sphere tends to refer to the lack of democratic credentials (Marks 2005). While it is undeniable that legitimacy involves more than

democracy, democracy remains nonetheless the most important legitimacy consideration. Everything else being equal, it is much more difficult to criticize or question something that is democratic. In other words, the democracy question is unavoidable, and in that regard accountability provides a partial remedy to what some see as a more profound normative *problematique*. GAL can therefore only help in terms of tinkering with some aspects of polycentric governing, which might be insufficient for some (Zumbansen 2013).

A second, related, issue might be that insisting on accountability might have the unintended effect of detracting from addressing the democratic question. This is the argument of Carol Harlow (2006), who claims that the insistence on ‘juridifying’ polycentric governing, which is an outcome of GAL’s legalistic approach, might entail the removal of decisions from the political arena and away from the struggle for democratization. Instead of allowing for experimentation and freedom, politics become legalized. Accordingly, the importance of the interests of those affected is displaced, and what becomes important is to discern the ultimate authority.

Lastly, there is the risk of co-optation by powerful states and actors. Arguing that much of the procedures adopted by entities such as ISO might have ‘achieved’ certain characteristics because they have put forth the ‘correct’ procedures might provide a veneer of legitimacy to the activities of those entities and hence ward off more critical questions about the very functioning of those bodies (Chimni 2005). In sum, the push for reforming polycentric governing, as a means of making it more responsive to the interests of all, might become a pacifying ideology (Marks 2005). An example of the dangers of co-optation can be found in Charles Lawson, Edwin Bikundo, and Kieran Tranter’s (2019) article on the WIPO and indigenous people. They show how promises of inclusion have remained empty despite the fact that indigenous people have the possibility of articulating their needs and interests in the context of the WIPO’s Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Although, formally speaking, accountability is apparently present in that the interests of the indigenous community are considered, ultimately they are not given due regard and accountability in this sense this seems to be a façade.

Needless to say, these issues are not critical ones for the project. Any type of legitimacy account will face problems of scope in one way or another and any project can always be co-opted. What these criticisms demand is sensible consideration and reflexiveness in how GAL can address larger legitimacy problems and remain self-critical in order to avoid co-optation from the more powerful.

## Techniques

If accountability is the normative ideal driving GAL, techniques are the medium through which the objective is to be achieved. Interestingly, despite its centrality, there is no theorization of this notion.<sup>5</sup> The preoccupation with reforming the practices of polycentric governing entails that what techniques are or what they amount to is not of interest. What it is important is to put the right ones in place. That is to say, GAL is preoccupied with reforming concrete practices; this practical understanding contrasts with Rajah and Liste's contributions in this volume (Chapters 8 and 9, respectively), where the role of technique is clearly foregrounded and greater attention is paid to understanding what techniques are, how they are put to use, and who benefits from them.

I would argue, nonetheless, that this divergent approach is more than anything a matter of perspective. Liste and Rajah discuss approaches that examine the law from the outside—as someone external to the practices of law. Meanwhile, GAL approaches the law from the inside—as participants in how practices of law are produced and shaped. This means that both sides can overlap; for example, Liste and Rajah rightly highlight how techniques are deployed by actors with particular interests. Although the context in which they frame the discussion is one of scepticism there is nothing wrong with that. It is probable that those following GAL would certainly agree with some of Liste and Rajah's analysis, the difference would be that proponents of GAL could argue that while everything brings with itself 'the possibility of danger, but that does not mean that everything is bad, let alone to be denounced in favor of a better yesterday which has already failed, or a better tomorrow that is seldom specified' (Dreyfus and Rabinow 1983). Hence, the pursuit of techniques can indeed help in bolstering the interests of the less powerful.

Techniques, then, are central to GAL, and their range is quite varied. In the interests of brevity, I will discuss the most typical ones associated with administrative law: participation, transparency, reason-giving, and review.

*Participation.* This technique focuses on providing the opportunity to participate in the processes leading to a particular decision (Stewart 2014, 235). How participation takes place can vary. It can involve broadening the range of actors that participate in the decision-making process, that is, having a 'seat at the table'. It might only involve a consultative role; an example of participation is the increased role of consumer associations within ISO. Another instantiation is the intervention of third parties during legal proceedings. Normally, a court case involves the two parties most closely affected in a particular legal

situation—i.e. the breaching of a contract. However, there are cases in which the case has repercussions beyond the parties' direct interests. As a result, it might be important that third parties can intervene so they can present their views on the matter. This has been the case in international investment arbitration. Because the cases that normally go to investment tribunals concern public policy considerations, there has been a trend in allowing third parties to intervene (Ishikawa 2010).

Another example of participation can be observed in the case of the World Bank Inspection Panel (WBIP) with the *Indian Mumbai Urban Transport Project* case. The World Bank Inspection Panel is a forum established in 1993 by a joint resolution of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). The Panel allows private citizens to request inspection of World Bank-financed projects if they believe that their interests have been, or could be, adversely affected or that the project was carried out in violation of internal Bank procedures. The Mumbai Urban Transport Project case refers to a project financed in part by the IBRD and in part by the IDA. The project was approved by the World Bank Board on 18 June 2002, and was intended to create substantial improvements in the Mumbai (India) transport system. It included the demolition of several homes and shops, and the transfer of 77,000 residents to other areas. It was due to be completed by 30 June 2008. The Panel received four requests for inspection (on 28 April, 24 June, 29 November, and 23 December 2004) by non-governmental organizations representing local businesses and residents. Following an inspection, the panel issued an *Investigation Report* which generally admitted that the project was affected by several irregularities and that it did not take properly into account the interests of those affected for the project. What is interesting of the case is that we can see a procedure conferring citizens the right to participate in global administrative proceedings. In this case, in the initial stage, participatory rights are granted by the World Bank and national authorities, and the parties affected by the project in question are informed. Another chance to participate arises at the inspection phase. Part VII of the Panel's Operating Procedures grants broad participation in inspections to the interested parties, which can also submit documents on their own (Circi 2008).

*Transparency.* This technique involves providing information on the activities of the organization. Information is critical for accountability because without knowledge of what kind of activities and actions an organization is performing, it becomes difficult to evaluate and track the actions of the organization and to undertake remedial actions if they are available. To

outsiders, transparency allows learning about a possible decision to trigger public discussion and debate about a body's policies and performance. For less powerful insiders, transparency helps them in exercising their rights with regards to a decision. (Donaldson and Kingsbury 2013; Stewart 2014). An example of transparency can be found with the Extractives Industries Transparency Initiative (EITI). This body, which is funded by governments and private enterprises, aims to promote more accountable management of extractive enterprises such as gas, oil, or minerals. To do so it has developed a standard whereby the extractive industry needs to disclose information of the value chain: from the beginning of the extractive activity, to how revenue makes its way through the government, and how it benefits the public. Overall, the assessment of how effective EITI has been is mixed. While EITI has been successful in developing institutional machinery—developing procedures, rules, and so forth, it has struggled in gaining better information from private enterprises and governments (Weidner 2011).

*Reason-giving.* This technique focuses on justification. Giving reasons helps in providing accountability because it increases capability in understanding and evaluating decisions that have been taken and in challenging them when the reasons provided are insufficient or invalid. Reason-giving involves, inter alia, referencing the relevant norms, rules, and principles, and occasionally 'wider equitable considerations'. It also involves setting expectations. A justified decision not only solves a particular dispute, but can also potentially shape and affect future conduct in light of the normative considerations that the decision might establish. In other words, it forces tribunals to position themselves 'as regulators of future conduct and normative expectations, not simply as adjusters of past situations' (Kingsbury and Stewart 2008). While tribunals are the most common actor providing reasons, this obligation can also be directed towards other actors, such as states. The WTO Agreements, for instance, impose a duty on national authorities to provide reasons when certain administrative reasons have trade effect. Article XVIII of the Agreement on Government procurement demands that WTO members have to provide reasons to foreign tenderers that did not manage to succeed in gaining a contract for certain government business (Hepburn 2012, 645).

*Review.* Under this technique, there is an evaluation of the actions and decisions taken by bodies and organizations. The aim is to ascertain whether the appropriate norms and rules were followed when a decision has been made, that the decision was sufficiently justified, and that due regard was given to all relevant affected interests (Stewart 2014). The relevance of having a third



body reviewing the actions of organizations is that it might spur changes in how those organizations act. The possibility of review will depend on the area; normally, it is undertaken by a court: the International Court of Justice (ICJ), the WTO Appellate Body, and so forth. However, review can also take place in other forums. We already saw earlier the WBIP which allows for the review of projects funded by the World Bank, because they might violate social or environmental standards. The scope of review will depend on the court under examination. The United Nations Administrative Tribunal (UNAT) with the ICJ who is competent to review any international law issue or Dispute, is only competent in reviewing applications regarding the violation of contracts of employment of staff members of the United Nations Secretariat. Contrast the limited scope of review of UNAT with review can take place directly by a court of a particular regime such as the World Bank Group Sanctions Board, which reviews sanctionable misconduct occurring in development projects financed by the World Bank; or indirectly, as when a decision is reviewed by a domestic or transnational body, such as the review of UN Security Council (Stewart 2014).

While the techniques presented here showcase GAL's varied arsenal, concerns exist that GAL suffers from a Western bias. The criticism takes two forms. On the one hand, it is argued that because administrative law emerged historically in the West, it entails the imposition of Western understanding of how power needs to be regulated. While it is undeniable that administrative law is a Western product, this should not be seen as an automatic disqualification. As Paul Craig writes (2015, 657), one needs to differentiate between its historical provenance and its acceptability. It is possible that the techniques historically associated with administrative law might resonate with people from other cultures that have not experienced those techniques or that they might see them favourably when experienced. It is a matter that can only be elucidated empirically.

The second and more damaging criticism emphasizes GAL's reliance on the experience of a few select countries. This results in implicitly imposing certain practices and ideals as they have been shaped by a few. The outcome is a process of 'cross-fertilization' whereby the experience from Western countries takes precedence to that of non-Western ones (Harlow 2006). Proponents of GAL are aware of the situatedness of their position, and they have argued that the experience of other countries needs to be incorporated. Despite this awareness, it has to be said that, so far, the majority of output in the English-language literature has focused on Western experiences (Urueña Hernandez 2016, 394; Xavier 2017). Despite this worrisome problem, it is one that can be remedied.

## Power

If legitimacy and techniques are GAL at its strongest, power is GAL at its weakest. In contrast to the extensive discussions about how to make polycentric governing legitimate and the techniques that can make it possible, power remains underexamined. There is no sustained discussion of power; it appears sporadically and in a disjointed manner. Power appears in two particular contexts. The first relates to politics, and goes back to GAL's reliance on administrative law. It is argued that administrative law provides a range of techniques and principles that are used as means of 'channelling, managing, shaping and constraining political *power*' (Kingsbury 2009b, 177, emphasis added). Although the explanation does not go further, it is not difficult to grasp what it is being uttered. Politics is an arena wherein power is wielded, and is a dangerous one if it is unchecked by law. Interestingly, administrative law's capacity to control politics is not couched in terms of power. The second, and related, usage of power relates to the actors' capabilities—how much power a state or private actors might have in regulating the lives of citizens. While these two usages of power are quite straightforward, they hardly amount to a substantive discussion of the issue.

This lack of sustained discussion about power is surprising. GAL is motivated and shaped by power. One of the central drivers behind the project is that polycentric governing suffers from a legitimacy deficit; power is flowing away from states towards transnational structures. The result of such processes is that citizens are being disempowered, as decisions about how life is governed are taking place beyond the structures of the state, and the practices of polycentric governing tend to favour the interests of the powerful. In other words, there is an unequal distribution of power within polycentric governing, something that GAL aims to rectify. Furthermore, in order to rectify such inequities, the power of administrative law is brought to the fore. In other words, power is part and parcel of the project. Without it, there would be no GAL.

In my view, this relative absence of 'power-talk' is not a mere unfortunate lapse of judgment, but is a defining feature related to the underlying political theory informing GAL. Let me sketch the contours of such a political theory and how it produces the discursive absence of power. I cannot offer a full-blown defence of my interpretation of GAL's political theory, but my (more modest) hope is to establish a *prima facie* case for it.

On the one hand, GAL instantiates what the political theorist Judith Shklar dubbed as *legalism*, a particular ethical and ideological attitude widespread among lawyers. Legalism represents an attitude made up of four interrelated

elements: (a) it views social relationships in terms of rights and duties as determined by more general rules; (b) it treats law as something ‘out there’ that can be grasped through legal training and education; (c) it believes in the possibility of separating law from other disciplines (morality, politics, aesthetics etc.); and (d) it fears and fights arbitrariness (Shklar 1986, 1–28).

GAL ticks all the boxes. The push for accountability is concerned with rebalancing rights and duties as distributed in polycentric governing. The aim of systematizing the global administrative law space suggests that there is something happening out there and that it needs to be grasped. Thirdly, there certainly is belief in the claim that GAL can be separated from politics, as it is all about taming politics. Lastly, and connected with the mistrust of politics, there is the implicit argument that without administrative techniques channelling the political process, arbitrariness would prevail.

The second strand is that of liberalism, specifically as defended by the political philosopher John Rawls. His account, and that of those who follow him, is committed to the constraint of political power through normative, moral, or practical means. That is to say, it is aimed at limiting the power of an authority so those that fall under its rule are not oppressed and that their freedom and moral equality are respected. In that vein, the state and its officers are seen with suspicion as they control the coercive mechanisms. There has to be a justification in using those coercive mechanisms; to achieve that, a particular vision of politics follows, guiding how it should be pursued and the boundaries of its exercise. It follows a ‘consensus’ vision of politics, whereby politics operates ‘within and with reference to a set of principles that are universally endorsed by those subjects to them, or can be represented as such’ (Sleat 2013, 21). The aspiration is that political associations are constrained and delimited by principles and employ their power in ways that are respectful of those whom they rule (Sleat 2011).

Although there is much to commend in insisting that political authority needs to be acceptable to each person subject to it, this ‘consensus vision of the political’ (Sleat 2013, 14) makes it difficult to think of politics and associated political notions such as power and conflict. The requirement of elaborating principles that could be universally endorsed by everyone are ‘in an important sense non-political’ (Sleat 2013, 39). It is non-political because there is the assumption that the principles regulating the political process can be agreed upon prior to, or separately from, the processes of politics itself. Politics only arrives after the liberal principles are in place. Differently put, liberalism’s aim is to design the appropriate institutional set up so as to get over politics, by identifying and fixing once and for all a core set of political principles, liberties, rights, constitutional essentials, etc., in order ‘to free

modern subjects and their sets of arrangements [from] political conflict and instability' (Honig 1993, 2). It is a vision of politics without oppression, in which all people can live according to principles that they endorse. The glaring issue with such an understanding is that it brackets what is at stake, for the aim is to constrain politics morally by identifying a core set of political liberties and depoliticizing all decision-making that touches on them.

While the relationship between GAL and liberalism is not at first sight as obvious as that of legalism, especially if we think how administrative law has evolved alongside the liberal democratic states, meaning that the influence of liberalism will be diffuse, as a sort of background noise, it is possible to trace some connections. An explicit one is the very idea of channelling political power through administrative law. The act of elaborating the procedure, setting aside that this itself is a political act, aims to depoliticize politics. It tries to identify those principles that everyone may agree upon and will accept and therefore defuse conflict and instability. A less obvious but no less revealing one can be found in GAL's discussion on a positive political theory. At the end of Kingsbury, Krisch, and Stewart's seminal article (2005), they briefly touched upon the need of understanding how polycentric governing works as means of complementing the normative and conceptual work of GAL. To do so, they look towards economic-inspired accounts, that is, rational choice models and so forth. It is revealing because these are quite depoliticized models in which actors simply pursue their rational strategies in a clearly defined environment. These models tend to underline a technocratic conception of politics. It is hoped that through the application of those economic models and the knowledge they can provide, political disagreement can be eliminated, that consensus might be achievable and that some sort of value-unanimity is possible. The combination of both influences leads to a move away from power. It follows naturally because power is seen already as problematic and something that needs to be tamed. This of course leads to a partial understanding of power, politics, and the precise role of law. The hope of administrative law is reduced to a mere activity of deciding competing interests susceptible to a rational solution. But this has the result of overlooking GAL's own status as a partisan and contested political position in the struggle for power that is politics, and, hence, the necessity of coercion in the sense of forcing people to live according to principles and decisions that they might disagree with. Pluralism and conflict are relegated to the private sphere in order to secure consensus in the public realm. Similarly, this inattention to conflict and politics papers over the *political* character of institutions and authorities. Here the problem is not one of how to coordinate and control the agent, but that the structural features of global governance are a

by-product of struggles between self-interested actors, wherein efficiencies are secondary vis-à-vis the interests of powerful actors, each of which is striving to gain as much benefit as possible, even if it is at the expense of everyone else.

This discussion does not automatically entail that GAL necessarily flounders. It simply shows that, like any other approach, it has some blind spots. While GAL can help in understanding the importance of designing processes and the importance of consensus for the functioning of any institution, discussions of power will have to be complemented from an external point of view.

## Conclusion

Polycentric governing represents a daunting challenge. It is a challenge because it does not conform to the ways in which we think about how the world functions. It is also a challenge because of its enormity. It encompasses multiple ongoing spatially diverse processes, and the interactions of numerous actors and entities. Grasping it can become overwhelming. Within that context, GAL offers a valuable approach, even if it is limited at certain junctures. It helps in ordering a set of processes that otherwise might seem disparate or that have been addressed ‘in vague or sweeping terms’ (Marks 2005, 1001). It forces us to pay attention to how new rules, norms, and principles are adopted, and whether they have been adopted through the appropriate principles and procedures of administrative law. In other words, GAL provides an ‘agenda for conceptual reflection, empirical study, and institutional redesign that gives shape and focus to an immense range of large and small questions about the legal control of decision making in the contemporary world’ (Marks 2005, 995–996). GAL should therefore be understood not so much as an all-encompassing theory but a sort of *stance*, that is, an attitude, commitment, values, goals, or a way of understanding the world (van Frassen 2002, 48). It offers a particular orientation on how to see the world. Ultimately, the hope of such an orientation is to positively steer how polycentric governing operates.

## Notes

1. Global value chains operate through transnational contracts through which global corporation formalizes and regulates cross-border economic interactions between regions, countries, or continents. For an overview see Gereffi and Fernandez-Stark 2016.

2. This is not to suggest that any shape would have won the day. There are better and worse ways of transporting objects. As with Tetris, any rectangular object is easier to put and move around in contrast with irregular or oddly shaped objects. My point is that even within those parameters, which particular rectangle would become dominant was not preordained.
3. Not for nothing does ISO's website proudly state: 'ISO impacts everyone, everywhere.'
4. Certainly, there are indirect ways in which actors such as ISO might interact or influence within international law, see e.g. [Noortmann, Reinisch, and Ryngaert 2015](#). But the fact remains that using international law will not be helpful.
5. Techniques themselves do not appear in the literature. Normally, they talk of mechanisms. In any case, for the specifics of GAL, there is no difference between the concepts. They could be used interchangeably without loss of meaning.

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# Law's Governing Centres

## A Global Sociolegal Approach

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### Introduction

When it comes to polycentric governing, how does a global sociolegal approach illuminate questions of order and disorder through attention to the roles of technique, power, and legitimacy? This chapter addresses these questions through an analysis of issues, actors, arenas, texts, and legalities—all as evidenced by a land grab in the Mubende District of Uganda. The chapter first describes key features of this land grab and then details the parameters of a global sociolegal approach. Subsequent sections undertake an excavation of techniques, power, and legitimacy. Through sociolegal analysis, I argue that relations of power—past and present—and techniques of governing are evident in this land grab. Questions of legitimacy fold into these overlapping facets of governing techniques and power, showing how susceptible notions of legitimacy can be to the workings of power, and to strategies for governing.

Before proceeding, it may be helpful to distinguish a law and society approach (also known as sociolegal studies) from doctrinal law (as represented in this volume by global administrative law (Galán, [Chapter 7](#), this volume). Roscoe Pound's famous formulation of the distinction between law on the books (i.e. abstraction) and law in action (i.e. all that is social, empirical, relational, and contextual) remains a relevant and vital encapsulation of the epistemology of sociolegal studies ([Pound 1910](#)). A law and society perspective understands that law is 'fundamentally *political* ... pointing to ways in which law is socially and historically constructed, how law both reflects and impacts culture, and how inequalities are reinforced through differential access to, and competence with, legal procedures and institutions' ([Mather 2011](#), 289, emphasis in original). The normative project of sociolegal studies is to contribute, through scholarship, 'to understanding and refashioning this troubled world' ([Merry 1995](#), 13). A *global* sociolegal approach builds on the

normative and counter-hegemonic imperatives of sociolegal studies through attention to the plural, interlacing, and reverberating dynamics of laws and societies across local, regional, national, and global scales (Darian-Smith 2013).

Informed by law, the social sciences, and the humanities, sociolegal studies is capaciously interdisciplinary in its approach and porous in its methodologies. As a sociolegal scholar situated in the sub-field of law-and-language studies, my practice is to discern the co-constitutions of law, language, and power, as evidenced in texts and events in the public domain. While orthodox and doctrinal legal studies normally restrict their focus to formally legal documents and activities, sociolegal studies also find law inhering in wider society. Thus, I critically read *for* law in and through texts and events that lie beyond official statements and practices of law.

A critical sociolegal reading of law is open to anyone. To discern law's problematic co-constitution with power does not require a Law degree, or the whistleblower's revelations of dirty secrets, or the expert's devoted years in archives or in the field. Instead, anyone with literacy, and a healthy suspicion of official accounts, is poised to observe and interpret, with critical discernment of the power relations at work, how techniques of governing and practices of power—including through expressions of law—foster inequity. This methodology—excavating law with an awareness of contested histories and power interests—becomes especially crucial in the context of urgent global issues including climate change, food sovereignty, and the acute vulnerability of marginalized peoples.

Wary of the risk of generating analysis that treats law and governing in abstract terms, I engage in 'concrete analysis of a concrete situation', as advocated by Mariana Valverde in her *Chronotopes of Law* (2017, 2). For Valverde,

existing governance mechanisms are never 'examples' or 'case studies' that shed light on the 'higher' truths supposedly crystallized in general theoretical concepts. On the contrary: ideas are means to the end of understanding our world as concretely as is possible given that ... our minds can only partially capture constant change and local contingency.

(2017, 2)

Relatedly, I draw on Valverde's (2017) scholarship on Foucault to understand the category 'techniques' broadly as a marker of practices (rather than of actions, identities, or institutions). With a global sociolegal approach in

hand—as an idea that may illuminate concrete understandings of how governing unfolds through techniques of law, violence, and representation—the following analysis focuses on the Mubende land conflict.

## Mubende Land Grab

In September 2011, global mainstream news media reported on a conflict over arable land in Mubende District, Uganda (Kron 2011; Vidal 2011). People who had been living on the land in ‘strong and thriving permanent communities’ (Grainger and Geary 2011, 3) said that they were violently evicted when a multi-sited commercial entity, New Forests Company, acquired a fifty-year licence to grow trees on Ugandan land in order to trade in carbon credits under the Kyoto Protocol (Kron 2011).<sup>1</sup> For their part, the Ugandan government and the London-based New Forests Company (hereafter ‘the Company’) asserted that the residents were illegal encroachers who had left the land peacefully and voluntarily (Kron 2011).

The affected communities, supported by Oxfam and the Uganda Land Alliance (a Ugandan group advocating for pro-poor land laws), filed a complaint with the World Bank’s Compliance Advisor Ombudsman (CAO) (CAO 2020). Perhaps because the World Bank’s private investment arm, the International Finance Corporation (IFC), was a major investor in the Company, the CAO brokered an (apparent) settlement to the conflict. In the four years between the evictions and the settlement, the displaced people struggled with poverty and despair. In 2017, Uganda’s Justice Catherine Bamugemereire, chairperson of the Commission of Inquiry into Land Matters, affirmed that ‘government officials, security agents and politicians are ganging up [on locals] and unlawfully evicting entire communities to create societies that are homeless’ (Twaha 2017). The terms of the eventual settlement appear to situate the dispossessed people in permanent relations of dependency upon the Company.

As this brief description illustrates, issues, actors, arenas, texts, and legalities at plural scales—local, national, global—have played interlacing roles in these events: the governing has a polycentric character. However, it is globalized commercial power (in the shape of the Company and the IFC), aided by the institutional power of international organizations (the World Bank and the United Nations), that have together prevailed. Meanwhile, marginalized people have suffered poverty, dispossession, and diminished future prospects. What dynamics of (polycentric) governing and law have shaped these events? A global sociolegal approach is well-equipped to

address these questions and disentangle the complexities of the Mubende land grab.

## A Global Sociolegal Approach

In this chapter, understanding ‘law’ and ‘governing’ as imbricated processes and categories, and alert to the complexities of grappling with multi-scalar issues, I adopt a global sociolegal approach. This perspective is Eve Darian-Smith’s invaluable analytic toolkit for sociolegal scholars who seek meaningful ways to address pressing border-transcending concerns such as food security and climate change (Darian-Smith 2013). Darian-Smith draws together the strands of sociolegality with the plural scales of time, space, and power that illuminate law’s layers of history, geography, and knowledge-making. This global sociolegal approach is readily compatible with Gadinger and Scholte’s invitation in this volume to focus on ‘polycentric governing’ as the multi-scalar, processual regulation of society, in which state, nonstate, and hybrid actors play roles.

The key pillars of Darian-Smith’s global sociolegal approach are: (a) a normative orientation towards the counter-hegemonic; (b) an interrogation of the gap between law on the books and law in action; and (c) a move away from narrowly state-centric law (Darian-Smith 2013, 2–9). While acknowledging the role of state law, a global sociolegal perspective also attends to sites of legalities below and above the level of the state, thereby seeking to repair the analytic inadequacy of modernist doctrinal thinking about law. A global sociolegal perspective ‘destabilizes our modern and linear understanding of what law is, where law appears, and how law works—recognizing that domestic law as it plays out within states is, and always has been, constitutively linked to issues of global economic, political, and cultural power’ (Darian-Smith 2013, 378). In its rigorous attention to the empirical, the contextual, and material reality—going beyond formal legal systems—a global sociolegal approach shares overlapping concerns and methodologies with New Legal Realism (e.g. Garth and Mertz 2016; Liste, Chapter 9, this volume).

To adopt a global sociolegal approach involves discarding the constraints of ‘predictable topics such as social control, lawmaking, legal administration, courts and juries, dispute resolution, capital punishment, crime, the legal profession’ (Darian-Smith 2013, 5). Instead, this novel perspective favours an alternative set of concerns that enables fresh ways of seeing: specifically, the production of legal knowledge, reimagining legal geographies, securing peoples, and re-racializing the world (Darian-Smith 2013, 20).

Importantly, global sociolegal analysis foregrounds 'two persistent and interlocking themes' that together 'provide the ultimate challenge for long-term peace and human security in the twenty-first century'. First, it sees law as 'a dynamic artifact of cultural engagement'. Second, it understands law in terms of 'assemblages ... of overlapping legal systems that embody a diverse range of cultural values, norms, and meanings' (Darian-Smith 2013, 39; also Bueger and Liebetau, Chapter 11, this volume).

Two of Darian-Smith's orienting axes are especially pertinent for this chapter. First, instead of framing law and society through the jurisdictional and territorial space of 'nation-state', she urges us to think in terms of 'communities' and 'societies'. Darian-Smith stresses the need to reconceptualize the scales, levels, territories, and spaces where legalities occur and relate to each other (2013, 23–28). Second, when it comes to the production of legal knowledge, Darian-Smith encourages readers to ask:

(1) whose legal knowledge is in play; (2) what cultural biases does such knowledge embody and convey; (3) and what alternative or additional forms of legal knowledge and consciousness may be present that up to now, given the historical dominance of a Euro-American formal understanding of law, have been silenced, ignored, or deemed irrelevant.

(2013, 98)

As these reorientations demonstrate, a global sociolegal approach consistently revitalizes sociolegal scholarship's counter-hegemonic pillar while redirecting attention to the ideologies and practices that govern law in our contemporary, globalized world. These more critical postcolonial and counter-hegemonic orientations are among the ways to distinguish global sociolegal studies from some other legal approaches to polycentric governing such as global administrative law and transnational legal orders (Cassese 2017; Halliday and Shaffer 2015; Fakhoury and Icaza, Chapter 3, this volume).

### Three Techniques and Accumulation by Dispossession

As a publicly reported series of events, the Mubende land conflict compels attention for the ways that governing has unfolded through a trio of techniques: law, violence, and representation. Through a sociolegal lens, law may be understood as discourse, an inextricable part of social processes and practices (Fairclough 1989, 23; Rajah 2012, 55–64). As discourse, law's governing

and techniques may be understood as merging into processes and practices of governmentality, embracing ‘both the (self-)governance of individuals ... and multiple government rationalities that are engaged in order to govern the population’ (Dent 2009, 135; Beckman, Chapter 14, this volume).

With the Mubende land grab, the first technique (i.e. law) is evident in a polycentric sense at global, regional, national, and local scales. The (global) Kyoto Protocol has led to the licence that the London-registered New Forests Company, conducting its (regional) operations primarily in Africa, obtained from the (national) Ugandan government, while the (local) inhabitants understood themselves to be lawful in their situatedness on the land. The second technique (i.e. violence) also plays out at every level: the global epistemic violence of carbon trading (discussed below); the global/national/intra-national violence, where state elites ally with global capital in order to dispossess rural peoples; and the local brute violence with which people in Mubende were forcefully evicted. The third technique of governing (i.e. representation, how reality is depicted) also threads through these events at multiple levels. From the news media coverage that drew the world’s attention to this particular land grab, to Oxfam’s report, to the Company’s website, to the documents on the CAO’s website, culminating in the eventual settlement agreement, representation of the dispute has been a key technique of governing (Grainger and Geary 2011; CAO 2020; NFC 2020a). This chapter details the expressions and operations of these three techniques, highlighting the manner in which they articulate and re-inscribe entrenched global, national, and intra-national relations of power.

These sites and relations of power in turn shape outcomes in material reality and generate authoritative texts that (overtly and covertly) legitimize a form of capitalism that David Harvey calls accumulation by dispossession. This accumulation takes place through a ‘wide range of processes’, which include:

the commodification and privatization of land and the forceful expulsion of peasant populations, conversion of various forms of property rights—common, collective, state, etc.—into exclusive private property rights, suppression of rights to the commons, commodification of labour power and the suppression of alternative, indigenous forms of production and consumption, colonial, neo-colonial and imperial processes of appropriation of assets, ... and ultimately, the credit system. The state, with its monopoly of violence and definitions of legality, plays a crucial role in both backing and promoting these processes.

(Harvey 2004, 74)

Held within the Mubende conflict are histories, dynamics, institutions, and actors that manifest processes of accumulation by dispossession. The key concerns of this volume—i.e. the techniques, power, and legitimacy that inform polycentric governing—are shown by the Mubende conflict to be inextricably enmeshed and co-constituting. However, before elaborating on analytic insights that might be gleaned from these events, a fuller description of the Mubende land conflict is required.

## Governing through Law: From Kyoto to Mubende

In 2005, the UN-led international agreement that opened the door to carbon trading, the Kyoto Protocol, became effective. The same year also saw New Forests Company receive a licence from the Ugandan government to plant forests in Mubende District ([Grainger and Geary 2011](#), 2). The Company is, unambiguously, a global actor. It is registered in the UK with multiple international offices and directs its activities to an expected profit of 'up to \$1.8 million a year' from international carbon trading ([Kron 2011](#)). It also obtains investments from global funds, including \$10 million from the Hongkong and Shanghai Banking Corporation, the World Bank's Agri-Vie Agribusiness Fund, and €5 million from the European Investment Bank ([Grainger and Geary 2011](#), 2). Bearing in mind that a global sociolegal approach is attentive to ways that histories and geographies relate to present questions of securing peoples, it is important to note that global warming, the phenomenon precipitating the Kyoto Protocol, evidences disproportionate harm to the Global South. As James Goodman vividly puts it,

[t]he impact of climate change has been likened to that of a third world war.... In this war it is the Global South that is in the immediate firing line: the impacts of climate change for low income peoples are now predicted to be disproportionate and catastrophic.

(2009, 501)

In this way the Kyoto Protocol constitutes (and perhaps legitimizes) epistemic violence. Unsurprisingly, carbon trading under the Kyoto Protocol has been marked as 'carbon colonialism' ([Green 2001](#)), in that 'Northern adjustment costs [are displaced], re-gearing Southern developmentalism to Northern needs offering windfall profits for speculative carbon traders' ([Goodman 2009](#), 502).



Additionally, the role of the Kyoto Protocol prompts attention to how two major international institutions, the United Nations and the World Bank, are complicit with the Company in perpetuating a version of law that disregards questions of justice. This context of unequal power, with the marginalized Mubende community dwarfed by an alliance of giants—international elites and Ugandan national elites—resonates with Sundhya Pahuja’s important analysis of how international law extends the *promise* of universality while subverting this promise through a *claim* to being already universal (Pahuja 2011). This slippage between promise and claim is further compounded by an instituted set of dynamics through which the unacknowledged valorization of development and economic growth frames and drives international law. In other words, international law does not privilege and seek a ‘universal justice’, despite claiming to do so. Instead, international law privileges and seeks hegemonic trajectories of development and economic growth while presenting itself as the vehicle of universal justice. This slippage between the declared universality of international law and the undeclared valorization of development and economic growth is significant, because ‘development’ and ‘economic growth’ are categories loaded with counter-universal meanings, situating the Third World in a place of perpetual subordination to the First World. This subordination enables ‘the exercise of control through the implementation of ongoing “reforms”, which are justified by reference to the “ideal” institutions of the North’ (Pahuja 2011, 3).

Pahuja’s argument on how international law and key international institutions (the UN, the World Bank, and the International Monetary Fund) segregate law/politics/justice from development and economic growth may be one way to account for the complete lack of reference, within the Mubende land grab and the many documents representing these events, to the International Convention on Economic, Social and Cultural Rights. The 2018 UN Declaration on the Rights of Peasants and Other People Working in Rural Areas emerged seven years too late to apply to the Mubende land grab. And the draft *UNIDROIT/FAO/IFAD Legal Guide on Agricultural Land Investment Contracts* encapsulates crucial norms and practices protective of the marginalized in situations such as the Mubende land grab (Gathii 2019).

However, the 2007 Declaration on the Rights of Indigenous Peoples insists on rights: ‘Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights, and international human rights law’ (Article 1).

While acknowledging that contestation relating to the category ‘indigenous’ may have impeded invocations of this particular UN declaration, the

absence of rights discourse, and of reliance on UN instruments (other than the Kyoto Protocol) is a telling example—through *absence*—of how toothless rights instruments may be in such global disputes.

## Governing through Violence

The Mubende community's troubles began after the Company acquired its licence to the land and received financial backing to engage in the speculative activity of carbon trading. Brute violence, as a technique of governing, was at the forefront from 2009 (Grainger and Geary 2011, 14), when the Company's employees were reported to be 'evicting, harassing, erasing ... plantations, demolishing ... houses, intimidating, [and] mistreating' the Mubende residents (Grainger and Geary 2011, 4). Agents or employees of the Government of Uganda's National Forests Authority also appear to have participated in these procedures designed 'to remove' the people living on the land (Grainger and Geary 2011, 2). As a result of this violence and intimidation, the Mubende community turned to the courts. Nearly 1500 plaintiffs from the district launched a civil suit against the Company (IFC 2011). The Nakawa High Court granted interim orders restraining evictions pending full hearings, but these court orders were violated when, in February 2010, 'the army and police were deployed in the area to enforce the evictions' (Grainger and Geary 2011, 4, 14). With the army and police joined by casual labourers whom the community believed to be the Company's employees, people were beaten, homes were burnt, crops were destroyed, and livestock was butchered (Grainger and Geary 2011, 2–5). In the tragic unfolding of events, an eight-year-old child, unwell and left to sleep at home while his mother went in search of medicine, burnt to death (Kron 2011).

Against villagers' charges that Company employees played a role in the violent evictions, the Company issued a series of lawyerly repudiations, covering multiple (sometimes contradictory) contingencies. First, the Company asserted that the people left the land voluntarily (Grainger and Geary 2011; Kron 2011), a claim which shows the Company was aware of the land being the community's home. Second, the Company maintained that, while its employees were on site to 'observe' the evictions, it played no role in clearing the land (Grainger and Geary 2011, 3; Kron 2011; CAO 2012, 9), a claim which suggests the Company had knowledge of the violence enacted during the evictions. In any case, the Company's employees clearly failed to intervene to prevent or minimize the violence. Third, the Company asserted that authority lay solely with Uganda's National Forestry Authority to peacefully

vacate ‘illegal settlers’ (Grainger and Geary 2011, 3), a disavowal of the Company’s responsibility for the manner in which the evictions actually took place. Finally, despite the Company being a highly valued investor in Uganda, with ‘strong political ties ... from central government down to local level’ (Grainger and Geary 2011, 2), the Company asserted that it had no ‘direct responsibility for the evictions and claimed it was not involved in carrying out the evictions and was explicitly excluded by the government’ (CAO 2012, 9).

To summarize, law, violence, and representation converge as techniques of governing when the Company relies on (modernist) law’s designations of autonomous legal identities, separating the Company from the Ugandan state. This separation permitted the Company to distance itself from the terrorization of people and the destruction of lives, property, and livelihoods at what appears to have been the conjoined hands of the Ugandan government and the Company. If, as noted above and drawing on Valverde (2017), ‘technique’ is understood broadly as a marker of practices rather than a focus on action, identity, or institutions, then law, violence, and representation have shown themselves to be the techniques—the practices—through which populations have been governed and managed.

## Governing by Representation: Legitimizing Narratives

The workings of representation as a technique of governing are discernible in the following excerpt from the Company’s website, where it (possibly inadvertently) expresses the asymmetries and imperialism of carbon colonialism:

The New Forests Company was founded in 2004 with the vision of creating a sustainable timber resource in East Africa amidst rampant deforestation. As one of the most fertile regions in the world, East Africa should be able to supply its own timber needs and even export rather than importing the majority. We are excited to be reversing the traditional tale of exporting raw materials and importing value added products in a way that creates regional social, economic and environmental benefits.... The Company is passionate about growing African forestry and continues to plant trees to counteract massive and rapid deforestation.... The Company also complies with the best forestry, social and environmental practices, as audited annually to comply with the Forest Stewardship Council™ (FSC™) certification.... NFC aims to be the premier Pan-African, vertically integrated,

socially responsible, sustainable timber company sharing the value created with our shareholders, employees, customers and neighbouring communities.

(NFC 2020b)

As this excerpt demonstrates, the Company frames its activities and purposes through a legitimizing narrative that appears designed to construct commercial profit motives as consistent with (or even subordinate to) environmental and social concerns. The Company characterizes itself as repairing failures relating to the husbandry of resources (e.g. 'rampant deforestation'). The Company further legitimates itself by authorizing itself to assess and correct failures of inefficiency ('East Africa should be able to supply its own timber needs and even export'). It further appoints itself as the agent of desirable change ('We are excited to be reversing the traditional tale of exporting raw materials and importing value added products in a way that creates regional social, economic and environmental benefits'). Thus, the Company pairs a neo-colonial rescue mission with a (seeming) ethical concern for communities, the environment, and custodianship of resources. The contradiction between a financialized neoliberal impetus ('creating value for shareholders, employees, and customers') and a socially and environmentally rooted ethics of 'sharing value with "neighbouring communities"' is unresolved in the Company's representation of itself.<sup>2</sup> The Company's celebration of economic tropes (efficiency, demand and supply, profitability, best practices) and the problematically neoliberal Forestry Stewardship Council are presented as consistent with the values of counter-hegemonic social movements (sustainability, community, social responsibility, and the environment).

Additionally, through the lens of narrative theory, this legitimizing text resonates with scholarship on how political storytelling functions to bridge inconsistencies and normative ambiguities, managing malleable facts and contested truths to build a 'good story' which resonates with already entrenched accounts and a wider audience (Gadinger et al. 2019). In short, the Company's glib representations of itself as legitimate crumble in the face of its conduct in the Mubende land grab.

## **The Enmeshed Techniques of Law, Violence, and Representation**

In the gap between representation and reality, the most troubling contradiction has been between the Company's words (celebrating sharing, community, and social responsibility) and its action of dispossessing people. By

characterizing the Mubende community as ‘illegal encroachers’ (Grainger and Geary 2011, 4), the Company, in effect, designates this land as *terra nullius*. As Antony Anghie, whose critical reading of international law has been highly influential, explains:

[T]he 19th century [was] the apogee of imperial expansion, and the period when positivism was established as the major jurisprudence of international law.... [P]ositivism, in basic terms, asserts that the state is the exclusive creator of law, and cannot be bound by any law unless it has consented to it. There is no higher authority than the sovereign, according to this system of jurisprudence.... Positivist jurists ... devised a series of formal doctrines that used explicitly racial and cultural criteria to decree certain states civilised, and therefore sovereign, and other states uncivilised and non-sovereign. Thus, non-European societies were expelled from the realm of international law. Lacking legal personality, these societies were incapable of advancing any legally cognizable objection to their dispossession, and were thus reduced to objects of conquest and exploitation.

This law legitimised conquest as legal, and decreed that lands inhabited by people regarded as inferior and backward were *terra nullius*. In other cases imperial powers claimed that native chiefs had entered into treaties which gave those powers sovereignty over non-European territories and peoples. The ability of natives to enter into such treaties was paradoxical, given that they were characterised as entirely lacking in legal status. What is clear ... is that international lawyers granted the natives such status, quasi-sovereignty, for the purposes of enabling them to transfer rights, property and sovereignty.

(Anghie 2006, 745, emphasis in original)

The conflict in Mubende shows how, in a twenty-first-century variation on the theme of *terra nullius*, the Company dealt directly with the Ugandan state at the stage of obtaining its licence to the land. Just as *terra nullius* was a legal fiction in the nineteenth century, so too, in 2005, the Company secured a licence to land that was already occupied, and that already sustained more than 20,000 people (Grainger and Geary 2011, 2). Just as in the nineteenth century, when ‘imperial powers claimed that native chiefs had entered into treaties which gave those powers sovereignty over non-European territories and peoples’ (Anghie 2006, 745), the Company limited its recognition of ‘law’ to state law, thereby erasing legalities evident at the local levels of ‘community’ and ‘society’.

A global sociolegal approach identifies the cultural biases embodied in the legal knowledge at play. In particular, it asks, ‘what alternative or additional

forms of legal knowledge and consciousness may be present that up to now, given the historical dominance of a Euro-American formal understanding of law, have been silenced, ignored, or deemed irrelevant' (Darian-Smith 2013, 98)? In this regard, it is important to highlight that the people who lived on the land understood themselves to be doing so in a lawful manner. As Oxfam notes,

Some of the affected people in Mubende district say that their land had been given to them in recognition of their father's or grandfather's having fought in the British army in Burma and Egypt during the Second World War. Others say they were in the process of converting their title from customary to freehold tenure.... They had functioning villages and government structures, such as local council systems, schools, health centres, churches, permanent homes, and farms on which they grew crops to feed themselves and surpluses to sell at market. They paid taxes. Theirs were strong and thriving permanent communities.

(Grainger and Geary 2011, 3)

At this juncture, it is worth restating that some of the processes through which accumulation by dispossession occur are very much at the forefront of the Mubende land grab. These processes include 'the commodification and privatization of land and the forceful expulsion of peasant populations, conversion of various forms of property rights—common, collective, state, etc.—into exclusive private property rights' (Harvey 2004, 74). In Mubende, the legal relationship to the land of the community may not have conformed to 'Western,' state, or positivist categories such as owner, lessor, or tenant. However, the Mubende community expressed legal knowledge and consciousness: through their words, through their court action, and in their conduct of themselves in relation to the land and to each other as a community. They expressed the belonging, commitment, and rootedness in terms of an analytic category that modernist positivist law tends to disregard: namely, home (Zeffert 2018).

In her analysis of the role of the World Bank in a land grab in Cambodia, Henrietta Zeffert makes a compelling case for law's urgent need to recognize 'home' as a concept and as a legal category. Zeffert notes that, while legal scholars have somehow disregarded 'home,' an enormous body of scholarship on 'home' has emerged from a range of disciplines, in which 'home has been related to (and at times conflated with) notions of dwelling, haven, refuge, preservation, identity, kinship, nationalism, and nostalgia' (2018, 437–438). Highlighting the analytic gaps in legal doctrine that arise from this neglect of 'home,' Zeffert writes,

home can be understood as an analytical tool that opens up a terrain of experience which cannot be captured or expressed in international law ... [T]hrough the lens of home, experiences of loss, suffering, and struggle, as well as radical engagement, become visible. This perspective from home is particularly important where ... not only is land at risk of capture for economic gain, but so too are the personal lifeworlds that our homes represent.

(2018, 434)

Disregarding 'home', and the forms of legality, legal knowledge, and legal consciousness expressed by the Mubende community, the Company and the Ugandan government allied to characterize the people on the land as 'illegal encroachers' (Grainger and Geary 2011, 2). As a category, 'illegal encroachers' expresses a version of law that is saturated with 'a Euro-American formal understanding of law [that has] silenced, ignored, or deemed irrelevant' other bodies of legal knowledge (Darian-Smith 2013, 98). 'Illegal' posits an authoritative and binary distinction between legal/illegal, leaving no room for a consideration of histories and present moments through which the legal/illegal distinction in Mubende is underpinned, including histories of violent dispossession past and present. Furthermore, the word 'encroacher' reproduces a central premise of 'Western' legal thinking, in which 'property rights, and the capacity to own property to the exclusion of others, are central pillars of modern Euro-American law and lie at the heart of social contract theory governing people's relationships to each other and the state' (Darian-Smith 2013, 174).

The Oxfam report points out that 'illegal encroachers' carries within the term a judgement:

Oxfam believes this is a dangerously loaded term because it pre-judges people's rights and dehumanizes them, making it easier to justify violent tactics. And it is arguably a highly misleading term too, because the people maintain that they did in fact have lawful entitlement to the land and were testing that argument in ongoing legal cases

(Grainger and Geary 2011, 4)

The Company's insistence on characterizing the dispossessed Mubende inhabitants as 'illegal encroachers' is just one instance of how the accusatory potential of language, in tandem with the abstractions and power dynamics of legal categories, simultaneously reveal and occlude histories, material realities, and asymmetries of power between the parties to this conflict. The unfolding of these events, and the way they have been represented, also

resonate with Darian-Smith's analysis that law is 'a dynamic artifact of cultural engagement', involving 'assemblages ... of overlapping legal systems that embody a diverse range of cultural values, norms, and meanings' which together 'provide the ultimate challenge for long-term peace and human security in the twenty-first century' (2013, 39). By refusing to acknowledge and address the legal system through which the Mubende community understood themselves to be lawful, the Company, the Ugandan state, and the World Bank CAO collectively reproduce the cultural biases of a 'Euro-American formal understanding of law' (Darian-Smith 2013, 98). This understanding of law fails to perceive law as a dynamic artifact of cultural engagement and refuses to acknowledge that, as law, non-state legal systems express values, norms, and meanings ordering society and social relations.

Another telling instance of the enmeshed governing techniques of law, violence, and representation is discernible in the use of the term 'land grab'. For Ugandan land rights activists, Oxfam, and much of the news media, the Company's conduct in Mubende District amounts, unambiguously, to a land grab (Grainger and Geary 2011; Kron 2011; Vidal 2011). However, both the Company and the CAO studiously avoid the term 'land grab'. Instead, their documents invoke positivist understandings of law in order to assert the lawfulness of the Company in its acquisition of the land and its treatment of the people living there.

## Governing through Representational Doublespeak

A final feature worth highlighting—richly revelatory of the co-constitutions of law, violence, and representation as governing techniques—concerns the mediation process in the Mubende conflict, and the documentary record of that mediation process. Three major instances of doublespeak are evident here.

In a first case of Orwellian language, the office that mediated the Mubende dispute is named the 'Compliance Advisor Ombudsman'. The title of 'Ombudsman' holds a problematic claim to neutrality, since the CAO, like the IFC, is part of the World Bank Group. Indeed, the CAO reports directly to the president of the World Bank. Yet, the CAO describes itself as 'the *independent* recourse mechanism for the International Finance Corporation', with a mandate to 'assist in addressing complaints from people affected by IFC ... supported projects in a manner that is *fair* [and] *objective*' (CAO 2012, 4, emphasis added). Despite such claims, the CAO cannot, due its close association with one of the disputants, be independent, fair, and objective. For this



reason alone, it should not have been the body facilitating a resolution of this dispute. In the common law, the maxim that justice must not only be done, but must also be *seen* to be done, captures this core principle of striving for unambiguous fairness and impartiality in processes of adjudication.<sup>3</sup>

A second case of doublespeak in the mediation process concerns the coexistence of proclaimed ‘transparency’ alongside actual practices of substantive secrecy. Gestural transparency is performed when the CAO makes available on its website eight separate documents relating to the dispute. However, readers are repeatedly told across these eight documents that crucial content is ‘by agreement confidential, and will not be reported on’ (CAO 2020).

Third, further doublespeak is seen in the layout, design, and frequent use of repetition across these documents. The repetitions typically repeat a description of the dispute that minimizes the Company’s culpability and valorizes the role of the CAO. The documents appear to have been designed to be media ready. The May 2014 document that announces the agreement between the parties looks and reads as if it was designed by a spin-doctor (CAO 2014). Its heading reads ‘Agreement between Mubende Community and New Forests Company in Uganda Sees Community Resettled on New Land’. The formulation treats land as if it were fungible, and deflects attention away from the loss of life, homes and community, property, and livelihoods that the Mubende community, Oxfam, and the Uganda Land Alliance accused the Company of engineering. This brief document includes three colour photographs that seemingly validate the CAO’s claim to a consultative process and a community happy with the outcomes. Yet, reading between the lines, this agreement may have created arrangements that place the displaced population in relations of debt and permanent dependency vis-à-vis the Company:

As part of the mediation process, the affected community established a legally registered cooperative society with over 900 members which has, and will, receive financial and other support from NFC [the Company] as part of the agreement. A joint development forum also created as part of the agreement facilitates the identification of development projects for implementation by the company and/or the affected community.

(CAO 2014)

Nowhere do the documents provide any detail about the nature of this ‘financial and other support’. Perhaps these details are part of the confidential content that the CAO documents repeatedly cloak (e.g. CAO 2013).

Given that the Company is a profit-making enterprise, it seems highly likely that the Mubende community now engages with the Company through relations of debt and dependency. Consistent with the dynamics of domination and subordination that inform accumulation by dispossession, *terra nullius*, and carbon colonialism, the governing techniques of law, violence, and representation have reinforced law's governing centres. These polycentric sites are affiliated with powerful commercial interests (the Company), regulatory institutions (the World Bank), and legal instruments (the Kyoto Protocol). The purported horizontal plurality that is embedded in many institutionalist understandings of the category 'polycentric governing' remains but a fantasy in the unfolding events of this troubling case of yet another land grab in the Global South.

## Conclusion

In this chapter, I have grappled with law as a governing technique to show law's role in re-inscribing relations of domination and subordination in the Mubende land grab. The details of this land grab illustrate the dominance of doctrinal law's governing, which is centred on ideologies and institutions that privilege 'Western' legal notions of private property, ownership, and control on scales that are local, national, and global. A global sociolegal approach highlights questions of power to show how law—understood as plural and as exceeding state law—works as a technique of governing facilitating practices that foster inequity.

On these lines this chapter follows several other contributions in this volume by bringing a critical bearing to notions of polycentric governing. In particular, a global sociolegal approach shows that polycentrism is not as horizontal and neutral as classic institutionalist accounts often make it out to be. The 'problem' for polycentric governing is thus not primarily effective coordination and formal accountability, but rather structural power and social justice. Relatedly, Henk Overbeek's chapter makes such a case with respect to global class hegemony, Frida Beckman looks the de-democratizing impositions of market civilization, and Marianne Marchand's chapter puts the focus on intersectional structural domination. Complementarily, my chapter has examined how the violence of polycentric governing is embedded in and plays out through the law, including indeed through what is defined as 'law' in the first place. This core insight is indispensable for any struggle to move polycentric governing in the direction of social equity.

## Notes

1. While the *New York Times* describes New Forests as a British company, on its website New Forests describes itself as Africa-based.
2. David Harvey's succinct definition of neoliberalism may be helpful here: 'Neoliberalism is a theory of political economic practices proposing that human well-being can best be advanced by the maximization of entrepreneurial freedoms within an institutional framework characterized by private property rights, individual liberty, unencumbered markets, and free trade.... [I]f markets do not exist (in areas such as ... environmental pollution), then they must be created, by state action if necessary' (2007, 22–23).
3. *R v. Sussex Justices, ex parte McCarthy* ([1924] 1 KB 256, [1923] All ER Rep 233).

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## Transnational Legal Realism

### The Polycentric Workings of Power within Law

*Philip Liste*

#### **A Vignette from Paradise: On a World Custom-Tailored through Law**

In late 2017, the German newspaper *Süddeutsche Zeitung* (SZ) together with the International Consortium of Investigative Journalists, reported on the ‘Paradise Papers’, a then-unprecedented cache of more than 13 million leaked documents that revealed a huge cluster of tax avoidance practices involving a multiplicity of global elite actors, including multinational corporations, banks, offshore law firms, super-rich celebrities, and prominent politicians. As the SZ writes on its website, ‘The documents offer a glimpse into *a world that has been custom-tailored* to fit the needs of major corporations, the rich and the super-rich. They crack open the door to an industry that promises utmost secrecy, exposing a previously invisible network that spans the globe’ (Gamperl et al. 2019, emphasis added).

However, despite the incredible amount of tax obligations that were avoided, the public outcry remained rather limited—perhaps because the practices exposed were not necessarily illegal. This does not mean that after the tax avoidance was made public the individuals or corporations involved were expected to get away with it. Indeed, the legal struggle involving the files is already under way. State prosecutors around the world have become interested in the files while the corporations implicated try to hinder state tax offices from making use of them for means of prosecution, arguing that the files were obtained illegally (Karp and Butler 2019). What is less contested is that the mechanisms used to avoid tax are not available to all. While offshore shell corporations are used to hide money from state agencies, ‘shelling’ is only one part of the story. The globally evolving tax avoidance networks have developed super-complex mechanisms of financial transactions to circumvent legal regulations and thus effectively circumvent their customers’

tax liabilities. The image of the *custom-tailored world* (as used in the above quote) is thus instructive, but naïve. It is instructive as it brings to the fore the argument that law is often shaped to serve the ruling classes. According to this theory, the law does not necessarily do away with inequality but in fact produces various inequalities (Pistor 2019). Furthermore, this applies on both local and global scales. In turn, the image is naïve as it suggests a world in which laws are literally dictated by the powerful—as if the latter is a homogeneous group with a uniform interest. Although corporations will continue lobbying, for example in Brussels, to achieve certain legislative arrangements (and are successful at times), the struggle for law is an ongoing contest.

The law is a living entity, and its production operates polyrhythmically, that is to say various regulatory agencies beat the drums of prescription in different ways. Due to the complex interrelation of issues such as finance, taxation, anti-money laundering initiatives, and the like, it is almost never just one ‘tailor-made’ legal framework that applies, but many. Moreover, single issues are often regulated through multiple agencies (at different levels of governing) and with partially overlapping claims for jurisdiction. More often than not, decisions for the *forum conveniens* are only taken ad hoc. Rather than being ‘custom-tailored’, the world is made and remade by multiple ‘tailors’ (each working for different customers or clients) who struggle for any stitch while doing their tailoring. In the real world, these tailors have law degrees. They use their expertise to create zones of legality or illegality, and very often legal grey areas—and their work continues even after their clients’ suits are cut and finished. The result is very often messy, and terms including ‘fragmentation’, ‘forum shopping’, or ‘regimes complexes’ have been applied to it (Koskeniemi and Leino 2002; Young 2002). Here, we suggest calling the practice of managing this mess ‘polycentric governing’.

## Overview

To acquire a lens through which to observe the role of law in the making of a custom-tailored but socially unequal world, this chapter turns to ‘new legal realism.’<sup>1</sup> Although not offering a theoretically homogeneous legal or social theory, legal realism suggests that law is to be studied in context. New legal realism provides an interesting resource for the study of polycentric constellations as it suggests that law operates in various contexts, including those we would not at first sight consider to be legal institutions. An ongoing and everyday type of production and reproduction of the law—so the argument

goes—takes place in various sites such as parliaments, courts, or meetings of the United Nations Security Council, but also in police stations, sports arenas, or the back offices of globally operating law firms and banking houses.

## The Original Legal Realists

The new legal realism that is currently discussed in the legal subfields of law and economy and law and society studies, as well as in the related fields of international and transnational law, draws inspiration from the tradition of American legal realism. During the early twentieth century, the approach disputed the jurisprudential formalism of the time by holding that law is not neutral, and in particular is not as neutral as it usually pretends to be.<sup>2</sup> The main features of the original legal realism are (i) its anti-formalist critique of the doctrinal assumption that legal decisions on concrete cases may be deduced from the law, i.e. by way of a pure interpretation of the ‘law in the books’; (ii) the idea that law structures societal relations of power and that the law’s application is never fully isolated from these relations; (iii) an emphasis on the dynamic role of legal practice—the ‘law in action’;<sup>3</sup> and (iv) an empiricist focus on using insights from neighbouring fields of study, especially the social sciences.<sup>4</sup>

Although some of the mentioned ideas were arguably articulated previously, the label ‘legal realism’ was coined in a provocative 1930 book titled *Law and the Modern Mind* in which Jerome Frank, a young practising lawyer, proclaimed the thinking of law and legal practice to be characterized by a ‘basic myth’ (Frank 1930, 3–13). For Frank, law was never comprehensive as a regulatory framework for society because the complexities of future societal conflict and legal dispute could not be anticipated when law is legislated. Therefore, law necessarily remained uncertain and thus open for interpretation, that is, sufficiently open for the interpretive application to a broad array of future cases. At the same time, this uncertainty was not ‘an unfortunate accident: it is of immense social value’ (Frank 1930, 7). For Frank, the core problem was the divergence between the confession of law’s uncertainty and interpretive openness on the one hand, and the commonsensical notion of law in society on the other. In other words, Frank took issue with the common belief in the objectivity of law, and it is here that the provocation in Frank’s thesis lies. In his book, he somewhat implied certain—extra-legal—reasons for lawyers’ silence about what constituted their practice and raised a number of painstaking questions:



Why this concealment? Have the lawyers a sinister purpose in concealing the inherent uncertainty of law? Why, it may fairly be asked, do they keep alive the popular belief that legal rules can be made predictable? If lawyers are not responsible for legal indefiniteness, are they not guilty, at any rate, of duping the public as to the essential character of law? Are they not a profession of clever hypocrites?

(Frank 1930, 7)

From this perspective, the law was no longer what it used to be as its neutrality had been put into question. What is at stake becomes evident in a seminal article by Robert Hale (1923), an economist and lawyer by training, that focuses on the coercive forces of *property*. Pointing to a severe contradiction, Hale's major argument is that 'the systems advocated by professed upholders of *laissez-faire* are in reality permeated with coercive restrictions of individual freedom' (Hale 1923, 470, emphasis in original). While legally protecting property, the state seemingly establishes a general regime of non-interference. In turn, by not interfering with the rights of owners, the regime will in fact coerce non-owners to not use property without the owner's consent (Hale 1923, 471). Hence, for Hale, property law entails coercive force. For law appears to be the expression of societal relations of power, a 'voice of the *Zeitgeist*' (Holmes 1897, 465, emphasis added), it is not easily distinguished from politics.

Raising such questions was not only of academic interest. The socio-political relevance of the law's analytical contextualization becomes apparent in a landmark 1905 law case that has kept legal realists thinking for decades. In *Lochner v. New York*, the US Supreme Court found a labour regulation by the state of New York to be unconstitutional for interfering with 'freedom of contract', a principle that the court deduced from the Fourteenth Amendment.<sup>5</sup> This decision has not gone uncontested, however. Justice Holmes formulated a striking critique in a dissenting opinion to the majority's decision, which indeed reads like a blueprint of legal realism. As he holds, 'a Constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of *laissez faire*'.<sup>6</sup> This statement stresses both the circumstances and the ideological context in which the court applied the law. As the dissenting opinion implies, it was not the objective extrapolation from the law in the books that had led the court to its conclusion. Rather, a hegemonic ideology—*laissez-faire* capitalism—had affected the process of legal interpretation. In other words, taken that the ideology of *laissez faire* facilitates the economic interest of a particular societal group, formalist doctrine had not prevented the

influence of such extra-legal factors but in fact empowered them—by giving them a reformulation in the seemingly objective language of the law.

What is important, the fact that the law could be used in such a particularistic way, reveals the *indeterminacy* of law—in the words of Justice Holmes, ‘general propositions do not decide concrete cases’ (*Lochner v. New York*, 198 U.S. 45 (1905)). If we want to know how A comes to B, how a legal decision on a concrete case follows from the law, the formal doctrinal focus on the ‘law in the books’ only tells half of the story. In fact, the explanation could only be found where the law is applied, i.e. with regard to the ‘law in action’ (Pound 1910). This practice-oriented approach to the understanding of the legal process became another, if not the major, objective of legal realism. If law is indeterminate, the key to its understanding—and, in fact, to anticipating outcomes—must lie elsewhere, beyond legal formalism. Note that this does not mean that law is an epiphenomenon of power. The argument is not that the law is too weak to withstand the economy (or the interest of the ruling class) but rather that the law *embodies* a hegemonic ideology by its own efforts. For legal realism, the insight into the law’s indeterminacy resulted in the search for the extra-legal causes of legal decision-making.

## New Legal Realism

While legal realism passed its peak of influence in the 1940s, if not earlier, it left a significant mark upon US law schools and inspired different strands of work in the legal academy, including the conservative legal process school (or New Haven School) and the left-leaning critical legal studies (Frankenberg 2011). More recently, legal realism resonates in the fields of law and economy and law and society studies (Macaulay 2005), with the latter strand of work currently undergoing a global turn (Darian-Smith 2013). However, the outlines of an emerging new legal realism are far from clear. While authors writing primarily in the tradition of law and economy turn to quantitative studies on variables that may influence judicial decision making in the courthouse (Miles and Sunstein 2008), law and society studies have widened the scope of analyses to the peripheries of law and, to this end, often incorporate ethnographic studies (Merry 2006).

It is the latter strand of new legal realism in particular that encourages an acknowledgement of the major concern of this volume: polycentrism. While the early realist focus on the ‘law in action’ implied an emphasis on practice, the approach nonetheless kept its focus on jurisprudence. It is

thus the courthouse that remained the major theatre of legal realist analysis. However, the ‘law in action’ theme has allowed for an expansion of this research agenda. If we accept the realist notion that law structures the relations between societal actors, the legal mechanisms of the production and reproduction of societal inequalities do not only operate via judicial practice, i.e. ‘law in action’ in the courtroom. Rather, the law’s reproduction of inequalities is an everyday phenomenon. In fact, new legal realism takes this as a starting point. While the original realists put law in context, their focus remained on formal legal text. By contrast, new legal realism studies how law—in both a narrow and a broader sense—is delivered across different settings, including sites that have traditionally not been subject to legal analyses. For example, law is considered in legislatures, administrative agencies, police stations, or other venues of everyday life—thus widely reflecting the research agenda of law and society studies (Mertz 2016). ‘If’, as Elizabeth Mertz (2016, 7) puts it, ‘we only study appellate courts, we miss how law actually works in people’s lives—and we miss how everyone except the most elite professionals interact with law’. Stewart Macaulay, studying private government, holds that

If governing involves making rules, interpreting them, applying them to specific cases, and sanctioning violations, some or all of this is done by such different clusters of people as the Mafia, the National Collegiate Athletic Association, the American Arbitration Association, those who run large shopping centers, neighborhood associations, and even the regulars at Smokey’s tavern. It may be necessary to draw a sharp line between public and private governments such as these in order to think about law, but in reality there is no such division. To the contrary, one finds instead interpenetration, overlapping jurisdictions, and opportunities for both harmony and conflict among public and private governments.

(Macaulay 1986, 443–444)

The widening of the notion of *governing*—as it is also used in this volume—thus implies a significant expansion of the fields studied. Moreover, although some of the phenomena mentioned by Macaulay may be less formal than, say, the procedures in a public court, the problems identified by the original legal realists still apply: norms are indeterminate, decisions do not automatically follow from prescriptions, and even though norms may be applied ‘objectively’, they may nonetheless further the interests of certain groups over others and thus structure and restructure relations of power in a community, on the factory floor, etc. As a result, it makes sense to study the workings of law from the ‘bottom up’. However, when moving from the observation of an everyday application of criminal law during public policing to the practices of private

security services, say, in a football stadium, or from public anti-corruption law to internal compliance mechanisms operated by private corporations, things become significantly more complex.

The line between formal law and other prescriptive mechanisms that are ‘not law’ can no longer be drawn so easily since decisions on the application of law—or of other normative prescriptions—no longer have one centre, but many. While, arguably, law has always been ‘polycentric’ in this sense, domestic legal systems have usually known a fixed hierarchy of courts with high courts as final arbiters and thus ‘centres’ of these nation-state legal systems. It gets more difficult, however, when we include the regulation of cross-border transactions. International law has not developed a centre of authoritative decision making. In the twenty-first century, we are instead facing a proliferation of international courts and tribunals, very often with overlapping jurisdictions. Moreover, domestic court rulings serve as legitimate sources of international law under Article 38 of the Statute of the International Court of Justice. Likewise, commercial arbitration bodies, standardization agreements, and the governance of financial marketplaces, etc., all increase the complexity of what is in fact a web of legal and non-legal (or at least not strictly legal) norms, practices, and decision-making procedures.

In international law, this proliferation of legal practice is addressed as ‘fragmentation’ (Koskenniemi and Leino 2002). In part, international lawyers have worried about this phenomenon because it appears to threaten the unity of general international law (Guillaume 1995). From the perspective of new legal realism (and the legal pluralism it entails), the polycentrism of a thus-fragmented normative landscape is much less problematic. On the contrary, it is the acknowledgement of the law’s normative pluralism and polycentricity that allows for new insights into how the law operates in (and in between) formal and informal settings (Macaulay 2005). Moreover, legal pluralists have revealed the normative bias in narrowing the view to only the formally acknowledged centres—especially when addressing the encounters between the formal law of colonizing countries and the ‘non-legal’ normative systems of those that are colonized (Merry 1988).

In other words, new legal realism has effectively developed analytical lenses for the study of normative fragments and thus provides a rich resource for the study of the emergence of normative polycentricity in the course of globalization (Teubner 2012). As Eve Darian-Smith argues, while law and society studies have rightly widened the focus, the acknowledgement of private governing and its possible interrelations with public government nevertheless neglects the embeddedness of these types of governing in the normative webs of transnational constellations of law. As she holds, ‘[l]aws

at the global/transnational level, laws at the federal/state level, and laws at the domestic/local level should all be viewed as elements of an interconnected and unfolding global legal system' (Darlan-Smith 2013, 10; see also Rajah, Chapter 8, this volume). Indeed, the normative conditions, say, in a privately and publicly governed local production site are linked with whole chains of normative prescriptions on various regulatory levels. These links must not necessarily be established in the mode of a formal coupling of systems of public, private, local, and global governing (such as the domestic legislative implementation of an international legal treaty). They may co-evolve spontaneously and mutually impact upon each other, not through formal agreements but by reacting to one another's governing system and decision-making practice, or by adopting modes of governing established elsewhere.

It is clear that the border-transcending chains of single regulations, and thus the evolving transnational webs of regulation—with their polycentric structures and dislocated decision-making procedures—have significant power implications. Studies of governance through private organizations demonstrate that the implementation of standards in financial accounting or the production of electronic devices are in fact not apolitical but produce winners and losers on various levels. Moreover, the chances of succeeding in the implementation of a new standard are not equally distributed. As Tim Bütte and Walter Mattli (2011, 12) put it, '[t]he language accompanying these processes is technical; the essence of global rule-making, however, is political'. The same applies to the private governance of financial marketplaces that easily shifts between 'good governance' (during which misbehaviour is usually punished) and 'bad governance' (during which such behaviour has little material or reputational costs, especially for relatively powerful actors) (Mattli 2019). In the 1990s, Yves Dezalay and Bryant Garth made use of the Bourdieusian notion of field (Gadinger, Chapter 10, this volume) to study shifts in international business regulations and/or the emergence of a global system of private transnational justice. Similarly to the work their colleagues in International Relations have been undertaking, Dezalay and Garth have tended to focus on the role of law and lawyers and, in doing so, have been able to account for the conflictive patterns at work in the emergence of fields of private governing (Dezalay and Garth 1996, 15–17).

What is important with regards to the increase of involved actors whose lives are mutually affected across borders and regulatory scales, as well as the increase of centres in which authoritative decisions on regulatory issues are taken, is that the legal realist endeavour of scrutinizing law in its context receives renewed appeal. In the remainder of this chapter, some of the

challenges for legal realist analysis in the transnational constellation will be discussed in accordance with the three concepts that guide all contributions to this volume: technique, power, and legitimacy.

## Law as Technique

Returning to our ‘Paradise Papers’ vignette, one particular entity that appears repeatedly in leaked documents on tax avoidance practice is the law firm. The law seems to be a useful tool in avoiding tax, and when those liable to taxation hire legal expertise, the rationale behind engaging counsel is not, of course, finding the ‘correct’ interpretation of the law. Indeed, the focus of lawyering and legal advocacy is to please the client. Law, in other words, is applied as a *technique* to further particular interests; it can be understood in the sense of being a tool used to solve certain individual problems for the benefit of those actors who can afford to hire the necessary legal experts (see also Rajah, [Chapter 8](#), this volume). From a more theoretical point of view, the role of such expertise invites the acknowledgement of a related concept: *knowledge*. This, in turn, sheds light on a broader understanding of technique. Law is not only a technique in the sense of a tool but also in the sense of a culturally established knowledge practice. There is no doubt that a certain expertise is necessary to use the law; the lawyer must know how a strong legal argument is crafted, how the bench is to be approached and, last but not least, she must possess the formal requirements and cultural capital to appear in court or to settle a conflict elsewhere. Against this backdrop, the question is not only who uses legal technique and to what purpose, but also how it is to be used and whether uses differ and/or change across time and space.

This broadened theoretical lens also permits questions regarding the development of law within the transnational constellations of polycentric governing. Indeed, we can observe an ongoing increase in the establishment of new law in the form of international treaties or transnational private and hybrid public-private regulation (see Galan, [Chapter 7](#); Rajah, [Chapter 8](#), this volume). What is interesting from a more ‘technical’ point of view is the ways in which such fragmented law is applied. It is thus not only the proliferation of ever new legal norms and case law that transcends the boundaries of nation-state jurisdiction—it is also a remarkable proliferation of legal technique that the practising lawyer needs to command. Legal transnationalism and polycentricity, in this regard, mean that applying the law necessitates a broadening knowledge of how the law is to be applied across forums and scales. While certain legal techniques may be promising in a domestic court,

they may be inapplicable in an international court or a certain type of private investor–state dispute settlement body. Moreover, the latter example already points us back to legal pluralism, i.e. the possibility that new ‘centres’ of legal decision making emerge in the ‘peripheries’ of law (thereby putting the centre/periphery distinction into question). While public international law, with its doctrine of sources, already possesses a polycentric quality,<sup>7</sup> centres obviously proliferate when normative boundaries between the public and the private are crossed. This includes transnational legal techniques, in terms of bodies with indirect or non-existent state sponsorship (Teubner 2012). If polycentricity entails a multiplicity of actors and forums, applying the law can mean different things in different places. The legal technique applied in state-sponsored legal forums may also differ to that in sites of private governing.

In a book-length study, Annelise Riles (2011) juxtaposes two modes of legal practice related to the inter- and transnational regulation (or deregulation) of the global financial market. As she demonstrates, private legal technique such as the use of certain standards in contracting trades differs from the established scripts of state regulation. These two modes of regulation, ‘private legal technique’ on the one hand and ‘state technocracy’ on the other, coexist even though the one may be used to circumvent the other. For example, certain procedures that are standardized through private institutions are used to prevent situations in which private transactions become subject to public—i.e. state—regulation (such as state regulated procedures for cases of bankruptcy). What is interesting is that Riles’ observation of legal technique in global banking leads her to a puzzling insight. While after the financial crisis, public debate usually focused on future institutional design of international regulation in the finance sector, the effective everyday use of private legal technique continued to operate in the ‘back offices’, quickly adapting to the latest domestic and international regulation of banking practices. As a result, finance remains widely unaffected through public institutional design (see especially Riles 2011, 225–228). In this ethnographic variant, new legal realism thus offers insight in how governing operates in highly polycentric settings.

## Power at Work within Law

As has been demonstrated above, a core element in legal realist thinking is the insight that law is not neutral. From the legal realist point of view, law is studied with regard to its distributional function, its use as a tool, as a technique,

and as a means to achieve certain ends—usually to the benefit of the client who has access to the relevant legal knowledge practice. In this sense, the zooming in on legal technique invites questions such as the following: who benefits from the law? Can the distributional functions of law be transformed in the course of its everyday application and, if yes, how? Who is it that finds herself in a position to use (and/or transform) the law, and for what purposes? As a consequence of these questions, and if we seek an understanding of law and legal practice in this way, the elephant in the room becomes exposed as power itself.

To ask how things are done in and through law also points us to the practices through which regulatory arrangements are at times circumvented, e.g. by shifting trading practice in the global financial market to schemes that avoid public regulation (Riles 2011). Facing a proliferation of regulatory centres (as in scenarios of polycentric governing), the zooming in on technique also sheds a different light on how power is at work in and through private forms of governing that are not directly sponsored by state or interstate institutions (see Mattli 2019).

When interested in situations of legal polycentricity, new legal realism may draw on a rich tradition in studying the nexus between law and various extralegal forces. However, it should be noted that the original legal realism of the early twentieth century possesses certain limitations, empirically and conceptually. Empirically, the earlier legal realists were mainly interested in extralegal forces that affected decision making in the courtroom and in the context of domestic legal systems (Cohen 1935; for the critique, see Macaulay 2005). Conceptually, by stressing the extralegal forces, and the entry points for such forces to affect law and legal practice, the underlying notion of ‘power’ remains rather narrow and external to the law. It is here that the research agenda of the old legal realists has not fully exhausted the theoretical potential of the approach. However, by way of a closer inspection, legal realism arguably allows for a much broader notion of power, as well as the possibility of different and contradictory notions of power. While realists assume that law has a distributive function—that it structures bargains between actors in society (Kennedy 1991)—they also stress the importance of accounting for the law’s everyday practice. On the one hand, the ability to realize individual or corporate preferences depends on the ‘law in the books’. If, for example, the law provides opportunities to avoid tax on capital income but many fewer opportunities to avoid tax on labour income, we can say that this legal tax regime contributes to the societal distribution of wealth (Piketty 2014). On the other hand, law often provides only a loose and indeterminate normative infrastructure to realize preferences. As a result, it is not always



clear who the winners and losers of a legal regime are. It is up to the courts to decide on concrete cases. To assess the distributional function of law it will thus be necessary to consider both the ‘law in the books’ and the ‘law in action.’ This is exactly the lesson that legal realism teaches us. However, *books* and *action* may point to different workings of power (see Table 1).

**Table 1** The workings of power in law

	Law in the books	Law in action
<b>Power external to law</b>	Legislative process as entry	Extralegal forces affect legal decision-making in court
<b>Power internal to law</b>	Law structures bargains	Legal practice under conditions of the indeterminacy of law

The first scenario in which power remains external to law would be that in which societal relations of power are translated into law, or written into the books, through a legislative process—wonderfully described in Marx’s debates on the law of wood theft (Marx 1976). A second scenario in which power has been ‘internalized’ into law in the books is presented by Hale (1923). Where property law structures the relations between owners and non-owners (or, as in our recent example, tax law structures the societal relations between labour and capital), power is no longer external but operates *within* the law, though in a rather static, and perhaps even deterministic, way. A third scenario shifts our attention to the ‘law in action’ and is accounted for by the original legal realist empirical interest in the extralegal causes of decision making on the bench (Cohen 1935). The fourth scenario finally turns to the workings of power within legal practice, the ‘law in action,’ and it is this idea that new legal realists have taken up while turning to scenarios beyond institutions usually understood as ‘legal.’ Here, power is no longer understood to be external to the process of law making but to be included in the everyday legal process itself that takes place under conditions of legal uncertainty and indeterminacy.

Lobbying as a practice of bringing law to the books, the workings of law in the books,<sup>8</sup> the entries of extralegal power into the processes of applying the law, such as the politically deliberate limitation of expert investigators in the global finance departments of state tax agencies,<sup>9</sup> and the internal workings of lawyering when facing indeterminate legal norms—all these elements arguably imply different workings of power, and their analysis therefore requires different theoretical lenses.

Needless to say, the uncertainty of the legal regimes and the indeterminacy of the corresponding rules increase the available room to manoeuvre of legally facilitated business opportunities when considering cross-border transactions that involve offshore scenarios. Polycentricity within the transnationally available normative infrastructures, in other words, also feeds into the power implications of legal technique.

It is especially these latter constellations of power that reveal what in fact applies to all legal decision making. When the law is made, not all case scenarios are predictable. The law can never govern all cases in their particularities. Hence, to be universally valid, legal norms need to remain indeterminate, at least to a degree. They need to be open for legal interpretations that do justice to the facts, which are to be translated into law in any new 'legal' case. When it goes to court, all parties involved expect the court to carefully consider all relevant facts. Even in 'bread and butter' cases that appear on a regular basis, the particular circumstances need to be taken into account. Put differently, the universality of the norms is to be proved with respect to the particularity of each case, and it is this particularity that sets limits to the routine application of law. However, where courts face cases of a new type, cases that relate to highly complex transactions that have never been translated to law before, and that transcend various jurisdictions and legal regimes,<sup>10</sup> the uncertainty of law becomes more obvious, and courts will be less able to draw on routine modes of judging. This does not mean that the uncertainty of law only applies for the more exceptional cases. Rather, it means that this uncertainty becomes more obvious. The consequence of this important insight into the indeterminacy of law—that 'general propositions do not decide concrete cases'<sup>11</sup>—is that the outcome of the legal process cannot be explained by drawing exclusively upon the law's formalism. However, if law is as indeterminate as legal realists want us to believe, the objectivity of the law is effectively put into question. How can the law persist as a socially relevant normative infrastructure? Stated frankly, does legal realism and its empirical turn to power lead us into cynical relativism?

An interesting reply to this objection is provided by Martti Koskenniemi, whose work on international law and international legal theory draws on the realist tradition of legal thought. While Koskenniemi is by no means naive with respect to the law's claim to 'objectivity', he stresses the problem that the legal realist critique generates for the social relevance of law. If the law cannot determine legal practice and, thus, the authoritative decision of the 'legal case' must emanate from elsewhere, the identity of law as opposed to politics is put at risk (Koskenniemi 2005, 16–17). Koskenniemi

addresses the problematique by conceptualizing the nexus between law and politics as an ongoing and everyday challenge that legal practice must meet. The law, for Koskenniemi, needs to maintain its proximity to the social reality in which it is embedded and to which it has to answer, while at the same time creating a distance between it and the facts upon which it has to judge. The law, in other words, must be *concrete* and *normative* at the same time; it ‘enjoys independence from politics only if both of these conditions are simultaneously present’ (Koskenniemi 2011, 38). However, the legal attempts to meet this challenge are doomed to fail since *normativity* and *concreteness* are mutually exclusive. Oriented towards *concreteness*, law tends to become a mere depiction of actual relations of power. As a law of the strongest, the law is a mere epiphenomenon. In this variant, *law is political* for being apologetic. By contrast, when oriented towards *normativity*, the emphasis must be on the law’s distance from existing power. While, in this variant, a legal rule provides a normative instrument of criticism on concrete power, it also tends to become disconnected from the social context, i.e. the concrete relations of power. Here the law risks to become irrelevant, being unable to affect the social reality. *Law is political* in this sense for being utopian. From both perspectives, law is *political* and tends to fail for this very reason. For Koskenniemi, this points to a major theoretical problem.

The fact that positions are constantly taken and solutions justified by lawyers, demonstrate that the structure does not possess the kind of distance from politics for which the Rule of Law seems to posit. *It seems possible to adopt a position only by a political choice*: a choice which must ultimately defend itself in terms of a conception of justice—or then remain substantively unjustified. We accept it because that is what we do.

(Koskenniemi 2011, 40, emphasis added)

To avoid law becoming ‘too political’—and thus socially irrelevant by losing its very identity—the law itself turns to ‘political choices’. While this answer to the realist puzzle is arguably paradoxical, it adds a micro perspective that the earlier legal realists have not fleshed out. ‘The main point’ in this, as Koskenniemi writes in a later reflection of his theoretical work ‘is to show how indeterminacy works in international legal argument’ (Koskenniemi 2011, 35). What the realists have called the ‘law in action’ is no longer only an entry point for power but a site in which power operates.

## How Law Creates Legitimacy

If there is so much power involved in the everyday workings of polycentric legal governing, how can it be legitimate? And how can the legitimacy of polycentric governing be approached from a legal realist perspective? One way to begin with a legal realist discussion of legitimacy is to elaborate on the legitimacy of both law in the books and law in action. Writing in the societal context of a liberal democracy, early legal realists could act on the assumption that the law in the books would be legitimate since it was enacted by the legislative branches and in the course of a formal procedure. Furthermore, in a constitutional system the workings of a well-ordered and more-or-less hierarchically arranged court system would usually be assumed to produce a legitimate outcome. Under the rule of law, legal practice would follow a rational logic. Formalist legal technique would prevent the interference of external factors so that the decision on a legal case would be taken only in accordance with the law, the law in the books, and the doctrinal technique of interpretation. Put differently, jurisprudence would rest on the assumption of the legitimacy of rational rule right in the sense of what Max Weber calls ‘*legale Herrschaft*’ (Weber 1922/1980). The societal belief in this rational and thus *legitimate* form of *Herrschaft* seems to be unbroken, even where the law transcends the boundaries of the nation state.

As an example, one of the reasons for the rather limited *collère publique* regarding the tax avoidance practices revealed in the ‘Paradise Papers’ may be that much of what occurred was not necessarily illegal. Even in the context of globally increasing inequality (Piketty 2014), legal tax avoidance schemes only available to big multinational corporations and super-rich individuals do not invite widespread scandal as long as it is possible to point to the legality of the practice. The argument that ‘it has all been legal’ arguably works well as an acceptable and convincing apology (see also Pistor 2019). The law, no matter if operating on a local or global scale, arguably generates an aura of legitimacy.

Yet this inner logic of law is exactly what the original legal realists put into doubt. The realists held that it was a ‘fallacy [to assume that] the only force at work in the development of the law is logic’ (Holmes 1897, 465). In this light, the law is less a technique to make sure that decisions on critical societal issues are taken in a legitimate way, but rather a technique to camouflage the potentially illegitimate elements of such decision-making practices. The law generates a ‘façade legitimation’ (Koskenniemi 2005, 25) for a variety of practices—if applied skilfully. Legal realism provides for a shift of

perspectives, away from the axiom that law is ‘good’ and thus necessarily leads to optimal results.

If you want to know the law . . . , you must *look at it as a bad man*, who cares only for the material consequences which such knowledge enables him to predict, not as a good one, who finds his reasons for conduct, whether inside the law or outside of it, in the vaguer sanctions of conscience.

(Holmes 1897, 459, emphasis added)

It is in this sense that legal realism emerged as a critical perspective and a critical theory of law. It was formulated as a critique of the early-twentieth-century *Zeitgeist* in American legal practice, but also as a more general critique of the state of US society. Moreover, the legal realists took issue with the law’s contribution to this *Zeitgeist* in respect of how the law was embedded in and contributed to the reproduction of laissez-faire capitalism. For the legal realists, American law and legal practice was complicit in this system and was therefore to be critiqued for this relationship. To be sure, their normative vantage point was the ‘New Deal’, and indeed some of the proponents of legal realism took stakes in the legal implementation of this political programme (Horwitz 1992).

The different notions of power necessitate a more developed understanding of how legitimacy is, and shall be, generated. One lesson we can learn from legal realism is that those answers that focus on the institutional arrangement of governing—in the sense that those governed by law shall also be in a position to understand themselves as authors of the law (Habermas 1992)—simply do not suffice. At the same time, it is problematic to understand law as a structure that provides socio-political equality. In fact, the law variously produces and reproduces social inequalities (Pistor 2019). Problems for the notion of legitimacy also appear with regard to the ‘law in action’. Legal realists have demonstrated that the law’s formalism does not effectively prevent external entries of power into the everyday legal process. Polycentrism increased the complexity of this process.

## Outlook

What can legal realism—its normative orientation and especially its critique of the formalist camouflaging of power—add to an understanding of the transnational constellations of polycentric governing? Taken together, a legal realist lens provides at least two major benefits. Firstly, legal realism stresses

that law is entangled with power. Law always operates in societal contexts, which are characterized by various forms of power. At the same time, legal practice contributes to these contexts and, at times, initiates changes. Usually, these changes to the context will be small but they can also be significant. Secondly, new legal realists have turned away from the elaboration of formal legal institutions and suggested that the workings of power within the law must also be studied with regards to sites we would usually not associate with 'law'.

The possibilities that these two insights have for the study of polycentric governing become especially apparent in avenues where legal realism takes a global turn (Riles 2011; Darian-Smith 2013). Legal regulation (including the various phenomena of 'law-like' legal regulation) also has strong implications of power beyond the nation state. The possible examples are wide ranging: various international legal regimes structure the bargains made between more—and less—powerful actors. The norms of the international migration regime structure the bargains between migrants and the people already inhabiting the locales to which migrants move. Intellectual property rights structure the bargains between, say, multinational pharmaceutical corporations in the Global North and people suffering from disease in the Global South. Questions of power can also be raised with regards to the 'law-like' private standardization of various industrial goods. Legal opinions provided by some highly prestigious internationally operating law firms play a key role in the world of finance—with obvious repercussions for the global distribution of wealth, and therefore, power. And finally, the digitalization of law likely entails some of the major questions of power for the twenty-first century. In all of these examples, critical decisions on how we are legally 'governed quite so much' (Foucault 2007, 45) are not taken in clearly identifiable centres. Put differently, the localities where authoritative decisions on the law—and thus about us—are made proliferate. Power circulates within the law, and a polycentric law implies the polycentric workings of power within law.

## Notes

1. Note that legal realism does not relate to 'realism' in the field of International Relations (IR).
2. See only Frank 1930; Llewellyn 1930; Pound 1931.
3. For the programmatic distinction between the 'law in the books' and the 'law in action', see Pound 1910.
4. While legal realists rejected the formalism in nineteenth-century legal positivism, some legal realisms suggested that law drew on empirical data gathered through behaviourist

methods in the social sciences and thus somewhat embraced positivism in the social sciences (Cohen 1935). Yet, in terms of its methodological disposition, today's new legal realism is rather heterogeneous (below).

5. *Lochner v. New York*, 198 U.S. 45 (1905).
6. *Lochner v. New York*, 198 U.S. 45 (1905), Holmes dissenting, emphasis in original
7. See Article 38, 1.d of the Statute of the International Court of Justice.
8. With regard to the issue of taxation, see e.g. Spengel 2016.
9. For example, with regard to the so-called 'Cum-Ex' deals, German tax agencies were criticized for providing only limited capacities for the investigation (Willmroth 2019).
10. For example, this applies to the legal assessment of the so-called 'Cum-Ex' deals that recently hit the *Landgericht* (German regional court) in Bonn (Oltermann 2019).
11. *Lochner v. New York*, 198 U.S. 45 (1905), Holmes dissenting.

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**PART IV**  
**RELATIONAL APPROACHES**



# Fields, Trajectories, and Symbolic Power

## Studying Practices of Polycentric Governing with Bourdieu

*Frank Gadinger*

### Introduction

Navigating the complex field of security has become increasingly challenging, particularly as the traditional assumption that security is principally a state and interstate concern has come into question. Especially striking is the rise of private security companies (PSCs)<sup>1</sup> in world politics over the past two decades, particularly the rapid increase in their recognition as competent political players who in some regards rival the influence of states ([Avant 2005](#)). While state military, secret service, and diplomatic agents traditionally dominated the field of global security, today a confusing multiplicity of actors compete for authority over security matters. For several hundred years, a powerful set of security practices were aligned with the modern state. Nowadays, however, PSCs operate as recognized agents in the majority of armed conflicts, peacebuilding operations, and everyday security checks (e.g. at airports). Considering these and other changes, we can now justifiably describe the field of security as one of polycentric governing.

How can this change from a state-centric to a polycentric mode of governing security best be addressed from a theoretical perspective? What analytical instruments can replace obsolete categories with new fit-for-purpose concepts? This chapter explores a practice-oriented approach to these questions. Several scholars have examined new security governance with concepts and methods drawn from Pierre Bourdieu's practice theory (e.g. [Leander 2005, 2010](#); [Abrahamsen and Williams 2010, 2011](#)). This research shows how everyday security practices have helped to generate a transnational commercial security sector that is transforming security practices at a global level.

A practice-oriented account demonstrates that the emerging field of global security blurs traditional separations of geographical scales as well as old-style distinctions of public and private (Abrahamsen and Williams 2011, 311). These changing practices cannot be classified as either public or private, or as either global or local, and provide private actors with new possibilities in the security field and change their relationship with public agencies (Abrahamsen and Williams 2011, 311). Moreover, the rise of PSCs fits a general trend in which security expertise is increasingly defined (and legitimized) through technical, military, and managerial discourses (Leander 2005, 819).

Shifts in global security illustrate the broader transformation of governing in the direction that this volume describes as ‘polycentric’. The growing significance of private sector experts and the widespread belief in the efficacy of the managerial expertise of PSCs are also ambiguous issues in other spheres such as development and peacebuilding (e.g. Krause 2014). Developments in global security governance also exemplify the difficulty of holding PSCs accountable; for example, in the abuse of prisoners during the US-led war in Iraq. The companies concerned enjoy a striking level of impunity, which serves to highlight the limits of legal accountability in polycentric governing (Leander 2010). PSCs also raise questions around who is interested in (and profits from) creating fields of power with limited public transparency. We therefore see a prime example of this book’s starting observation that governing today works through ambiguous hierarchies and without a final arbiter (Gadinger and Scholte, Chapter 1, this volume).

This chapter argues that Bourdieu’s practice-oriented approach is highly promising for analysing polycentric governing. This perspective speaks well to the blurring of geographical scales and today’s ambiguous relationship between public and private sectors. Bourdieu’s sociological theory takes practice (and ‘practical sense’) as the central means of understanding social order and change. A practice-oriented perspective emphasizes that ‘governance should be seen as an activity, that is, as a practice of governing’ (Bueger 2018, 617). Practices involve ‘embodied, materially mediated arrays of human activity centrally organized around shared practical understandings’ (Schatzki 2001, 2).

Practices not only order our everyday lives (including how we consume and how we work), but they also affect processes of governing in ways that older traditions of global governance research have largely overlooked. Such governing practices include benchmarking as well as filling out bureaucratic forms. Practice-oriented perspectives therefore offer a renewed understanding of what it means to govern, how authority is distributed, and the important role of technology in decision-making.

The Bourdieusian perspective is one of the key approaches to international practice theory (Bueger and Gadinger 2018). Bourdieu studies knowledge structures, power relations, and practices of inclusion/exclusion from a broader historical point of view, with a focus on trajectories and transformations over time (Bigo 2011, 233). Such a view shares many epistemic premises with a Foucauldian perspective on governmentality, which explores, as Frida Beckman explains elsewhere in this book, ‘the historical development of knowledge and power in terms of discipline, control, and neoliberalism’ (Beckman, Chapter 14, this volume).

Bourdieu’s conceptual vocabulary, particularly his notion of ‘field’, enables analysts to study polycentric governing from a relational point of view. Relational analysis transcends the dichotomy of agency and structure. Some critics have attacked Bourdieu for his alleged structural determinism (e.g. de Certeau 1984, 57–59), but these objections are somewhat misleading; Bourdieu is more interested in the stability, regularity, and reproduction of practices across different social spheres, but nevertheless works with a dynamic understanding in all his interrelated concepts (Jackson 2008).<sup>2</sup>

Bourdieu’s account is furthermore appealing for comprehensively addressing power relations, bringing into focus different facets of power that are simultaneously at work in practices of global governing (Barnett and Duvall 2005). The particular strength of Bourdieu’s framework lies in its consideration of symbolic power struggles in world politics (Kuus 2015) and the analytical emphasis on practical knowledge as tacit ‘rules of the game’ (Berling 2012). A Bourdieusian analysis of governing practices (such as the accreditation of non-governmental organizations (NGOs) or the appointment of a group of experts) does more than merely describe everyday activities; these practices also generate competing social effects and involve underlying power dynamics, especially in respect of social hierarchies and their effects of inclusion and exclusion (Pouliot and Thérien 2018). This perspective clearly follows a critical tradition, which aims to uncover socially unjust conditions, and shares many premises of scholars working with Marxism and other critical lenses such as intersectionality (see Henk Overbeek’s and Marianne Marchand’s chapter). Bourdieu’s vocabulary ‘is at its core a theory of domination’ (Pouliot and Mérand 2013, 36), which means that power, legitimacy, and techniques are interrelated and subscribe to the premise of classical realism that individuals are mainly driven by power-seeking and advancing their own social position. The strong emphasis on power and domination, however, implies that the normative dimension of practices and opportunities of reflexivity and critical agency are secondary.

In the rest of this chapter, I first introduce Bourdieu's conceptual vocabulary and explain how his relational sociology can elucidate practices of polycentric governing. I then explore Bourdieu's ideas about power, techniques, and legitimacy, taking examples from current Bourdieu-oriented research to identify key strengths and weaknesses of this approach. In conclusion, I suggest that only a combination of different concepts from relational sociology can address the research challenges posed by polycentric governing.

## A Short Overview of Bourdieu's Relational Sociology in World Politics

Building upon Max Weber's notion of social differentiation, Bourdieu developed a framework to account for various aspects of modern life, including religion, art, science, the bureaucratic state, and the capitalist economy, with a specific focus on France. His two core studies of practice—the everyday routines of the Kabyle community (Bourdieu 1977) and the cultural codes of the French bourgeoisie (Bourdieu 1984)—mainly concentrate on the stabilization and reproduction of social inequalities.

This national focus of Bourdieu's work does not mean that his sociology and concepts are not applicable to contexts outside of France, however. Concerning global issues, Bourdieu's perspective is particularly useful in not taking notions such as 'globalization', 'international community', and 'global governance' for granted. Rather, one can 'sociologically reconstruct these categories in light of their particular trajectories and histories' (Bigo and Madsen 2011, 220). Leander (2008) suggests that analysts can use Bourdieu's conceptual vocabulary as a valuable 'thinking tool' for the analysis of transnational/global spaces and issues of world politics. This suggestion conforms with Bourdieu's notion of using his theory pragmatically for organizing empirical research (Bourdieu and Wacquant 1992, 95). Bourdieu's concepts, and his notion of field in particular,<sup>3</sup> have been applied to a range of global issues, including diplomacy (Adler-Nissen 2014), trade governance (Hopewell 2015; Eagleton-Pierce 2018), the role of legal professionals in transnational law-making (Quack 2007), global fields of empires (Go 2008), transformations in art (Buchholz 2016), and world literature (Casanova 2004). As these cases demonstrate, Bourdieu's terminology is flexible and avoids setting strict boundaries concerning who or what belongs to a certain field. He pursues a relational approach by focusing on the practices involved in transnational activities, avoiding the simplistic boundaries

between domestic and international arenas, and by exploring historical trajectories in the global realm.

Bourdieu's conceptual vocabulary comprises a set of interrelated terms, of which 'habitus', 'doxa', 'field', and 'capital' are the most important (Bueger and Gadinger 2018, 35–44). Beginning with 'habitus', this concept for Bourdieu refers to the intermediary element between agents and structures, seeking to grasp the practical knowledge inscribed in individuals. For Bourdieu, the habitus is a 'system of lasting, transposable dispositions which, integrating past experiences, functions at every moment as a matrix of perceptions, appreciations, and actions' (1977, 82–3). The function of the habitus in social life, then, is to give actors implicit rules on how to behave in a specific situation in relation to their social position. The habitus is a product of history: it 'produces individual and collective practices, and hence history, in accordance with the schemes engendered by history' (Bourdieu 1977, 82). Moreover, the habitus is strengthened by bodily habituation (i.e. routine behaviour) that leads actors to refrain from questioning their social position, since it appears legitimate and self-evident. For example, officials from so-called 'Great Powers' including Russia and the United States tend to be habituated into behaviours such as a disinclination to compromise (Pouliot 2010). Bourdieu particularly applies the notion of habitus to situations where practices are exceptionally stable or constant, despite their inherent difficulties. For example, the idea of habitus helps to explain the perpetuation of social inequalities even when they are manifestly unjust and inefficient.

The habitus is further strengthened by what Bourdieu refers to as the 'doxa' (1977, 164; Hopf 2010, 545). The doxa involves taken-for-granted rules within a distinct field. These paradigmatic beliefs—for instance, diplomats' general belief in cooperation—are unquestioned and universally accepted as common sense. An agent must normally adhere to the doxa of a given field in order to achieve legitimacy in that field.

Habitus and doxa always relate to a distinct field. For example, one might have a field of art, a field of economy, or a field of regulation. A field is a social configuration structured along relations of power, objects of competitive struggle, and taken-for-granted rules (Pouliot 2008, 274). A field, as Michael Williams (2007, 27–28) argues, 'constitutes a structure of practices towards which different forms of habitus have different relationships of "fit", naturalness, ease and comprehensibility; or, by contrast, of foreignness and a lack of "feel for the game"'. For Bourdieu, each field is a hierarchical system in which some agents are dominant, and others are dominated (typically characterized by relations between incumbents and newcomers). For the global



field of peacebuilding, [Goetze \(2017\)](#), for instance, demonstrates how Western intervenors dominate the discourse, establish themselves as authoritative experts about peace and security (over local actors), and reproduce existing power structures in and through practices of making and defining peace.

Bourdieu analyses unequal positions within a field in terms of 'capital', a word that he uses to encompass power resources. To be more precise, capital includes material possessions as well as non-material sources of value, such as prestige or authority. Bourdieu distinguishes four forms of capital: economic, cultural, social, and symbolic. The latter is in fact the main basis for domination, in that it carries the capacity to define what counts as common sense or 'doxa' in a field ([Nicolini 2013](#), 59).

A field can be compared to a social game in which participants learn and apply distinct rules. In this game, agents attempt to establish or improve their position by maximizing their capital ([Bourdieu and Wacquant 1996](#), 168–175). A field is typically a structured space in which dominant and subordinate positions are based on types and amounts of capital and where the distribution and legitimacy of capital are constantly disputed. For instance, one can observe struggles over symbolic power in the European Union (EU) between traditional diplomats and non-state actors from transnational companies and NGOs who challenge the state's former monopoly in defining what constitutes a 'genuine diplomat' ([Adler-Nissen 2014](#)).

Entering a field and being accepted as a competent agent therefore requires the possession of distinct forms of capital as well as the practical sense of knowing how to 'play the game' in terms of the relevant doxa. Each 'game' 'has a certain history, a trajectory, a genesis, and even more importantly a politics' ([Bigo 2011](#), 230). Being a successful player requires one to generate a 'practical sense' or a 'feeling for the game'. This sense, in turn, reflects the relative strength of capital that the agents possess and the dispositions of the habitus. Players' different competencies in relation to the tacit knowledge of the doxa lead to hierarchies and competitive struggle.

Applying the notion of field to the study of human rights, for instance, the 'object of study becomes the symbolic space that exists as a set of objective relations between positions and which is being transformed by their constant interplay over the domination and control of the subject of human rights' ([Madsen 2011](#), 263). Such a conceptualization of the 'playing field' is particularly suitable for studying both the long-term historical legacy of human rights as well as the short-term emergence of new human rights discourses and practices. The field is therefore both structured and in the process of being structured through a perpetual interplay of ideology, politics, law, and power ([Madsen 2011](#), 264).

## Relational Fields and Polycentric Governing

With these concepts, Bourdieu develops a theoretical system that is conducive to rich empirical analysis. The Bourdieusian system stresses the importance of not isolating the concepts under study from one another—a task that is especially important when undertaking analyses of polycentric governing. When implementing a Bourdieusian analysis, it becomes necessary to consider the relations between incorporated sociality and embodied history (*habitus*), and current practices and objectified sociality in systems of position (fields). However, in extending the field concept beyond national borders towards transnational or even global field analysis, it becomes necessary to rethink the Bourdieusian criterion of ‘relative autonomy’ in vertical terms by examining global-transnational-national interdependencies and tensions between spaces (Buchholz 2016). Defining distinct fields as transnational or global in advance is, nonetheless, implausible. In most cases of polycentric governing, the nature of overlapping fields seems to have a more transnational character, as there often remains a strong connection to national contexts (Sapiro 2018), for example in the case of security, diplomacy, or literature. Other cases, such as multilateral trade, finance, and art are more easily identified as global fields due to the presence of elites operating in their own spheres.

Pouliot (2013) makes a useful suggestion in how to use Bourdieu’s vocabulary in methodological terms by following a three-fold research strategy. This consists of reconstructing, firstly, practices within a field; secondly, the practical dispositions of actors; and thirdly, the positions and struggles between actors within that field. Pouliot argues for the importance of multi-method mixes (e.g. fieldwork, interviews) to identify practices which are entangled in a range of objective relations (fields). The focus on key agents allows objectification of dispositions, and mapping devices (e.g. surveys) provide insights into the positions and rivalry between the multiple actors within a field. Goetze’s study on peacebuilding (2017) is a prime example of how Bourdieu’s toolbox around fields, power, practices, and *habitus* can be adopted to analyse governing practices in a polycentric environment.

A major strength of Bourdieu’s theory of practice and his concept of field (also in the global realm) is its clear emphasis on competitive struggle and conflict: even the most powerful players are perpetually involved in such conflictual situations and need to seek symbolic capital to legitimize and defend their positions. As is typical of a practice-oriented approach, Bourdieu’s sociology attempts to overcome the dichotomy of structure and agency. As Julian Go (2008, 209) puts it, thinking of the ‘global’ in terms of fields

orients analysts towards ‘multidimensional objective configurations of positions and the subjective dimensions that serve as the “rules of the game” and as cultural and symbolic capital’. This research perspective therefore provides a methodological and conceptual suggestion to analyse polycentric governing through the lens of practices. Moreover, it combines a view of fields as objective, macro-level configurations with a micro-orientated view of the practical senses and cultural strategies employed by agents operating within the field.

Bourdieu’s theory of practice is mainly interested in a sociologically rich analysis of domination in different social fields. Thus, power is one of the key categories in Bourdieu’s vocabulary. As we will see in the following passage, it is difficult to separate the dimension of power from the other guiding conceptual challenges of the edited volume: legitimacy and techniques. In Bourdieu’s practice-oriented analysis, power, legitimacy, and techniques are interrelated, with power as the driving force that constitutes the means for a wider analysis of domination in distinct fields. Legitimacy draws upon symbolic power and is dependent upon the recognition of other agents to accept the rules as taken for granted. Techniques are closely related to Bourdieu’s understanding of strategy as practice that follows the aim of reproducing one’s advantage in a social milieu.

## **Struggles for Symbolic Power in Polycentric Governing**

Power is a relational concept in Bourdieu’s vocabulary. While different forms of capital are resources of power, their possession and value depend on the logic of the field and the associated habitus. A particular field is structured by the operation and distribution of particular forms of capital, and the ability to move in that field is tied to an agent’s possession of relevant forms of capital. Although fields are not completely autonomous, they generate local markets of capital, specific goals, peculiar distinctions, and norms that may look strange to outsiders, or to those who do not believe in the ‘game’, but that nonetheless are perceived to be an objective and given reality to insiders (Nicolini 2013, 60). Bourdieu’s notion of power avoids some typical reductionistic conclusions by negating the tendency to regard any single form of capital (e.g. the economic one) as the most relevant. Moreover, power is not a resource as such, but is defined through its significance within the field. Only what affects the logic and hierarchy of a field counts as capital (Guzzini 2013, 80). This conceptual decision to make the very definition of capital dependent on the internal workings of a field allows for an historically oriented

and relational analysis of power. While different forms of capital can be converted into power, symbolic capital is the most powerful form of conversion, as it provides the power of legitimation and the basis of domination (see also the later discussion about legitimacy). Such a focus on symbolic capital highlights how practices take shape in the relationship between fields and forms of capital. This leads to the crucial, but rather underexplored, question of fungibility; that is, to what extent might capital, valuable and valued in one field, be translated into another.

Struggles over symbolic power often centre on the question of what it is that is at stake in a particular field; for example, the definition of key terms, what it is that counts as unquestionable common sense or taken-for-granted assumptions, and who wields the institutional authority to develop 'official versions' of the social world. Symbolic power is often exerted through language, but it also arises from other symbolic forms such as knowledge systems and the capital generated by their possession (Williams 2007, 33). In this way, symbolic power renders the whole process of reproduction invisible and therefore seemingly ineluctable. Thus, symbolic capital sustains domination and inequality through a subtle but very powerful form of what Bourdieu describes as 'symbolic violence' (Nicolini 2013, 59). The authoritative struggle over the definition of key terms, such as threats or parameters of potential economic crises among the dominating agents of a field, is a good entry point to studying similar phenomena in practices of polycentric governing. I will therefore come back to our introductory example of PSCs in the global field of security, which underlines the historical perspective of understanding symbolic power struggles.

Explanations for the rise of PSCs in the field of security as well as the underlying transformation of polycentric governing practices require analyses of the historical context. Abrahamsen and Williams (2011, 313) argue that the worldwide predominance of neoliberal modes of governance has stimulated a process of privatization and outsourcing of public sector security functions, such as immigration control, which were previously regarded as the proper domain of the state. However, the rise of private actors should not be seen as an automatic diminution of state power, as the expansion of private security has been abetted by state advocacy of public-private partnerships. In these new, polycentric arrangements, 'the private can often be seen as a "third sector" of security provision, operating alongside the policing and punitive institutions of the state, and arising out of state policies' (Abrahamsen and Williams 2011, 313). As a result of these shifts in governance, private security has increasingly carved out a recognized role by providing a 'service'. Applying Bourdieu's concept of power, Abrahamsen and Williams (2011, 314) show

that shifts in economic capacities alone are not enough to explain the high significance of the global private security sector. The acquisition of symbolic and cultural capital is even more important, as both relate to wider social practices involving the commodification and technification of security. From a historical point of view, [Abrahamsen and Williams \(2011, 314\)](#) identify the changing techniques of control (e.g. surveillance) involved in crime prevention, detection, and punishment since the 1970s as an insightful starting point for unpacking the complex set of interlinked social transformations that are involved. Against this background, the shifting power relations and legitimate positions of PSCs within the security field are less puzzling and follow distinct trajectories. The meaning of security has changed from being tied to state authority into being a service that can be bought and sold on a free market. In such a market-oriented and individualized vision of security, the perception of risks and dangers is a dynamic one and can be addressed by private actors just as effectively as by public ones. Thus, 'as security has been considered increasingly as a matter of risk mentalities, of design, planning, and prevention, rather than an issue of reactive policing and public policy, the capacity of private actors to claim expertise—to acquire cultural and symbolic capital and to exercise power—has increased' ([Abrahamsen and Williams 2011, 315](#)).

Leander's work (2005, 2010) puts even more emphasis on the different facets of power, showing that the actions of PSCs reinforce a certain re-militarized understanding of security expertise and therefore shape the security agenda and security understandings of key actors, which can be described as 'epistemic power'. PSCs do not only shape but also profit from this militarized understanding of security in discourse, which empowers them as legitimate security experts in terms of structural power, and subsequently makes them irreplaceable in the field. [Leander \(2005, 820–822\)](#) shows how private security firms establish their authoritative position in the field by accumulating symbolic capital. The increasing privileged status of the private in security issues paved the way for self-promotion which, in turn, reinforced a certain habitus of the field and promoted private alternatives in a formerly state-oriented sphere. The symbolic power struggle of PSCs relies extensively on its contrast with a public sector that is presented as incompetent, mismanaged and ultimately immoral. For instance, advocates of the private peacebuilding industry present public, multilateral peacekeeping as being slow, inefficient, and involved in scandals, whereas PSCs are depicted as hyper-efficient, low-cost problem solvers coming in to sort out the mess left by incompetent public armed forces ([Leander 2005, 823](#)). PSCs ground their symbolic capital via their claim of expertise in

offering technologically effective and economically advantageous solutions to existing problems. Other long-term solutions such as diplomacy and economic aid are thereby overshadowed by the dominance of PSCs and their attempts to treat every issue as a security problem (Leander 2005, 824). This trend towards commodification has even broader implications. It enables PSCs as recognized and competent performers to draw upon powerful market logics in the expansion and transnationalization of their activities to other fields that are similarly structured around broader principles of market liberalism and free trade, such as the World Trade Organization (WTO) and the EU.

A major strength of Bourdieu's sociology lies in its ability to dissect power struggles in global politics, which are more complex and subtle than is conventionally acknowledged in governance studies. A Bourdieusian perspective on power underlines Barnett's and Duvall's (2005) still-relevant claim that too much attention in global governance research has been paid to Robert Dahl's notion of 'power over'. This form of compulsory power needs to be complemented by other facets of power such as institutional, structural, and productive potencies. A practice-oriented view therefore focuses on the connections and overlaps between different types of power and shows that they can be at work simultaneously. This simultaneity of different power dimensions, which tends to obfuscate where exactly it is that the rules are perceived to be coming from, is a core feature of polycentric governing.

Bourdieu's notion of relational power is crucial for such a polycentric environment, as it highlights the importance of symbolic power. The case of global security shows that clear-cut lines of authority are absent, the location of power seems to be fluid, and the possession of symbolic power has become increasingly significant. Furthermore, agents occupying the dominant positions in national and transnational spaces are often those who draw on multiple forms of capital and therefore play the game as 'double agents' in polycentric arrangements (Dezalay and Garth 2011). Thus, Bourdieu's approach addresses the question of the interchange, or fungibility, of power between different fields. Finally, Bourdieu's research perspective puts much emphasis on the historical context and demonstrates, as in the case of security, that the transformation of polycentric governing practices is embedded in deeper political knowledge structures including the rise of neoliberalism, the belief in managerial expertise, and the distrust of the welfare state.

The strong emphasis on power in Bourdieu's theory of practice, however, can also be turned into a criticism. Due to the explicit focus on domination, power, and hierarchies, the mistaken impression that practice is always embedded in power struggles might readily be made. The consequence is that

the extensive range of other sociocultural practices could fall out of focus. The normativity of practices (Gadinger 2016) and the ethical aspects—for example, the ‘imperative of justification’ (Boltanski and Thévenot 2006)—involved in power struggles is significantly downplayed as a result.

## **Techniques: Strategic Moves to Advance Position within a Field**

The notion of technique is a broad term. When practice theorists talk about techniques, they mainly do so in relation to technology, objects, and materiality, which tend to be ignored in conventional social theory. In comparison to the strong focus on material objects as ‘tools of governing’ as highlighted by actor-network and assemblage theory (see Esguerra’s and Bueger’s and Liebetrau’s chapter), Bourdieu is less interested in the blurring relations between subjects and objects. By interpreting Bourdieu’s conceptual vocabulary, it makes more sense to link the notion of technique with his concepts of interests and strategies. Although these terms are under suspicion for being explicitly used in rationalist terms of methodological individualism, Bourdieu is not averse to using interests and strategies, as for him, both are central elements in a theory of practice. He understands them in the same relational conceptualization as his other key terms of field, habitus, and capital. Bourdieu is interested in ‘how actors can pursue strategies and advance interests without being consciously or instrumentally aware of doing so, i.e. how the adoption of a certain orientation need not to be a rationalist or utilitarian strategic choice, and how this is central to the operation of forms and structures of power’ (Williams 2007, 34–35). Bourdieu therefore redefines the idea of strategy in terms of practice, which rejects the model of instrumental rationality (see Andreas Thiel’s chapter for a more rationalist understanding of strategy and interests).

If we understand strategies as ways in which agents pursue their interests, the practice of strategy for Bourdieu consists of competent moves that serve to reproduce one’s advantage in the social game of a particular field. These strategic moves can be described in their three core aspects as situational, positional, and dispositional (Mérand and Forget 2011, 98). The situational character is derived from its close relationship to the practical sense and feel for the game the agent has in a particular field. ‘A good strategy in one social field can be a bad strategy in another’ (Mérand and Forget 2011, 98). Agents in a field share an underlying assumption that the struggle is worth engaging in, and therefore accept that the field imposes certain

ways of struggling, which incumbents and newcomers agree upon. Strategic moves can appear disinterested if we assume a logic of instrumental rationality, even though they are in fact well aligned with the socially embedded logic of practical rationality. The positional character of strategic moves refers to the general aim of agents to maintain or even improve their position within a distinct field. What distinguishes strategy from other kinds of practices is the fact that it is specifically aimed at generating profits and accumulating the capital that will support one's position in the relevant field (Mérand and Forget 2011, 98). Strategic moves are dispositional, as they are based on practical experiences over a long period of time. For Bourdieu, the most common and most effective strategies are those which are grounded in a tacit 'feel' for the game and which seem 'natural', true, or obvious forms of behaviour because they accord closely with the structure of the game itself and with the particular agent's position within it (Williams 2007, 37). Although habitus has to fit with a field, it makes room for performativity and agency by giving strategic moves their creative flavour (Nicolini 2013, 60). As we will see in the following research examples, there is no universal logic behind strategic moves. Instead, a good strategy depends on the governing practices that are applied within a distinct field.

The establishment of local diplomatic hierarchies that practitioners often call 'international pecking orders' can be interpreted as a technique by which dominant agents in the field reproduce existing hierarchies and their concomitant stratifying effects. Pouliot (2016) identifies different practices involved within multilateral diplomacy such as showing an *esprit de corps*, deploying local codes, playing with instructions, riding the beltway and group politics. Showing *esprit de corps*, for instance, means walking a fine line between achieving individual goals and undermining team cooperation; that is, a good strategy requires the constant demonstration of self-restraint and group solidarity to keep or improve one's position in the field of diplomacy (Pouliot 2016, 16). These aspects underline how difficult it is for new players to establish themselves when entering a field, particularly in complex polycentric environments. For example, established players have a strategic advantage in comprehending the 'rules of the game' vis-à-vis new agents, since learning such local codes takes time and follows specific pathways. An agent needs to be recognized as 'a player in the field in order to become one' (Berling 2012, 463), otherwise they may be deprived of the opportunity to speak and effectively participate in a field.

This practical logic produces pressure for all players within a field, but particularly for newcomers, since they need to avoid mistakes which might lead to a weaker social standing. Hopewell (2015), for instance, shows how



civil society actors enter the field of multilateral trade governance and seek to engage with and influence the WTO. In order to be accepted as 'professional' agents in the field, civil society actors have strived to gain symbolic capital. They have done so by building and deploying technical expertise, by constructing their advocacy campaigns around positions and arguments that accord with the neoliberal trade paradigm, as well as by working concurrently to accumulate social capital (contacts and networks) and political capital (the ability to attract potential allies). Marshalling technical expertise is in this case, as in many other fields of polycentric governing, a key marker and critical form of capital for new agents in order to be seen as legitimate and credible participants. This form of capital requires the techniques of communicating expertise in the language of the field, e.g. to avoid terms such as 'neoliberalism' or 'transnational cooperation' (Hopewell 2015, 1139).

Eagleton-Pierce (2018, 234) further argues that this 'professionalization of protest in the trade policy arena' needs to be understood from a broader historical perspective. Whereas scientific capital was necessary for civil society organizations (e.g. Oxfam) for the purpose of registering policy impact, the emergence of a professionalized, activist subjectivity, which can be described as 'critical technician', has been a key strategy in gaining positions of power, from being 'radical outsiders' to 'reformist insiders' (Eagleton-Pierce 2018, 233). As these cases demonstrate, in polycentric environments such as global trade it becomes important for new political agents to enact strategic moves through the subtle advocacy and promotion of their ideas as well as by shaping policy agendas. This implies maintaining a balance between learning and accepting the established rules of the game on the one hand and acting in strategically improvised ways in order to acquire forms of capital on the other, as exemplified by civil society actors. Agents like these that are new to a field enact strategic moves such as creating a certain brand image for themselves, which in turn represents them in the game in terms of 'coherence, purpose, and control, even when their working environment may feature frequent disputes or cloudy objectives' (Eagleton-Pierce 2018, 234).

A major promise of Bourdieu's notion of technique in terms of strategies and interests is its conceptualization as a fundamental element of practice. Such an understanding of strategy as practice involves strategic moves, yet not in terms of instrumental rationality. Strategy in Bourdieusian terms is all about 'how to win the battle', but nobody should be allowed to notice this in advance. In the same way that skilful diplomats attempt to avoid clearly revealing their advocacy of a purely national interest (Pouliot 2016, 16), the most efficient strategies also seem to be the ones that are perceived as natural and obvious by other agents and do not, therefore, challenge the logic of

the field. As the case of civil society actors and the significance of adopting the 'right' neoliberal language illustrates, such strategic techniques are closely connected to the practical sense of operating within a distinct field. However, strategic moves to improve skills such as presence, poise, and composure are not mere icing on the cake, but constituent components of power relations. These elements play their part in deciding who will become knowledgeable insiders and who will remain ill-informed outsiders in a process of in- and exclusion (Kuus 2015, 369). Not surprisingly, Bourdieu's understanding of technique is driven mainly by motives of power-seeking. The pursuit of competence is mainly understood in terms of gaining social standing within the game. That is, in order to keep one's own position, 'one must not only beat opponents at the line, but also secure recognition from the same interlocutors who are competing for recognition' (Pouliot 2016, 14). Such a notion of competent behaviour in terms of strategy and interest is therefore mainly understood through power relations and ignores any ethical dimension of practices as markers of competence (Ralph and Gifkins 2017). Bourdieu's tendency to assume reflexivity only for the profession of social analysts and to be less interested in the role that reflexivity plays in the generation of practices also forms part of the discussion concerning the conceptual dimension of legitimacy.

## **Legitimacy: The Silent (Mis)Recognition of the Rules of the Game**

Bourdieu's notion of legitimacy follows the sociological tradition of Max Weber and the idea of obedience to rules that in Weber's conception takes shape in the form of *Herrschaft*. Bourdieu further develops this influential notion of legitimacy by overcoming Weber's individualism around leadership and explains the origins of obedience through the dynamic process of gaining and accepting symbolic capital or power among competing agents within a distinct field. A key term for understanding his notion of legitimacy is recognition. As Bourdieu (1987, 111) describes it: 'I contend that a power or capital becomes symbolic, and exerts a specific effect of domination, which I call symbolic power or symbolic violence, when it is known and recognized, that is, when it is the object of an act of knowledge and recognition.' Bourdieu therefore redefines recognition beyond a conscious consent between dominant and dominated towards a more tacit phenomenon wherein the existing rules of the game have been internalized in and through practices within the field and reproduced by the habitus. For Guzzini (2013, 82) this

understanding results in a type of self-censorship, an often-unconscious practice by which agents conform to the expectations of their position in the field. This unreflective mobilization can be interpreted as the ‘magical’ origin of obedience in Bourdieu’s conceptualization, which works even better if agents are not aware of it, labelled as symbolic ‘violence’. Such a notion of legitimacy implies a pre-reflexive disposition to obey by conforming to expectations that are acceptable to the doxa of the field (the paradigmatic truths). Doxic subordination is therefore the effect of this symbolic violence, a subordination that is neither the result of coercion, nor conscious consent, let alone a social contract (Guzzini 2013, 82). Instead, the domination is based on a mis(re)cognition of that symbolic violence that works by not being recognized as such. As Pouliot (2016, 14) puts it by paraphrasing Bourdieu, this can lead to the foundational paradox of the ‘complicity of the dominated’, which emerges from a collaboration between dominant and subordinate players and reproduces practices of social stratification.

With regard to polycentric governing, Bourdieu’s notion of legitimacy is primarily relevant for conceptualizing ‘liquid’ features of authority, which are widely seen as better suited to account for recent developments in global authority (Krisch 2017). In this context, Sending (2017) argues that a Bourdieusian understanding of authority that foregrounds recognition and assumes a relational perspective overcomes solid categories of authority in fixed terms and provides a better analytical lens for studying its emergence over time. A major premise of this relational view is that the very engine behind ‘the construction and maintenance of authority is actors’ *constant search for recognition* within institutional contexts that are always already (although to various degrees) hierarchically structured’ (Sending 2017, 316, emphasis in original). This constant search for recognition gives the notion of authority its dynamic or fluid character and explains why agents invest in the game and strive for symbolic capital. The core concepts of field, capital, and strategy depend on this underlying but ubiquitous premise to explain the overall interest in engaging in a game and accepting its rules. It is in this sense that symbolic capital implies recognition on the part of dominant agents and (mis-)recognition on the part of those that are dominated. The latter help to reproduce the evaluative criteria that define their subordinate position by virtue of seeking recognition on terms that are set by others (Sending 2017, 318). As the following short illustration by Sending shows, such a deconstruction of legitimacy in terms of its relational authority allows analysts to dissect polycentric structures of governing.

The World Health Organization (WHO) is a prime example of how authority is challenged and transformed in and through practices of polycentric

governing. From a historically oriented Bourdieusian perspective, [Sending \(2017, 319\)](#) shows how from its establishment in 1948 until the 1980s the WHO was considered the authority on global health par excellence. This undisputed position was challenged from the 1980s onwards as a multiplicity of actors began to shape global health governance and to compete for authoritative positions within this field. New agents such as United Nation's Children Fund (UNICEF) and the World Bank entered the field by advancing different sets of policies. These new players privileged economic considerations, which included the demand for a more efficient use of resources and called for greater private sector involvement in health governance. In so doing, they undermined the strength of the public health-grounded evaluative criteria that had secured the WHO's authority since its establishment ([Sending 2017, 320](#)). This put the WHO in a precarious position, since states and other international organizations no longer recognized the organization as the sole and overarching authority on health issues. As the relative loss of authority had a clear impact on its funding situation, the weakened player was compelled to seek recognition on the new 'rules of the game' (the *doxa* in Bourdieu's vocabulary) that had become institutionalized during the course of the past two decades through activities of the dominating players such as the World Bank, UNICEF, and others. Through this process, in which the organization changed its course towards a more economic growth-driven approach (e.g. by partnerships with private firms and philanthropic organizations, and by forging public-private partnerships etc.), the 'WHO was able to re-position itself, but now as a convener or focal point rather than as the single global authority on health' ([Sending 2017, 320](#)). The case demonstrates that new players in the field of global health were able to change paradigmatic truths through 'doxic battles' ([Berling 2012](#)) by marshalling new evaluative criteria (economic efficiency etc.) and therefore undermined the authority of the previously dominant player.

Bourdieu's notion of legitimacy provides a suitable concept through which to analyse dynamic features of authority that operate in current developments of polycentric governing. Such a relational perspective, with its focus on the multiplicity of agents who are engaged in a constant search and competition for recognition and of claims to authority, overcomes 'ideal' types of authority in global governance research (e.g. the view of global authority as a social contract). Static views on authority are neither able to study the very foundations of authority nor do they capture how authority emerges and transforms over time within a distinct field. Bourdieu's relational concept of authority and his methodological advocacy of focusing on practices of recognition are elements that distinguish his particular sociological theory of domination.

The production of legitimacy within a distinct field is understood as a struggle ‘in which each agent is both a ruthless competitor and supreme judge’ (Pouliot 2016, 14). This dynamic conceptualization captures how dominating agents such as the WHO lose their authoritative position as well as how weakened players are able to reposition themselves by using their existing symbolic capital to facilitate changes in strategy. However, the competitive notion of legitimacy leaves little space for normative contestation. In the case of global health, the changing terms of recognition towards such normative understandings of economic growth do not appear to be contested and seem to be the effect of a linear and unavoidable development within the field. A pragmatic perspective shows that most agents not only struggle with authoritative positions, but also compete in political controversies over moral claims, which are based on normative orders of worth that look beyond economic growth to other concerns such as fairness and survival (Hanrieder 2016). The ambiguity of different moral conceptions does not play a major role in Bourdieu’s approach, however. Furthermore, a pragmatic perspective would criticize the assumption of doxic subordination for its overemphasis of the tendency towards conformism and its downplaying of the ‘critical capacities’ of actors (Boltanski and Thévenot 2006) to utilize resistance in the micro-tactics of everyday life (de Certeau 1984).

## Conclusion

Bourdieu’s sociological approach is promising in studying a variety of recent developments in polycentric governing. If we use his rich conceptual vocabulary as a thinking tool and adopt core concepts such as field in a way that is pragmatic but broadly in line with Bourdieu’s research methodology, many puzzling phenomena in world politics can be studied in a way that contrasts with earlier traditions of global governance research. The key difference between the traditionally institutionalist perspective and that of Bourdieu’s approach is that practices, or the ‘practical sense’ (and not actors and interests), are to be utilized as the starting point and the most relevant unit for any sociological analysis. All deeper insights regarding power relations, knowledge structures, and historical trajectories emerge from a detailed reconstruction of practices within a distinct field over time. Bourdieu’s conceptual vocabulary merely provides the supporting role of orienting the analyst’s focus and does not need to be applied in a dogmatic sense. A Bourdieusian study of practices of polycentric governing addresses some key research challenges; first and foremost is the analysis of complex and diffuse

power relations in developing governing arrangements across different policy fields. Bourdieu's theory of practice is a sociologically rich theory of domination, which reveals that power struggles in polycentric environments are symbolically subtle and inform different facets of power. Such a relational understanding of power challenges the clear divide between the material and ideational and is closely tied to the other key dimensions of techniques and legitimacy. These are similarly understood in relational terms and follow the underlying premise that all social spheres in our modern life are characterized by positioning games that take place between competing agents in hierarchical structures. Different fields of polycentric governing underline the increasing number of political agents that share the common aim of keeping or even improving their respective positions within a distinct field (this perspective is in line with Philip Liste's contribution on transnational legal realism). Symbolic power struggles, a variety of strategic moves, and practices of recognition can be interpreted as different elements and analytical lenses through which to draw a broader picture of transforming fields in the political realm.

This historically oriented practice approach shares many premises of a Foucauldian perspective and differs from pragmatic approaches in practice theory, as the latter primarily focus on controversies to analyse contestation and change in world politics. While actor-network and assemblage theorists expose their blind spots when considering power due to their core assumption of flat ontologies, they are nonetheless better equipped to address some of the weaker aspects of Bourdieu's sociology. The role of technology, objects, and artefacts is crucial for recent trends in polycentric governing, as Esguerra and Bueger and Liebetrau show in their contributions. A more fundamental difference lies in the role of reflexivity and the professional duty of scientists. Bourdieu has little consideration for the role that reflexivity plays in the generation of practices, as Nicolini (2013, 68) rightly argues. For critical scholars like Bourdieu there is a clear divide between the 'professional analyst' and the 'ordinary actors' and their practices. This divide is needed to guarantee scientific autonomy and to criticize power structures and unjust conditions in societies that most people are unaware of (Schindler and Wille 2019). While Bourdieu's approach is promising in explaining how most practices in everyday life go largely unnoticed and lead to unquestioned hierarchical structures, it has its pitfalls in explaining change through reflexive monitoring of actions in terms of justification, accountability, and resistance. Bourdieu's approach is therefore promising for all scholars interested in broader historical transformations, nuanced power relations, and hierarchical structures in a polycentric world.

## Notes

1. Some studies (e.g. Leander 2005) use the narrower term of private military companies.
2. Bourdieu's historical view is less interested in moments of change. In some works, however, he studied large-scale change, for instance in the academic world (Bourdieu 1988).
3. There are different ways to apply the concept of field. Bourdieu's notion of field is often adopted as a starting point for further conceptual development such as 'organizational field' (DiMaggio and Powell 1983), or 'strategic action fields' (Fligstein and McAdam 2012). See Martin (2003) for an overview of field theory.

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# 11

## Governing Assemblages

Territory, Technology, and Traps

*Christian Bueger and Tobias Liebetrau*

### Introduction

In the summer of 2020, we toured the coastline of Denmark looking for the internet.<sup>1</sup> We rented a car for a day and explored a number of local beaches, shorelines, and harbours. Why make such an effort? Couldn't we have just reached into our pockets? We can indeed find the internet on our smart phones and devices, but is this the whole story? Our road trip aimed at discovering a part of the internet that often stays hidden. The internet, after all, is not only found on our personal devices, but flows through a global network of submarine data cables. It was these cables we were attempting to locate on the Danish coast.

Our cable safari led us to identify particular technical facilities: the landing sites at which a submarine cable connects to its counterpart on dry land. These facilities turned out to be rather well concealed from the public gaze. Seeing the (almost invisible) landing stations spurred further questions: who governs the stations, cables, and the broader global network that they connect to?

Following this lead triggered a fascinating multitude of observations (Bueger and Liebetrau 2021). Cables are laid and owned by transnational business consortia; they are regulated by national authorities; and yet, no international authority is in charge in international waters. Fishing and shipping activities are some of the main threats to these cables; they therefore tend to be protected by navies and coastguards. Our road trip allowed us to observe certain elements of what is a very complex constellation of multiple actors: companies laying cables, owning, and operating them, shipping lines and fishermen, public regulators and coastguards, but also an interesting material world of cables, 'manholes', and landing stations.

In this chapter, we call such a constellation an '*assemblage*'. An assemblage is a particular arrangement of actors and other elements; often it is complex and has no clear centre of authority and power. Drawing on examples such as the submarine cable network, we introduce assemblage theorizing as one approach to the analysis of polycentric governing.

A growing number of studies adopts assemblage theorizing to demonstrate the usefulness of this approach when there is uncertainty over who and what governs, and when boundaries such as those between the private and the public, the technical and the political, or the land and the sea are fuzzy, as was the case with the submarine data cable network. It is an approach that is genuinely open and works at different scales. Whether one is interested in new forms of territory and state sovereignty (Sassen 2006), the relations between public and private actors (Abrahamsen and Williams 2009), the science and politics of nature and conservation (Murray Li 2007; Corsona et al. 2019), the local and the global (Collier and Ong 2005), policing and interventions (Bachmann et al. 2014; Doucet 2016; Brandenburg 2017), or education policy and university management (Clarke et al. 2015), assemblage theorizing offers a productive tool with which to analyse such complex constellations.

This chapter provides a concise introduction to assemblage theorizing, its core concepts and how to use it as a framework of analysis. It is written for those who want to experiment with the approach. Our invitation to assemblages starts by discussing the context from which assemblage theorizing was developed. It was elaborated through dialogue with French social theory, in particular the works of Gilles Deleuze and Michel Foucault. There is no unified assemblage theory, however; it is more of an experimental attitude and open analytical framework than a testable theory. Indeed, there are different versions of how the approach is advanced and used. Nonetheless, scholars draw on a number of core claims such as the importance of territory, materiality, and agency, and basic concepts such as territorialization. These ideas and concepts provide a promising gateway to analysing the complex constellations and relations that one usually finds in situations of polycentric governance.

Assemblage theorizing is primarily an invitation to conduct empirical analysis, however. We therefore zoom in on two empirical fields to show what can be done with the approach and invite you to join us in exploring cases from the ocean and cyberspace. These are challenging and complex spaces, driven by a multitude of actors, and hence have prototypical value in illustrating what one can achieve with the assemblage approach. In our conclusion, we aim at summarizing some of the main strengths and weaknesses of assemblage theorizing. We discuss a number of traps linked to the playfulness,

indeterminacy, and complexity of the narratives that assemblage research tends to produce; those intending to work with assemblages will need to be aware of these pitfalls. We also provide an overview of priorities that deserve more of our attention, such as a stronger focus on the importance of technology and material objects in governing assemblages.

## Theorizing Assemblages

The concept of assemblage became influential across the social sciences and humanities from the 1980s onwards. It has inspired work in anthropology, geography and, increasingly, political science. A range of general introductions to assemblage theorizing are now available.<sup>2</sup> They show how the approach originated within the dialogue between French social theory and philosophy. For this reason, assemblage theorizing shares many ideas with the other relational approaches discussed in this book, such as Bourdieu's praxeology (Gadinger, [Chapter 10](#), this volume) and actor-network theory (Esguerra, [Chapter 12](#), this volume). Common features of the relational approach include an interest in relations and practice, an emphasis on the mundane and practical, a reconsideration of material things and matter, and the attempt to challenge traditional ways of conducting social and political science research.

The work of French philosopher Gilles Deleuze and his cooperation with Félix Guattari is particularly foundational. Assemblage is the English translation of the French *agencement* that Deleuze and Guattari introduced as a concept to discuss structures and to highlight that these are often unstable, fuzzy, and malleable ([Hayden 1995](#); [Nail 2017](#)). Several English-language authors prefer to use the French term, highlighting that the term assemblage carries other etymological connotations. *Agencement* highlights agency and the practical work that is required ([Callon 2007](#)), and does not imply a unified whole, but rather stresses the persistence of ambivalence and contradicting logics, or multiplicity ([Guillaume 2014](#); [Nail 2017](#), 22). However, with some minor exceptions, the English-language literature employs the term assemblage.

This language confusion already indicates the nature of the assemblage theorizing debate: It is a discussion that involves a series of conversations and serves as a conceptual playground, rather than as a project of developing a shared concise theoretical vocabulary. Indeed, it is more of a mode of performing analysis, hence our preference of the term 'theorizing' over 'theory'. Furthermore, while Deleuzian philosophy provides some common ground, the different milieus in which the approach was formulated have given rise to quite different versions of assemblage theorizing.

## The Origins: Thick and Thinner Versions in Philosophy, Anthropology, and Social Science

The different versions of assemblage theorizing share a number of common themes, but diverge in how they conceptualize assemblage, and how they complement the concept with other terms. A core divergence regards whether assemblage is developed as a philosophical concept or as an empirical research strategy. The former understandings present ‘thick’ versions, while the latter present ‘thinner’ ones. As a point of orientation, three versions of assemblage theorizing can be distinguished.

The first aims at staying as true as possible to the original outline of Gilles Deleuze. Discussions tend to remain on a conceptual level, and scholars attempt to work out a fully fledged theory of assemblages. In exploring the particular link between assemblages and complexity science, Manuel [de Landa](#) (2006, 2016) has developed assemblages theorizing into a consistent theoretical vocabulary. Meanwhile, Thomas [Nail](#) (2017) has argued for the possibility of outlining a coherent assemblage theory in light of the broader work of Deleuze.<sup>3</sup> Such work has spurred critiques that question whether it goes against the intentions of Deleuze to infer such a coherence, given his emphasis on exploration, divergence, and empirical work ([Buchanan 2020b](#)).

A second version draws on the intellectual assumptions of Deleuze, but merges the concept of assemblages with terms and ideas from other theorists. An important milieu wherein such work has been conducted is that of American political anthropology. In particular, the book *Global Assemblages: Technology, Politics, and Ethics as Anthropological Problems* edited by Aihwa Ong and Stephen J. Collier (2005) is now widely regarded as a foundational text that has brought assemblage theorizing to the attention of anthropology. In it, the authors use the concept to rethink not only the relationships between the global and the local, but also the political and technical.<sup>4</sup>

American social theorist Paul [Rabinow](#) (2003) has influentially explored the relation between assemblages and the vocabulary of Michel Foucault. Here the concept is strongly tied to the nexus between power and knowledge. For Rabinow, an assemblage is one concept of a larger vocabulary, and he contrasts it with the Foucauldian concepts of governmentality, problematization, and apparatuses (see Beckman, [Chapter 14](#), this volume). According to this vocabulary, ‘apparatuses’ are stable technologies of governing, while assemblages are more diffuse, ephemeral structures in the making (see also [Murray Li 2007](#)). Another influential, and closely related, thinker is Michel [Callon](#) (2007) who advances the term assemblage to speak of structures

produced in performative acts. He thereby attempts to fertilize ideas from speech act theory and actor-network theory and link them to assemblages.

A third version distances itself further from the Deleuzian origins and provides 'thinner' versions. In the work of Saskia [Sassen \(2006\)](#) and [Abrahamsen and Williams \(2009\)](#), scholars who have spearheaded assemblage theorizing in international relations, assemblage is primarily a metaphor that allows us to rethink binaries such as the inside and the outside of nation states, or between private and public security providers. For these authors, assemblage theorizing is, in the first instance, a methodology or research strategy. It implies investigations of how matters are assembled and actor constellations produced, without relying on an a priori definition of the identity, position, or interest of actors.

Starting out from these foundational works, assemblage theorizing has spread in its different versions across the social sciences and humanities as part of a turn to relationalism, networks, new materialism, and practice theoretical thinking. Disciplinary discussions developed in specialized disciplines as diverse as surveillance studies, cultural geography, security studies, international relations, or policy studies. Increasingly, the debate turned explicitly to questions of governance, and recently there has been increasing interest in infrastructural elements as particular types of assemblage, including roads, pipelines, and the global submarine cable network, as well as the governance questions they spur.<sup>5</sup> The debate continues to be had from the three aforementioned perspectives; despite this, there remains much common ground between them.

A number of benefits have attracted governance researchers to assemblages. As an analytical approach, it is ideally situated to capturing situations that are complex and fuzzy, where categories and borders are unclear and contested, where agency is contested or diffuse and where established theories provide unsatisfactory answers or gross simplifications. Instead of relying on dichotomies, researchers want to embrace complexity and relations and explore new forms of agency and governing. This makes it a promising approach for analysing situations that are described as instances of polycentric governance.

## The Basics

Assemblage theorizing is not a fixed or unified approach. While analysts rely on a number of basic concepts and ideas that we explore in further detail below, assemblage theorizing is more of an experimental approach.

Researchers creatively mix and blend ideas, invent new terms, or add what they find useful to their analyses in order to capture empirical material and phenomena (Abrahamsen 2017). Indeed, it is the empirical and analytical applicability of such ‘assembling’ that takes the centre stage of our focus in this chapter. Before we turn to empirical phenomena in the fields of ocean and cyber governance, we shall flesh out some of the core ideas that make the assemblage approach an excellent analytical tool for studying polycentric governance.

A number of features are of key importance: firstly, an assemblage is a particular constellation or structure produced through relations and ‘practical ordering work’; secondly, assemblages generate a particular terrain that can be described through the concepts of *territorialization*, *deterritorialization*, and *reterritorialization*; thirdly, the analysis of assemblages is based on ontological symmetry between the material and the social, which implies that analysts must work with a very open understanding of who or what acts. We shall now proceed to unpack each of these ideas and their implications.

### Structures and Ordering

An assemblage is defined as a particular kind of structure or arrangement of different *elements* that are drawn together as an identifiable *terrain*. Such elements might include ‘humans, materials, technologies, organizations, techniques, procedures, norms, and events, all of which have the capacity for agency within and beyond the assemblage’ (Baker and McGuirk 2017, 428). Elements include ‘things, socially situated subjects, objectives, and an array of knowledges, discourses, institutions, laws and regulatory regimes’ (Li 2007, 266).

Such structures can be quite complex and entail multiple relations. An assemblage is ‘a process of composition’ (Buchanan 2020b, 458) through which relations between such elements are formed. They are dependent upon practical activities, routines, and rules that hold the assemblage together and maintain its relations. As Murray Li (2007, 264) phrases it, ‘hard work’ is required ‘to draw heterogeneous elements together, forge connections between them and sustain these connections in the face of tension.’ The way that assemblage thinkers stress the importance of such practical work reveals the many parallels between the concept of assemblage and those of ‘fields’ (see Gadinger, Chapter 10, this volume) and actor networks (see Esguerra, Chapter 12, this volume).

Assemblages are not necessarily coherent and stable; they might have inherent and unresolved contradictions and tensions (Hayden 1995). Elements are drawn together at a particular conjuncture and form a distinct



territory or terrain that is fluid, contingent, and ephemeral, its stability being dependent upon the work holding it together. The assemblage concept hence emphasizes temporality and spatiality.

### **Territory and Scale**

With the concept of territorialization, assemblage theorists describe processes through which a distinct territory is made at a certain scale, and how the relations between elements become more stable and mature. Deterritorialization refers to processes that challenge the stability of those relations through resistance, contestation, or counter narratives; reterritorialization captures the process of making of new territories and scales in response to such resistances and contestations.

A nation state, let's say the United Kingdom, is one example of a governing territory. It is held stable through various practices, such as the paying of taxes, policing, and parliamentary debates. In this example, a deterritorialization process is, for instance, the rise of an independence movement, such as Scottish nationalism. Such a movement challenges the stability of the state in either claiming authority and power from the central government, or via full autonomy. In this example, reterritorialization becomes a process through which these tensions are resolved, for instance through a referendum or devolution.

Nation states are just one of the most obvious cases of a governing territory, but the same can be said about other scales and forms, such as buildings, protected areas, cities, regions, transborder national parks, or international organizations. We can also think about 'territory' in more cognitive terms, however. For instance, a particular governing territory might be made to address one particular problem or object, such as poverty or terrorism. We might want to think about the United Nations Sustainable Development Goals, the war against terror, or the marine conservation movement, for example, as governing 'territories' that are formed around particular issues and problematizations.

### **Material and Social: Playing on a Pitch**

One of the core claims of assemblage theorizing is that we should give equal attention to the material as well as the ideational in our analyses; to treat humans and non-human objects on the same terms. This might initially sound strange, if not provocative, but is based on the insight that activities usually involve material doings, the handling of objects, as well as knowledge. If you are playing football, you will kick the ball on a pitch, but also coordinate with your fellow players, and you need to understand the rules.

While governing is not playing football, it is nonetheless an organized activity that includes objects (e.g. documents), material environments (e.g. buildings), speech, symbols, or rules and norms. The claim of assemblage theorists is that we should not attempt to define what matters more, the material or the expressive, but instead investigate the practical and verbal, the human and non-human alike, with each phenomenon under investigation being given equal weight. This is, therefore, a very similar claim to one that actor-network theory advocates propose (Esguerra, [Chapter 12](#), this volume).

### **Agency: The Question of Who**

One of the consequences is a very open understanding of acting and agency ([Bueger 2019](#)), essentially left to the analysis of who and what acts. Assemblage theorizers therefore begin by studying relational work and then infer from such observations the most important actors involved. This ‘actor’ can be a human, such as someone giving orders or developing standards of behaviour. It can, likewise, also be a non-human actor, such as a technology which makes others act in a particular way; consider how mobile phones condition our everyday behaviour, for example.

Such a position on agency corresponds extremely well to the challenges identified in the polycentrism debate, namely that it is often unclear who or what governs ([Gadinger and Scholte, Chapter 1](#), this volume). Assemblage theorizers invite you not to settle the question of who or what is the most important actor before you start the analysis; rather, it is suggested that one studies relations first and then observes which actors emerge. To remain open minded is the guiding mantra of this approach.

### **Governing, Technique, Legitimacy, and Power**

How does assemblage theorizing address the core concerns of polycentric governance, such as questions of technique, power, and legitimacy? The techniques that assemblage theorizers emphasize are encapsulated in the concept of territorialization, which is understood to mean the practical ways that relations are forged or destabilized. Assemblage theorizers are primarily interested in generative forms of power, that is, how an assemblage generates the capacity to act in particular ways, and hence renders some actors more powerful than others. As analysts who blend assemblage theorizing with Foucauldian governmentality tend to highlight, this power dynamic often implies an anti-politics, or the rendering of politics as a question of expertise and technology whereby power relations become implicit and less visible (e.g. [Murray Li 2007](#)).

It is when processes of deterritorialization and reterritorialization occur that these relations come to the fore. The processes of deterritorialization and reterritorialization are often made visible during periods of controversy and contestation. Although legitimacy is not a concept widely used in assemblage theorizing, assemblages produce legitimacy insofar as the territory established by a particular assemblage becomes perceived as the natural way of dealing with an issue. Again, it is through reterritorializing processes that such legitimacy is undermined.

The assemblage approach provides useful building blocks with which to understand and demonstrate the ways in which territories of governing produce dedicated ‘governance objects’—the object that is governed. This might be the undersea cable network, the population of a nation state, such as the United Kingdom, or a more intangible object such as the global climate, or the world’s oceans. Tracing the assembling of governance objects also enables us to study them as particular provisional arrangements comprising the elements discussed above, including how, why, and where they emerge, develop, stabilize, and fall apart.

### **A Theory?**

As you might have gathered from this discussion, the assemblage approach is not a uniform theory. It does not provide causal claims or models, nor does it tell us how precisely the world of governing works. Accordingly, it is perhaps less of a theory in the traditional meaning and more of a ‘style of theorizing’ in the sense of being a practice that merges basic theoretical ideas, concepts, and suggestions with empirical material (Bueger 2022a).

Theory, according to this conceptualization, is more akin to a framework or heuristic. It provides terms and understandings of what to look for and what might matter, but only offers very weak assumptions of how things are. It is the task of us, the analysts, to imbue the theoretical terms with details found in the context of an actual empirical case. Assemblage theorizing has consequently often been described as a new form of empiricism (Hayden 1995; Gane 2009).

### **Researching with Assemblages**

Assemblage theorizing provides us with different options of how to conduct an empirical study (Bueger 2014). One path is to study the ‘hard work’ of assembling, arranging, and composing, or in other words, what is done to make and maintain an assemblage. Another route is to aim at mapping out an assemblage by reconstructing its most important relations and identifying the overall logic that keeps it together; this might imply reconstructing the

history and evolution of the making of an assemblage. Yet another promising direction is to focus on the tensions and those moments of controversy where the assemblage is under stress and risks falling apart under pressure from deterritorialization. It is in these situations that power and legitimacy become visible.

In the following sections, we showcase some of the ways of using assemblage theorizing, giving readers an idea of how to experiment with the approach and put the concepts and research strategies outlined above into action. We investigate two examples, the ocean and cyberspace. These are two fascinating spaces that have become prototypical sites of investigating assemblages at play. In these spaces, we scrutinize two widespread forms of governing: the use of best practices and public–private partnerships, showing how these can be interpreted through the assemblage perspective.

## Ruling the Oceans, Assembling Territory

The oceans have often been blind spots in discussions of governance. Our thinking is habitually terracentric. Filling this conceptual void has provided several studies with the opportunity to showcase the efficacy of assemblage theorizing, and to demonstrate how they are ordered and ruled. Ocean space is a powerful example of polycentrism and in demonstrating what assemblage theorizing brings to the table.

Initially, it seems difficult to think about the oceans without considering materiality. The ocean is a space made up of water, waves, and fish, but also ships, surfers, and submarine cables ([Anderson and Peters 2016](#)); navigating the oceans without considering its materiality seems to be a fool's errand.

The oceans have long been governed by maritime empires that relied upon naval hegemony, such as the Portuguese or British empires. But such hegemony was always challenged, not only by rival imperial projects, but also by indigenous groups, pirates, or other outlaws. While much of maritime history can be usefully interpreted through the interplay of empires, naval rivalries, and outlaws, the history of ocean governance is more complex in that it can be told from the perspective of traders, slaves, whales, or even bird faeces—the 'gold' of the Pacific ([Cushman 2013](#); [Armitage et al. 2018](#)).

While the story of the ocean has always been multifaceted, the complexity of its narrative is increasing. Human activities at sea have accelerated through new modes of shipping, fishing, exploitation, and infrastructures ([Nystro et al. 2020](#)), as well as through the rise of blue crimes ([Bueger and Edmunds 2020](#)). New international organizations have entered the maritime

stage and the law of the oceans has evolved. New rules for navigation and new conservation measures, such as marine protected areas, have made the oceans an increasingly well-regulated, yet, fragmented space (Boucquey et al. 2016; Havice and Zalik 2018). Although claims have been made that the ocean is one globally connected space, in practice it is carved up into various zones and territories, each of which provide different relations (Ryan 2019). Contrary to the romantic belief of the high seas as wild and anarchic areas, the ocean has in fact become subject to various overlapping territorialization processes. Numerous sovereignties overlap; for instance, the maritime search and rescue regime provides enforcement powers to states far beyond their formal jurisdiction under the UN Convention on the Law of the Sea. Every ship that navigates the oceans is subject to sovereignties under flag state jurisdictions, insurance provisions, transit state or port state measures, or employment regulations. Many territories at sea, however, are not necessarily legal in character; rather they are 'pragmatic spaces' in that they evolve through dealing with particular (technical) problems (Bueger 2022b).

### **Zooming In: The Case of Counter-Piracy Governance of the Coast of Somalia**

One of these territories was made in response to Somali piracy. This is an example that we shall investigate in more detail by drawing on a rich empirical analysis conducted by Bueger (2018). In 2008, the shipping industry and the leading trading states made a new territory after recognizing that one of the major global trade routes was under threat from pirates based in stateless Somalia. The so-called High Risk Area (HRA) in the Western Indian Ocean was the product of an informal agreement between navies of these leading trading nations and shipping associations. It was defined in a slim booklet called *The Best Management Practices* (BMPs), which was written to provide guidance to mariners about how they could prevent and thwart a piracy attack. The booklet also provides regulations for how a ship and its crew should behave and how it should coordinate with navies operating in the area.

The BMP was an informal agreement, not a legally binding regulation or contract. Why was such a measure taken? Adopting this technique was a response to a governance gap. While several international organizations had started to become involved in counter-piracy policies and operations, notably including the UN Security Council, the International Maritime Organization, and the European Union, none had the mandate or was in a position

to develop the appropriate rules. These rules had to be, on the one hand, practical enough to guide the industry, but on the other hand, not too formal as to establish a legal precedent that would challenge existing regulations, revise organizational mandates, or question authority. Given the pressing nature of the escalating number of piracy incidents, there arose a need to react quickly, rather than to rely upon the snail's pace of the procedures of international organizations.

### **Techniques: Best Practices, Inscription, and Formalization**

The BMPs are one core factor that explains how piracy was brought to an end in the HRA region in a very short time span of four years. How were they made, and how did they achieve that effect? The document was drafted across several iterations by a committee that combined different forms of expertise gathered from various sources, such as the International Maritime Organization, private security contractors, navies, and academics. The guidance developed was very practical in nature, including provisions for navigation speed or whether to employ barbed wire.

Once completed, the BMPs were 'inscribed' in several objects: a pocket-size booklet was printed, small and sturdy enough to be carried on mariners' persons; a movie was produced to explain the guidance to seafarers; and a map was published that described the main provisions so that it could be used in planning a transit or directly consulted on a ship's bridge. These objects became the core vehicle through which the BMPs were circulated and promulgated.

Another technique was a series of endorsements of the BMPs by international organizations. For example, the informal governance mechanism dealing with Somali piracy, the Contact Group on Piracy off the Coast of Somalia (a mechanism comprising over eighty representatives of states, industry associations, and non-governmental organizations) debated and endorsed the BMPs. Likewise, the UN Security Council and the International Maritime Organization welcomed the document and called for compliance with it. The booklet became a core reference in the insurance market for international transport and was increasingly incorporated into flag state legislations.

### **Legitimacy**

Why did the BMPs and the HRA become accepted and considered legitimate? Different layers to this answer can be identified through the assemblage perspective. The first is functionalist or practical—the BMPs worked. Complying with them decreased the risk of being a victim of piracy and raised the level

of protection of the shipping industry. A working system of collaboration between navies and the industry was designed. The second layer is linked to the claim of best practices. 'Best practice' is a technique that has become increasingly widespread in global governance (Bernstein and van der Ven 2017); its legitimacy rests on the idea that the best available solutions to a problem have been identified and compared.

The expertise that was assembled was a third crucial layer, which was technical in the first instance. Through the claim that the BMPs presented a technical solution, the matter was depoliticized. How to respond to piracy was not a political decision, but presented itself as a technical and apolitical affair. This depoliticization is, as Murray Li (2007) argues, a regular feature of assemblages and their territorialization process, insofar as politics stands for contestation (and hence deterritorialization). Yet it was also the fact that the BMPs were endorsed by legal authorities that enhanced the legitimacy of the tool.

## Power

Any assemblage is made through power relations insofar as territories contain particular positions of power, and some actors, objects, or sites are more powerful than others. The anti-politics of many assemblages often renders such power relations invisible. It is when processes of deterritorialization and reterritorialization occur that these relations come to the fore. The HRA and BMPs provide a good example of this.

In 2015, the HRA started to become controversial. States in the region recognized the significant price they paid for the inclusion of their sovereign territory in the area: less trade, higher insurance costs, and the challenge of regulating private security companies. As a result, states such as India called for a revision of the HRA in forums such as the informal contact group on piracy or the International Maritime Organization. The shipping industry strongly opposed this, and the resulting controversy, a deterritorialization process, brought the politics of the BMPs to the fore.

The controversy revolved around the question of who should have the authority to decide whether special rules, such as the BMPs, should apply in a given maritime territory. It made actors aware that the committee designing the BMPs lacked *de facto* legitimacy. The Contact Group was unable to resolve the issue, and it was within a more formal site, a committee of the International Maritime Organization, that the issue was eventually resolved. Based upon a decision in that committee, the HRA was redesigned and a reterritorialization process hence took place.

The episode is insightful, as it indicates that power often dwells where it may not initially be expected to be—for example in a technical ad hoc working group designing the BMPs; it also reveals how, in the face of deterritorialization, another site becomes necessary and hence powerful enough to hold the assemblage and its territory together.

### Summary

As the example reveals, assemblage theorizing provides us with interesting tools with which to understand how a space such as the oceans is being increasingly governed via a multitude of overlapping territories. It also shows us how objects, such as maps, might matter in governance, and how vital expertise and apolitical claims can be in making successful governance possible. That an assemblage is always a set of power relations is made clear through the analyst's efforts or through a deterritorialization process. Yet power does not necessarily lie where one might expect it to. It was not actors such as 'nation states' that governed here in the first instance, but an opaque and hidden technical working group designing the BMPs.

Our next case investigates another type of space and the governing territories developed therein: cyberspace.

## Cyberspace, the New Home of Governance?

In 1996, John Perry Barlow presented 'The Declaration of the Independence of Cyberspace'. In this document, Barlow describes a cyberspace rising above nation states and sovereignty, creating a virtual, dispersed realm, a 'new home of mind' that is simultaneously nowhere and everywhere. Barlow's conception of cyberspace stands in opposition to the interests, processes, and structures that predate it, especially those of territorial, confined, sovereign states. As he poetically phrased it:

Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather.... Cyberspace does not lie within your borders. Do not think that you can build it, as though it were a public construction project.... Cyberspace consists of transactions, relationships, and thought itself, arrayed like a standing wave in the web of our communications. Ours is a world that is both everywhere and nowhere, but it is not where bodies live.

(Barlow 1996)



While Barlow was certainly right that cyberspace is virtual and ephemeral, he seems to have missed a point: it is also tangible. Although often invisible in our daily interactions with the internet, cyberspace is enabled by a vast amount of privately owned and driven physical infrastructure such as the submarine cables that we started our discussion with, but also data centres and internet exchange points. It is not just everywhere and nowhere; it is also very much somewhere.

Contrary to Barlow's idealistic vision of a stateless cyberspace, governments all over the world are actively re-evaluating the relations between cyberspace and sovereignty, most notably around cybersecurity (Kello 2017; Müller 2016). Consequently, cyberspace is constantly being territorialized. It thereby simultaneously limits, expands, and intensifies the governing capacities of states and private companies within and across conventional territorial boundaries, making it an increasingly controlled and governed, yet disjointed space (Deibert and Pauly 2019; Liebetrau and Christensen 2021).

Today, multiple parallel, overlapping, and conflicting premises, protocols, and practices of cyberspace governance, as well as divergent rights, responsibility and legitimacy claims prevail. Accordingly, the governance of cyberspace is fraught with paradoxes and controversies in which distinctions such as national/international, public/private, and economy/security are reconfigured (Christensen and Liebetrau 2019). Cyberspace is therefore, in many ways, a new home of governance. A home that is subject to numerous coinciding, concurrent, and clashing processes of re/de/territorialization. It also offers a prime example of polycentric governing working across scales, sectors, and actors.

## Governing Cybersecurity through Public–Private Partnerships

A prevalent way in which cyberspace is governed today is via public–private partnerships (PPPs), particularly in relation to cybersecurity. Cybersecurity risks are not easily delineated and governed (Christensen and Liebetrau 2019) and hence challenge the state's prerogative on the provision of national security. On the one hand, dynamic and dispersed information and communication technology is increasingly integrated into our lives and societies. On the other, most of society's critical information infrastructures are privately owned, operated, and driven. In both policy and academic circles, PPPs are considered a mode of governing that can ameliorate this double

challenge by enhancing resilience, robustness, and flexibility through including a wide-ranging range of private actors. The establishment of cybersecurity PPPs hence reflects the inherent polycentrism of governing cyberspace.

PPPs have, however, been at the heart of a predicament between private economic interests and national security considerations (Cavelty and Suter 2009; Carr 2016). While the dominant idea that a fundamental cleavage between economic and political security interests impedes successful PPPs has been questioned (see e.g. Christensen and Petersen 2017), scholars agree that divisions of cybersecurity governance between the government, private companies, and individual users continue to create contestation over who should do what, when, how, and why. The debate illustrates the overlapping mandates and ambiguous lines of authority that underpin cybersecurity governance.

PPPs are considered a necessary response to the challenges of contemporary cybersecurity governance. How can we understand them by drawing on assemblage theorizing? Let us explore governing territories that are assembled in a cybersecurity PPP by examining the case of Denmark, an example that sheds light on different forms of agency, how and where expertise is enacted, and the distribution of legitimacy and power.

## Techniques

The national ‘Danish Cyber and Information Security Strategies’ of 2014 and 2018 both spell out that the responsibility for ensuring cybersecurity is to be shared between public authorities and businesses, and that close collaboration is needed to govern cyberspace and protect it from cybersecurity threats. In other words, the strategies effectively mandate PPPs.

One technique deployed to put PPPs into practice is the creation of a ‘strategic cybersecurity forum’; Denmark established one in 2014. The forum comprises top management from critical sectors such as energy, health, finance, and telecommunications.

The forum is designed to function as a central node in the assembling of a Danish cybersecurity governance space that fosters voluntary, shared responsibility by transcending the distinction between public and private actors and interests. The forum, for example, works by trying to overcome tensions between national security concerns and business risks. Concretely, it does so by working to establish trust and confidence between the parties through measures such as knowledge sharing, e.g. threat assessments, incident reporting, and best practices.

The forum raises contestation and disagreements amongst and across public and private entities over this governance space, however: which parties should be included in the forum? What kind of expertise is considered necessary to participate? What kind of knowledge should be shared? The answers to these questions are important for how and what type of cybersecurity governance is being assembled.

For example, the Danish public authorities and critical infrastructure owners agree that governing cybersecurity risks is a shared undertaking, yet as emphasized by Christensen and Petersen, ‘they have different notions of what counts as the cybersecurity knowledge that will help mitigate those risks’ (Christensen and Petersen 2017, 1440). Thereby the stability of the assemblage is put into question.

### Legitimacy

Different layers and answers as to how Danish cybersecurity governance PPPs become accepted and legitimate can be identified through the lens of assembling. Firstly, the Danish public authorities legitimize the forum through a logic of ‘help to self-help’. Since the forum aims at supporting companies’ cybersecurity efforts, it will inherently also contribute to strengthening national security by creating a more resilient critical infrastructure.

Secondly, the joint mobilization of public and private expertise and knowledge is supposed to increase the legitimacy of Danish cybersecurity governance across actors and sites, as the partnerships involve practical and technical solutions that are seen as neutral and apolitical platforms. The sharing of secret threat assessments, technical incident reporting, and best practices also provides legitimacy to the forum. It stems from the idea that one arrives at a more optimal governance solution by identifying and comparing a range of possible reactive and proactive responses to cybersecurity risks.

The assembling of technical expertise and knowledge is thus crucial for public–private councils in achieving legitimacy. The technification of the Danish cybersecurity governance does, however, demonstrate a twofold depoliticization. Firstly, the public cybersecurity expertise and knowledge mobilized in the councils is primarily related to the Danish intelligence services. This involves particular modes of power and secrecy. Secondly, the mobilization of private company expertise and knowledge is perceived as mundane and neutral. Arguably, both forms of cybersecurity expertise—although in different ways—contribute to depoliticizing the everyday cybersecurity governance politics of PPPs.

## Power

The organization of Danish cybersecurity governance has been highly controversial since the national Centre for Cyber Security (CfCS) was established as part of the Danish Defence Intelligence Service (DDIS) in 2012. The CfCS chairs the forum. Private companies and privacy advocates argue that placing the centre within DDIS comes at a significant cost in terms of a lack of transparency and a related lack of trust. Business associations, privacy advocates, and politicians consequently call for organizational changes to the Danish cybersecurity governance setup.

This has been opposed by both centre-left and centre-right governments, however. The controversy around DDIS and CfCS—a deterritorialization process—brings the politics of cybersecurity governance and PPPs to the fore. The contestation and confusion revolve around whom cybersecurity governance and protection is for, what cybersecurity threats and risks are, by what measures cybersecurity can and should be achieved, and where responsibility and accountability can accordingly be located.

To improve overall cybersecurity governance and address the contestation and confusion, the Danish government launched the second national ‘Danish Cyber and Information Security Strategy’ in 2018. The strategy promises the development of six targeted sub-strategies to improve cyber and information security in critical sectors, i.e. telecommunications, financial, energy, healthcare, transport, and maritime. A reterritorialization process thereby occurs, but the 2018 strategy does not provide clear guidelines or measures for how to develop structure and succeed with the sectoral strategies. The task of defining who or what is to be protected, from what and by which measures is instead left to sectoral public–private negotiations.

This example reveals how Danish public agencies continuously struggle to keep the assemblage together while facing contestation and controversy over what cybersecurity is, how it should be governed and by whom. The processes of de/reterritorialization make the disputed power relations of the assemblage visible. The attempted governmental reterritorialization leaves crucial cybersecurity governance questions unanswered, thereby displaying the continuously ambiguous distribution of authority and responsibility. From a traditional hierarchical point of view, the government is letting go of the power and responsibility to decide on what should be secured and how. It can, however, also be interpreted as a subtle form of power relation in which the government distributes security governance responsibility and accountability to private companies.

### Summary

The assemblage toolbox enables us to capture how cybersecurity governance is assembled in multiple actor constellations and contested governing territories. It shows how PPPs—assembled through specific actor constellations, claims to expertise, and knowledge sharing techniques—are vital in governing cybersecurity, but also in producing different forms of territorializing processes. The example sheds light on how the cybersecurity assemblage simultaneously limits, expands, and intensifies the governing capacities of states and companies within and across conventional boundaries of public/private and economy/security. This process makes cybersecurity an increasingly governed, yet contested and fragmented governance space. Moreover, the case highlights the importance of exploring the ways in which technical expertise and knowledge matter in making cybersecurity governance possible as well as controversial.

### Assemblage Theorizing: Promises and Traps

Oceans and cyberspace are two fields in which productive research drawing on assemblage theorizing has been carried out. The complexities and multiplicities such spaces entail make them prototypical sites of experimenting with assemblage theorizing. As our short empirical discussions have shown, assemblage theorizing renders visible phenomena that are often neglected in traditional accounts, since they escape such forms of categorical systematizing.

The greatest strength of assemblage theorizing lies in its genuine openness towards the question of what and who governs, and the way that it foregrounds the lack of pre-established terrains and objects of governing, and instead stresses their production in and through governing. Assemblage theorizing also attunes us to material objects, technical processes, and epistemic practices, which are often unrecognized, invisible, or perceived as apolitical. In this sense, assemblage theorizing can develop surprising and interesting narratives of polycentric governing.

Adopting the lens of assemblages is not without challenges, however. If one wants to experiment with assemblage theorizing, one must be aware of a series of traps that one will be at risk of stepping into, but also of becoming trapped in.

The first of those can be called the ‘art’ trap. Assemblage thinking enables creativity and playfulness. But one needs to use this freedom productively and wisely (Abrahamsen 2017). Some assemblage studies lack rigor and an

elaborate conceptual framework; some of them are challenging to read; others verge into the realm of poetry, abstraction, or daydreaming. This is to some degree the Deleuzian legacy, a body of work that is purposefully incoherent and often difficult to process, and some even see as incomprehensible. Assemblage theorizers must be reflexive about the relevance, ambitions, and impact they want to achieve with their analyses to escape this trap.

Second, the ‘infinity and indeterminacy’ trap: in analysing an assemblage one usually does not know exactly where to start and where to end. An assemblage can be traced endlessly backwards and forwards in time. It is hypercomplex and its elements can be described in infinite detail. Where to start and when to stop cannot be addressed through a general guideline but depend on the empirical story one is telling. There are no formal indicators that would confirm what matters and what does not, or how deeply to dive into the analysis. It is only once one is engaged within the process of deep immersion that the empirical material will provide the clues. Pragmatic decisions will often be required.

Thirdly, the ‘representational’ trap: an assemblage can never be fully represented in text, not the least because it is a moving phenomenon. Once described in a comprehensive manner, it may have already changed. While no governance analysis that is close to practice can escape this temporality, it is a particular problem for assemblage theorizing. It can be difficult to distinguish and explain the properties and performances of the emergent and amalgamated parts that make up the assemblage if there is constant and abundant contingency and complexity in its parts and in the ways in which they interact. Moreover, if assemblages are unique and inimitable compositions, this puts the analytical goals of comparing and generalizing to the test.

Keeping the above traps in mind, future experiments will seek to explore more fully the diversity of governing territories and the techniques, power, and legitimacy relations that hold them together. What is required is a comparative perspective that does not aim to generalize, but to contrast different assemblages with each other. This allows analysts to generate more abstract arguments, for instance those pertaining to when and how assemblages stabilize and hierarchies arise, or to advance newly insightful concepts or ideal types. Too many current analyses focus on the dissection of a single assemblage rather than exploring their differences and intersections. A particular area that will need more attention is the role of material objects within governance assemblages, but also how these might exist as elements in more than one assemblage. Following objects across assemblages is one route to take.

Assemblage analysts should not shy away from eclecticism or theory comparison. It is certainly worth considering investing more effort in contrasting

results with studies operating with other theoretical lenses on governing. While one will have to avoid unproductive games of superiority claims, or theory testing, understood as a pathway to eclectic way of cross-fertilizing insights it will allow to build more complex understandings of contemporary governing practices.

Assemblage theorizing continues to be a fresh and challenging, if not provocative approach, in particular when it comes to the governance debate. While there is a growing number of studies using this approach that have yielded new thinking spaces, we have not yet begun to appreciate its full analytical value.

## Notes

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2. Including Collier and Ong 2005; DeLanda 2006, 2016; Acuto and Curtis 2014; Abrahamsen 2017; Baker and McGuirk 2017; Nail 2017; Savage 2018; or Buchanan 2020a; 2020b; .
3. Nicholas Gane or Ian Buchanan are further theorists exploring this opportunity.
4. See also the work of anthropologists such as Anna Tsing, Annelise Riles, or Aihwa Ong.
5. See, for example, Anand et al. 2018.

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# An Actor-Network Perspective on Polycentric Governing

*Alejandro Esguerra*

## Introduction

Think of a stock exchange. What do you picture? Perhaps you recall one of these Wall Street movies: men and women shouting to signal information about buy and sell orders; nervous phone calls; and a closing bell that rings to signify the end of a trading session. Well, times have changed. The floors of stock exchanges have turned into almost quiet places. Human traders, often physicists, oversee the work of digital traders, in the form of algorithms. The work becomes observable on screens, forming a ‘synthetic, ring-like medium through which tasks flow horizontally—from time zone to time zone—and vertically as things scroll down the screen’ (Knorr Cetina 2015, 112). Who acts here, why, and how? How is it possible to govern these micro-interactions of technologies and the global (sometimes devastating) effects that they produce?

The example of algorithms on stock exchanges is indicative of a larger trend of the rapid transformation of societies through science and technology. Critical governing issues as diverse as climate change and drone strikes involve science and technology. In the case of climate change, science takes varying roles: as a cause of environmental problems (e.g. the invention of aircraft), as an admonisher of rational action (e.g. the assessments of the Intergovernmental Panel on Climate Change), and as purported cure (e.g. speculative technologies for reducing CO2 emissions). In all these cases, science and technology are closely connected to the ways that governing unfolds. For this reason, scholars of Science and Technology Studies (STS) look into the construction of expert knowledge and technology, examining how science and society are co-produced (Jasanoff 2004).

This chapter introduces an influential line of thought within STS, namely Actor-Network Theory (ANT). ANT emerged in the 1980s, although in the early days it studied not practices of governing, but the construction of scientific facts (Latour and Woolgar 1979). In entering the laboratories of natural scientists, sociologists paved the way for an ethnographic approach to the study of science and discovered that laboratory practices look much like mundane ordinary activities, including improvisational play with equipment and ad hoc explanations of phenomena (Knorr-Cetina 1981; Lynch 1985).

Already this early work proposed a handful of provocative claims: for example, that objects have agency, that science is politics by other means, and that micro-practices have macro-effects. These propositions have subsequently inspired scholars across the social sciences and humanities. They found resonance in the world of art as well as in museums and public discourses that deal, for instance, with the Anthropocene, the new geological epoch in which human disturbance outranks other geological forces (Haraway 2016).

However, ANT cannot easily be packaged: it is not a theory in the conventional sense, but rather, as Annemarie Mol argues, 'a repository of terms and modes of engaging with the world, a set of contrary methodological reflexes' (Mol 2010, 262). Scholars have developed ANT's sensitivities and commitments through empirical research, especially case studies. These investigations show how ANT matters and what happens to ANT when it travels to the realm of politics (Best and Walters 2013).

In this contribution, I engage in what Endre Danyi (2018) has so aptly called 'good treason'. That is, instead of applying ready-made theoretical tools, I will explore what it could mean to make a case for ANT's usefulness for understanding politics.<sup>1</sup> In introducing some of the sensitivities and commitments of ANT, I link this perspective to polycentric governing, the theme of this volume.

A key argument for the productivity of ANT is that it takes very little for granted. ANT is radically empirical: it seldom defines theoretically the object of investigation such as 'the state', but instead examines how the state appears in the case study. Thus, while ANT belongs to the camp of relational approaches (Bueger and Liebetau, Chapter 11; Gadinger, Chapter 10, this volume), it is interested in how these relations come into being in the first place, as well as how they are maintained and fall apart.

For ANT, relations are formed between various actors, possibly including non-humans such as algorithms or animals (Knorr Cetina 2015; Haraway 2016). Indeed, we live in a material world and treasure well-designed items.

As scientists, we cannot let go of the book we write, the graphs we draw, the choreography we perform, or the chromosomes we decode (Knorr Cetina 1997). For ANT, relations or associations connect humans, animals, and objects into networks: so-called actor-networks. ANT studies the emergence of these actor-networks, and how they are (or are not) rendered durable.

ANT resonates with polycentric governing, because a main aspect of polycentric governing is its network character: webs crafted between unlikely allies perform governing. Power in these networks does not radiate out from a fixed centre, but resides in ‘heterogeneous assemblages, distributed networks and circuits’ that span the globe (Best and Walters 2013, 333). Michel Foucault has likewise developed a conception that locates power in the relations of institutions, actors, and discourses (Beckmann, Chapter 14, this volume). ANT continues Foucault’s journey by paying close attention to the ways that people construct expert knowledge and turn it into mechanisms of governing (Callon 1986).

This chapter describes how polycentric governing closely links with expert knowledge. For example, expertise lies at the heart of private certification instruments for coffee and forest products, internet regulations, climate change policies, or even international security interventions. ANT unpacks expert knowledge in all its socio-materiality. That is, ANT pays close attention to the fact that the production of expert knowledge depends on, and is intertwined with, the material environment, for instance, of the laboratory including instruments, devices, model organisms, etc. Polycentric governing, too, requires material artifacts such as data sheets, computer models, or indicators (Leander 2021). Thus, expert knowledge always has an ideational and a material component.

I elaborate on the ANT perspective by examining three instances of polycentric governing. First, the chapter elaborates on the novel techniques of governing-by-expertise such as certification schemes. Second, inquiring into forms of power, the chapter examines how science-policy networks generate and fix knowledge about global environmental problems. In so doing, these networks engage in ‘ontological politics’, normalizing certain constructions of reality and in the process excluding other actors and other governing logics (Mol 1999). Third, a vignette regarding the United Nations Security Council (UNSC) elucidates the politics of legitimation when US Secretary of State Colin Powell tried to convince the world of the existence of weapons of mass destruction in Iraq. This case exemplifies how legitimation closely connects with practices of evidence making. Before exploring these three vignettes, I more generally situate ANT in relation to polycentric governing.

## Sensibilities and Commitments for Studying Polycentric Governing

The introduction to this volume speaks of polycentric governing as a ‘trans-scalar, transsectoral, dispersed, variable, messy, elusive, headless mode of governing’ (Gadinger and Scholte, [Chapter 1](#), this volume). Where to begin, when governing authority cannot be located exclusively in the Weberian bureaucracy? The institutionalists in this volume handle this question by examining how nonstate actors interact with existing governing frameworks of nation-states and international organizations (Zelli et al., [Chapter 4](#); Thiel, [Chapter 5](#); Quack, [Chapter 6](#), this volume). Feminist scholars develop ideas of polycentrism by focusing on issues of intersectionality (Marchand, [Chapter 15](#), this volume). For Bourdieusian accounts, polycentric governing is understood with reference to the ‘field’ that surrounds an issue such as security and, for instance, practices of private military companies (Gadinger, [Chapter 10](#), this volume).

ANT starts from a different, rather provocative suggestion for examining polycentric governing: *follow the actor*. That actor might be scallops ([Callon 1986](#)), scientists and microbes ([Latour 1983](#)), patients ([Mol 2002](#)), or participatory devices ([Marres 2012](#)). ANT says: follow the actors involved and trace how they associate with one another in actor-networks. In doing so, ANT scholars expand who partakes in governing beyond institutions. Not only states, non-governmental organizations (NGOs), and international organizations are relevant actors for ANT, but also various objects and devices, viruses, and algorithms can ‘govern.’ All of these candidate ‘rulers’ are considered when describing the formation of networks of governing.

‘Translation’ is ANT’s crucial term here. It explains the mechanisms by which actor-networks are constituted and formed ([Callon 1986](#)). ANT scholarship emphasizes the ongoing translational work of bringing diverse actors into relation with one another. Richard Freeman notes, ‘what is significant about this process is the way in which a new relationship (or “actor-network”) changes the properties or characteristics of those things or people party to it. Such relationships are not essential or given: they have to be made and maintained, or “performed”’ ([Freeman 2009](#), 435). For polycentric governing, this means to pay attention to the *process of creating networks* and the politics involved.

The social—including the process of governing—is not a given condition, but an ongoing accomplishment: to be social is to associate with multiple actors in a full range of material forms ([Law and Singleton 2014](#)). In other words, ANT views much of the political structure such as the state,

NGOs, or international norms not as fixed ontological entities; they are constantly evolving through the translational practices that connect them. To make sense of this point, recall that ANT has its roots in microsociology. In this scholarship, the unit of analysis is not institutions, social structures, or discourses, ‘but the daily affairs and the people [and things] who conduct them’ (Powell and Rerup 2016, 311). More than any of the other approaches addressed in this volume, ANT researches governing where it is *enacted*, and mistrusts even practice-oriented structures such as ‘the field’ or ‘habitus’ (see Gadinger, Chapter 10, this volume, on these Bourdieusian concepts).

Thus, ANT teaches radical empiricism. It abstains from ordering the mess of polycentric governing through some overarching explanatory formula that would guide the researcher through a complex world. Instead, ANT suggests to start the inquiry on the basis of uncertainty about the phenomenon in question: its boundaries and its ontology. Similar to ethnomethodology, ANT stays with (indeed embraces) the trouble of empirical messiness, giving voice to actors and their concepts rather than imposing an a priori explanatory framework. Refuting the abstract theoretical constructs of most social theory, ANT aims for an ‘*infra* language’, a ‘reflexive account of what’ actors are saying (Latour 2005, 49, emphasis added).

As ANT follows the actors, it recognizes that governing can be found at many sites that may be strangely connected through various actor-networks. A good example is a study, *Plastic Water*, in which the authors examine a bottle of water’s simultaneous existence as, among other things, a product, a personal health resource, an object of boycotts, and a part of accumulating waste matter (Hawkins et al. 2015). Polycentric governing appears, for instance, when commercially supplied water bottles replace the state provision of safe water and de facto transfer the role to beverage companies. So, follow the actors and you will find out about polycentric governing in action.

Another key proposition of ANT is captured in the aphorism that *science is politics by other means*. Already early ANT scholarship, while inquiring into practices of ‘laboratory life’ (Latour and Woolgar 1979), was interested in how science fundamentally influences social and political order. It does so by creating and defining many of the problems that then require governing. ANT pioneer Bruno Latour explicates this argument in a seminal article where he describes the chemist Louis Pasteur not as an isolated scientist discovering pasteurization, but as a socio-political innovator (Latour 1983). Pasteur’s laboratory is able to transform French society by convincing farmers, public health advocates, and the wider public of a new actor—the anthrax virus—that kills cattle and can only be detected in his laboratory. However, detection

with the help of laboratory techniques and instruments is not enough. Pasteur's laboratory also provides a cure to the problem, pasteurization.

For polycentric governing, this example holds the insight that we live in times of high scientization. CO<sub>2</sub> emissions and micro-plastic in drinking water are instances where only scientific methods can identify what otherwise remains unseen. ANT underlines that expert knowledge pervades our social and political life. For this reason, polycentric governing already begins when scientists, be they natural or social researchers, publish their evidence and frame it as 'matters of concern' (Latour 2004, 22). Thus, ANT refuses to accept as given the consensual knowledge of an epistemic community (Haas 1992). Instead, it treats the construction of expert knowledge as a political process in which some knowledge claims are rendered authoritative, and others recede into the background. Science co-produces the world we live in: it is a form of governing.

Finally, ANT has acute sensitivity for the *politics of scale*: that is, how scale, level, and space produce political effects. For ANT, the politics of scale starts by taking a microscopic gaze into laboratory practices. The study of these micro-situations allowed early ANT scholars to 'hear the macro order tick' (Knorr-Cetina 1981, 42). Michel Callon and Bruno Latour (1981) reframed this seemingly epistemological problem into one of ontology, asking how it is possible that micro-actors become macro-actors. The central claim is that in the experimental system—the paradigmatic working unit of modern science—researchers reduce and simplify part of the macro-cosmos (the world) into the micro-cosmos (the experiment). Scientists translate the messiness of reality into an experimental system that allows for productive working, and then translate their findings back into society (Callon et al. 2009).

ANT thereby shares the polycentric premise of micro–macro connections. For instance, a recent volume on polycentricity observes that experimentation 'is likely to facilitate governance innovation and learning about what works' (Jordan et al. 2018, 16). ANT, being always concerned with the construction of experimental settings, points to the politics of doing experiments and draws 'attention to the fact that in real world contexts, experiments are likely to be shaped by asymmetric power relations' (Voß and Schroth 2018, 100). In other words, innovation labs and real-world experiments are modes of governing, of presenting micro-solutions for problems that do not necessarily arise from public discourse, but rather are staged by policy innovators. Scaling up micro-solutions is a constant theme of governing innovation. From an ANT perspective, this process deserves attention, because it is a specific technique of polycentric governing—and one that involves politics.



## Techniques: Governing by Expertise

It is early in the morning; you draft a few thoughts in your diary. Most likely, the paper on which you write, the coffee that you have freshly brewed, and even the shirt that you wear have been subject to governing efforts. Private certification schemes formulate standards for sustainable forestry (your diary) and agriculture (your coffee), or they aim at protecting workers' rights in the garment industry (your shirt).

Certification instruments now pervade our daily life. As a rather novel technique of governing, they belong to a group of policy instruments that are market-based, voluntary, and distinct from those of the Weberian nation state, as they do not draw on government authority. The most respected standards are those that are created in so-called 'multistakeholder' collaboration between NGOs, firms, participants from the Global North as well as the Global South, due to the expertise that each of the involved parties holds. While expertise used to be (and much of it still is) coupled to state bureaucracy, it is also the most distinct source of authority for novel techniques of governing (Green 2014). Certification schemes, sustainability indicators, CO2 emission trading systems, university rankings, or financial rating systems are all examples of governing instruments that people trust (or are meant to trust) because of expertise and technical knowledge.

ANT is suspicious of a narrative that views expertise as technical and consensual, as simply supporting the authority of polycentric governing. Instead, this perspective asks how it is possible that private expert knowledge is rendered publicly authoritative. More particularly, what are the struggles over these knowledge claims? In this regard, Andrew Barry mobilizes the notion of 'transnational knowledge controversies': namely, 'continuing disputes about the causes and existence of the problems that governance is supposed to address ... including controversies about the operation of the governance mechanisms set in place' (Barry 2012, 325). While expert knowledge is often associated with 'consensual knowledge' that ends uncertainty (Haas 1992), ANT empirical studies suggest otherwise: controversies in science are often ongoing and do not come to an end because of a more rational argument (Latour 1987). Instead, constant drivers of scientific research include detecting mistakes in the work of others, developing competing hypotheses, and applying new methods. Scientific consensus exists on certain aspects, but the advancement of science is less interested in them and more interested in the contested areas. Controversies are the lifeblood of scientific knowledge construction. For this reason, ANT scholars speak of 'closure' when scientists temporarily manage to stabilize knowledge claims. Conclusions made by

the Intergovernmental Panel on Climate Change (IPCC) and reports issued by the National Academy of Sciences in the US are instances of the closure of knowledge controversies. As such, they require careful manoeuvring and stage management (Beck 2012; Hilgartner 2000). Latour (2004) has clarified that this view on scientific research does not mean to refute scientific facts such as climate change, but insists on investigating empirically why and by which means ‘matters of concern’ come into being.

Going beyond the secluded spaces of science, reaching closure on controversial issues does not become easier. Consider the case of forestry certification and think of a situation where indigenous peoples sit together with representatives of the logging industry to discuss human rights violations. Whose voice and experiences are deemed relevant, and whose evidence counts when setting universal standards? While the institutionalist literature (Zelli et al., Chapter 4; Thiel, Chapter 5; this volume) does not deny conflicts between diverse actors, it overlooks the specificity of knowledge claims and the potential for contestation (Quack 2016). For ANT, expert knowledge in polycentric governing is plural, with each truth claim situated in a specific context and community (Haraway 1988). Hence the most interesting question is what happens when diverse actors ‘disagree about the immensely varied facts that are relevant’ when creating arrangements of governing (Martello and Jasanoff 2004, 16). Expertise, in this account, is not an objective tool of governing, but a site of politics.

Thus far I have shown how ANT calls for unpacking expertise in polycentric governing because of its highly contested nature. More fundamentally, the new techniques represent a shift not only in ways of doing governing, but also in ways of ‘knowing about governance’ (Voß and Freeman 2016, 3). Recall that knowledge about governing used to be restricted to the state bureaucracy; it co-evolved with nation-building and large infrastructure projects (Scott 1998). However, if governing is no longer situated solely in state bureaucracies, then other actors beyond government officials acquire standardized knowledge about governing. Recent scholarship has paid close attention to the increasing professionalization of new governing techniques as well as to the ‘new governors’—experts equipped with standardized governing knowledge who move between private and public institutions (Voß and Freeman 2016; Strassheim and Beck 2019).

An intriguing example is the rise of behavioural governing techniques, including the specific technique of ‘nudging’. ‘Nudges’ aim to ‘steer people’s behaviour ... mostly by re-designing the decision-making environment’ (Strassheim and Beck 2019, 3). For instance, cafeterias are given new layouts that encourage people to eat less junk food. A key ANT argument is

that nudging measures can be viewed as ‘instrument constituencies’ which ‘become “entrepreneurial” solutions that actively seek to nurture demand and give shape to policy problems’ (Simons and Voß 2018, 16).

According to this view, many governing efforts around the world are not necessarily problem-oriented, but solution-oriented. That is, the new governing experts promote a set of governing practices that often exist independently of the problem to be governed. Take again the example of nudging units, which are heralded as instruments to change societies towards a healthier or more sustainable lifestyle by steering individual behaviour. Even before the effects of a particular nudging measure have been evaluated, commercial and governmental actors invite nudging experts to apply the experiments in other areas (Straßheim and Beck 2019). Thus, governing experts look for problems that allow their instruments to be probed and possibly refined, but first and foremost promoted. The technique becomes an end in itself.

This knowledge about governing techniques co-produces political order. The instruments do not necessarily ‘test already existing conditions of governing, but actively transform such conditions’ in a way that they fit the instrument (Voß and Simons 2018, 213). In sum, ANT claims that science is always fundamentally involved in creating structures of governing. For this reason, the interesting question is what kind of knowledge—from whom and for whom—becomes translated into mechanisms and techniques of governing. ANT is particularly adept at unpacking ‘governing by expertise’, as this approach has evolved alongside conventional modes of governing rooted in the Weberian nation state. ANT thereby makes visible the politics of behavioural governing techniques that often hide behind a rhetoric of problem-solving.

## **Power: Ontological Politics**

How do science, art, and politics create the categories through which we understand the world? To highlight climate change, for example, does it need a single prominent advocate, such as the youth activist Greta Thunberg? Is it necessary that science speaks with one voice on ecological developments, or is a multiplicity of voices better equipped to respond to the local needs of those who are directly affected by the consequences of climate change or biodiversity loss? For ANT, these complex issues point to an understanding of power as lying in, and emerging from, the relations between actors, in particular how those relations make and fix categories and meanings.

An ANT perspective on power builds on the concept of productive power as it has been introduced by Foucauldian scholarship. On these lines Barnett and Duval argue that 'to attend to the analysis of productive power is to focus on how diffuse and contingent social processes produce particular kinds of subjects, fix meaning and categories, and create what is taken for granted and the ordinary of world politics' (Barnett and Duval 2005, 56). Recall that ANT does not take relations between actors as given, but rather investigates how the making and maintenance of relations requires ongoing work. These connections are never accomplished, but always unfold in an ongoing process.

Power for ANT involves actors' ability to translate ideas, objects, and materials that are otherwise discrete into a relationship of equivalence, thereby creating an actor-network (Callon 1986; Best and Walters 2013). Since ANT takes non-humans into account, the question arises how to combine, for instance, entities such as 'a forest' into a governance arrangement to fight climate change. The making of equivalences means here to turn the forest into an amount of carbon storage that can then be traded at the carbon market. This translation requires one to reduce the complexity of a forest and to focus only on its ability to store carbon. The forest is represented as a number; it is turned into an object of governance (Berger and Esguerra 2018). Thus, entities have to be translated (transformed and transported) so that they fit into an emerging network. For ANT, this is an exercise of power.

Once entities have been transformed, it requires further power to establish networks in which a host of objects become related to each other. Take the example of coal. In Europe, coal used to be far more than a resource for energy supply. It was connected to an entire culture of work and leisure, of drinking beer and watching soccer, of fighting for workers' rights, and of creating the wealth of a nation. With the shift of energy sources away from coal, this complex network falls apart. New networks have to be established that link what has become disparate. Artwork fills former breweries, hoping to attract the start-up scene. Industrial areas are turned into spaces for recreation and consumption when an artificial lake floods the traces of an industrial past. While in some regions this transformation succeeds, in other regions the newly established relations are not resilient.

The example of coal regions is indicative of ANT's interest in the fragility of the relationships that constitute objects of governance. The durability of networks always depends on the agency of human and non-human actors. This agency 'is often truculent, recalcitrant, crafty, and self-interested' and 'never unfolds quite as planned', so that more often than not people and things resist the establishment of new networks (Best and Walters 2013, 333).

Then, the lakeview apartments do not provide new homes for the former coal worker families, and the art galleries remain empty. While Foucauldian and Bourdieusian approaches have the tendency to emphasize the reproduction of structures (Beckman, [Chapter 14](#); Gadinger, [Chapter 10](#), this volume), ANT is especially sensitive in its empirical studies to creativity and change, to difference and disobedience. Structural power remains a weak spot in ANT writings, partly because many of the foundational texts focus on elite actors without attending to their power within society as a whole.

Another aspect of power in ANT relates to Annemarie Mol's notion of 'ontological politics'. Earlier examples have shown that networks can be knotted in different ways. Thus, 'the reality we live with is one performed in a variety of practices. The radical consequence of this is that reality itself is multiple. An implication of this might be that there are options between the various versions of an object' (Mol 1999, 74).

While this point may sound deeply philosophical (which it is), it is also a real-world problem for practitioners who design new institutions. Take the example of the creation of the Intergovernmental Science-Policy Platform for Biodiversity and Ecosystem Services (IPBES). Around 2010 a multistakeholder initiative negotiated how diverse knowledge systems could be incorporated in an institution that would forcefully make visible the loss of biodiversity worldwide. The negotiating actors included scientists, conservationists, indigenous peoples' organizations, multilateral environmental institutions, and, not least, state representatives. During the negotiations it became clear that the diverse actors held different notions of 'biodiversity'. They not only practised research differently, depending on disciplinary origins, but also experienced biodiversity in contrasting ways.

With Mol, we can indeed say that competing options of an object, biodiversity, were present in the negotiations. Science-policy institutions are sites where these options are made and fixed. In the IPBES case, one of the most vivid controversies pitted concepts of 'ecosystem services' against those of 'mother earth' (Borie and Hulme 2015). In fact, IPBES has developed a conceptual framework that allows both framings to be true. Colour coding in the framework uses blue for Mother Earth and green for ecosystem services. It remains to be evaluated how these 'contrasting rationalities, diverging ontological claims, and different criteria for knowledge validation' play out in practice (Löfmarck and Lidskog 2017, 28). Thus, ontological politics describe the struggle of realizing one truth claim against another. Power is the ability of actors, institutions, or networks to represent and circulate a specific version of reality. Marieke de Goede has shown that such practices extend the realm

of environmental governance. Drawing on Latour, she mobilizes the notion of ‘Chain of Security’ in order to ‘conceptualize the ways in which security judgements are made across public/private domains’ (de Goede 2018, 27). ANT unpacks the practices of knowledge production, examining which (and whose) reality is turned into governing.

Like ‘biodiversity’, the object ‘climate’ also exists in many versions. For instance, Bentley Allan (2017) investigates how the climate came to take on a geophysical rather than a bioecological form in global governance, because it emerged from interactions between states and scientists. Had other actors been involved, the conception could have been different. Ontological politics draws our attention to the ‘competing, contested representations of the climate in the scientific literature and a variety of ways to translate them into governance arrangements’ such as the IPCC or the United Nations Framework Convention on Climate Change (Allan 2017, 131). For ANT, attending to heterogeneity is a central commitment, because alternative truths may challenge existing arrangements of governing (Marres 2019).

To conclude this section, ANT focuses on the power of ‘making present’ by creating relations and representing objects. We see these processes in the techniques described earlier, such as certification schemes, indicators, and rankings. The power of these techniques is so subtle that we hardly realize the effects. The power of actor-networks makes it ‘obvious’ to think of biodiversity in terms of ‘ecosystems services’ and the ‘values’ that nature provides to humans. Measuring such services and translating them into policy instruments (such as rankings of green cities) creates political order. Thus, science and other actors produce ‘objects that are amenable to certain specific governance logics and which attract and privilege certain groups of actors’ and ‘inevitably exclude other actors and other governance logics’ (Turnhout 2018, 366). In other words, power is at play in the ontological politics of polycentric governing, in choosing certain options, and discarding competing visions of the world.

## **Legitimacy: The Politics of Legitimation**

This chapter has examined sites of politics that are mostly far away from traditional state-based centres of power. Indeed, the notion of polycentricity points to the governing effects around the world of municipal authorities, public–private partnerships, and standardization agencies (Jordan et al. 2018). Yet all is not decentred, and any convincing account of governing must speak also about those centres of power that do exist. For this reason, I turn

to the UNSC and examine the politics of legitimation when it discussed the Iraq War in 2003.

On 5 February 2003 the UNSC debated a question of evidence around Iraq's possession of Weapons of Mass Destruction (WMD). The US administration 'insisted that Iraq had used the absence of international inspectors to rebuild its illicit nuclear, chemical, and biological weapons programs' (Miller 2007, 336). In contrast, inspectors from the International Atomic Energy Agency (IAEA) and the United Nations Monitoring, Verification, and Inspection Commission persistently argued that the 'existing evidence was inconclusive regarding Iraqi possession of WMD' (Miller 2007, 336). In this situation, the US Secretary of State, Colin Powell, mobilized audiotapes and satellite images, which he tossed on the wooden desk of the UNSC to proclaim that '[w]e know that Saddam Hussein is determined to keep his weapons of mass destruction; he's determined to make more' (Powell 2003).

For an ANT-inspired analysis, legitimacy does not derive simply from normative principles that formulate ideal legitimacy criteria and then test concrete situations in light of these criteria. Instead, the UNSC example illustrates the *politics* of legitimation. The premise of such politics is that actors seek to justify their practices through contrasting legitimacy claims that are tested under conditions of uncertainty (Gadinger 2016). For Reus-Smit, actors 'making legitimacy claims is the lifeblood of the politics of legitimation, and such politics is essential to the cultivation and maintenance of an actor's or institution's legitimacy' (Reus-Smit 2007, 159). In other words, this perspective on legitimacy foregrounds controversy, contestation, and uncertainty instead of formal routines and procedures. ANT specifies the politics of legitimation with regard to knowledge and evidence as well as the fragility of legitimacy claims involving objects of expertise.

For ANT, knowledge and evidence play a decisive role in legitimation politics. As the UNSC dispute illustrates, controversies about 'the facts' are an integral part of world politics. Evidence that actors judge to be conclusive can lead to legitimated military interventions supported by international law. Expert knowledge is also the basis for legitimated international environmental treaties such as the 2015 Paris Agreement on climate change. ANT-inspired scholarship has explored the making of evidence and the politics of legitimation involved. For example, Christian Bueger has conceptualized the 'epistemic infrastructures' of piracy, in which 'knowledge is generated and stabilized and its flow maintained' (Bueger 2015, 15).

Likewise, the dispute at the UNSC can be conceptualized as part of the epistemic infrastructure of WMD. This infrastructure connects various sites of knowledge generation and negotiation such as the IAEA, US intelligence

briefs, and the UNSC meeting. In this actor-network, the IAEA presents what Latour calls a 'centre of calculation', where scientists and others turn collected probes, transcribed interviews, and other pieces of material into evidence (Latour 1987, 232). Secluded from the public eye, such centres create an aura of impartiality. In contrast, the Security Council meeting presents a video-streamed performance in which actors compete over recognition of their respective knowledge claims. This public role was also new for the IAEA, which normally reports to states and diplomats directly and confidentially. Performing a controversy under the 'public microscope' (Beck 2012, 151) was largely untested ground for the IAEA.

The dispute at the Security Council exposed fragility and objectual practices. Even though the US is the most powerful state, the knowledge practices of the IAEA, their tireless collection of evidence, weighed heavily on Colin Powell. Thus, to stage his claims, Powell mobilized objects of expertise (satellite images, audio tapes) to create a robust manifestation of his evidence. Two outcomes were possible: either these objects could achieve a high degree of object-ivity (Knorr Cetina 1997), providing proof of the existence of WMDs, or the objects could include speculation and only pretend to be a solid basis for future action.

This is ANT's home turf: the micro-politics of expert knowledge materialized in objects and publicly performed in a locally situated setting that is broadcast globally. Despite the US powerful position, other members of the Security Council remained sceptical about the evidence. Nevertheless, nationally within the US the media coverage temporarily created enough support for an invasion. The controversy continued when scientific 'teams from the United States followed literally on the heels of frontline troops in a massive search for Iraqi WMD in the first few months of the war' (Miller 2007, 336). Like the inspectors of the IAEA before them, the US teams too could not establish any proof of WMD, which contributed to the global delegitimization of the US-led invasion in the years that followed.

Coupling legitimacy to evidence occurs not only in high politics, as described above, but also in quieter venues of polycentric governing. For example, policy assessments or development indices are used as tools to counter interest-based politics with more 'rational' and 'objective' forms of governing through 'transparent' and 'effective' problem-solving. In this vein, environmental assessments have developed scenarios for transformative change that integrate scientific evaluations with visions of future social order (Beck and Forsyth 2019). Some of these scenarios include climate engineering techniques whose outcomes are highly uncertain (Reynolds 2018). These examples show that legitimation of policy can happen without explicit



normative claims or political fights, but through the deployment of seemingly neutral objects of expertise.

In sum, ANT examines questions of legitimacy in polycentric governing with a particular focus on controversies around evidence claims. This approach raises issues about the democratization of science: i.e. asking 'how, and with which perspectives, objectives are set by whom and on what legitimacy' (Beck and Forsyth 2019, 56).

## Conclusion

The concept of polycentric governing proposes that world politics involves a proliferation of centres of authority that are formally independent and yet practically interrelated. This volume examines polycentric *governing* instead of government or governance to cast the eye beyond institutions. We therefore also explore the 'dynamic-process quality of societal regulation', including 'underlying power relations and complex legitimacy dynamics' (Gadinger and Scholte, Chapter 1, this volume).

An ANT-perspective fits comfortably with this emphasis on dynamism and process. As such, it is part of the family of practice theoretical accounts (Gadinger, Chapter 10, this volume). Similar to much feminist and post-colonial scholarship, practice theory emphasizes the politics of everyday experiences of people and the ways that these experiences create routines and reconfigure power relations.

The distinct contribution of ANT to polycentric governing is to spotlight practices of socio-material knowledge construction. In particular, expert knowledge now lies at the heart of governing techniques, as seen with evaluation, accounting, and certification processes. Thus, ANT especially enquires into how, by and for whom expert knowledge is constructed and then performed. These crucial questions determine what counts as true and whose visions are translated into techniques of governing.

ANT underlines that performing authoritative claims about the world is a specific form of power. Representing the world according to dominant frames, practices, and institutions reproduces existing order, while offering alternative imaginaries potentially reconfigures governing practices. Thus, an ANT perspective on polycentric governing examines the constant struggle over problem definition. This struggle is at its heart about legitimacy, as actors seek to justify the (knowledge) practices by which problems are constructed and solutions crafted.

ANT-inspired analyses of polycentric governing have followed actors to diverse sites of world politics. From central banks to piracy encounters, this

scholarship has tried to stay close to the empirics, and, in the spirit of ANT, has avoided grand theorizing. These commitments have produced inspiring and carefully crafted case studies of polycentric governing, but not necessarily theories in the conventional sense.

By setting ANT alongside other approaches to polycentric governing, the present volume shows what ANT does (and also does not) offer. There is potential for cross-fertilization. For example, both feminist and postcolonial scholarship have stressed how the institution of science is structurally an imperial project mostly executed by white men (Haraway 1988). Such provocations can lead us to inquire how far global institutions incorporate and authorize different knowledge systems (Borie and Hulme 2015). However, in contrast to structuralist approaches, ANT has greater sensitivity for the fluidity of power and order, showing how dispersed sites of authority in polycentric governing struggle for recognition.

## Note

1. For other scholars of politics who have approached their topics with ANT sensibilities, see Best and Walters 2013; Bueger 2015; Berger and Esguerra 2018; de Goede 2018; Leander 2021.

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**PART V**  
**STRUCTURAL APPROACHES**





# Polycentric Governing: A Marxist Interpretation

*Henk Overbeek*

## Introduction

On 24 September 2019, US President Donald Trump addressed the annual session of the United Nations General Assembly, where he announced the death of globalism and the advent of an era of patriotism and nationalism ([Guardian 2019](#)). The speech stated explicitly something that has been transpiring gradually since at least the financial crisis of 2008: the days of the liberal international order are over—an order in which the United States provided political and moral leadership to the capitalist world as well as producing the bulk of the public goods essential to the maintenance of that order (military security, financial stability, serving as consumer of last resort). The *hegemonic order* of the 1945–2008 period is gradually giving way to a non-hegemonic international order, an order increasingly similar to the *era of rival imperialisms* of the late nineteenth century (see [Cox 1987](#) for elaboration of these terms). This chapter introduces the historical materialist approach to political economy and social theory in order to enable the reader to make sense of this ongoing transformation and its consequences for ‘polycentric governing’.

On 31 August 2021, Google Scholar gave 110 hits for the search term *polycentric governing*. Judging from the short descriptions that accompany these results, it becomes obvious that polycentric governing refers to regulatory arrangements across a wide variety of issue areas in which government, business, and civil society actors participate across multiple levels (local, regional, national, international). While the term first surfaces in 1993, two-thirds of the references date from the last decade. The concept is therefore highly time-bound and comparatively little used. In the academic fields of international relations and international political economy, more common terms referring to essentially the same phenomena include ‘global governance’, ‘multi-level

governance' (mostly used in the context of the European Union), 'transnational governance', and 'polycentric governance' (Hewson and Sinclair 1999; Djelic and Sahlin-Andersson 2006; Hale and Held 2011). These terms are much more widespread, with respective Google Scholar counts of 518,000, 36,200, 23,600, and 12,600.

In earlier writings I have argued, much as Schneider has done (Chapter 2, this volume), that the emergence of new concepts must be historicized, i.e. contextualized in terms of the historical conditions that give rise to their adoption (Overbeek 2005, 2010). This principle holds for any concept or theoretical innovation, but it is a must in the case of theories that suddenly acquire huge popularity. We must then carefully examine the historical conjuncture around such an appearance, as well as ask whose interests are being served or prioritized. We need to consider the social purpose of the state of affairs understood by the concept (Ruggie 1982) and realize that a theory (or theoretical concept) is 'always for someone or for some purpose' (Cox 1981, 128).

The historical context in which the concept of governance (with varying prefixes) made its entrance in social theory is that of the neoliberal globalization drive of the 1980s and 1990s. This development particularly served the interests of transnational (finance) capital, which has always pursued maximum freedom of mobility within and across borders (Overbeek 2005, 2010). The specific characteristics of polycentric (or global, or transnational) governance at that time facilitated the emergence of market-based, informal forms of governance with the (sometimes exclusive) involvement of non-state, private actors in the global economy (Cutler, Haufler, and Porter 1999; Hall and Biersteker 2002; Graz and Nölke 2008). This mode of governance functioned to maximize the global mobility of capital and to insulate the market from interventions by the state.

This chapter revisits these claims about the nature of polycentric governing and particularly explores the extent to which we are currently witnessing a shift in the global political economy away from this market-oriented, highly privatized mode of governance towards a power-based international order with an emphasis on inter-state rivalry and bargaining. I will embed this exercise in a conceptual approach inspired by the traditions of historical materialism (or Marxism). The concepts that are key to this volume—i.e. power, techniques, and legitimacy—are also key concerns in Marxism. Indeed, the added value of a Marxist approach to polycentric governing is its systematic exploration of invisible power structures that determine the exercise and legitimation of political rule.

However, a preliminary and inevitably more abstract clarification is needed. Hence, the following section outlines the fundamentals of a Marxist approach, and thereby also addresses the relation between Marxism and theoretical traditions of feminism and postcolonial theory presented elsewhere. Thereafter, further sections examine Marxist understandings of power, legitimacy, and techniques, both in general and in specific relation to contemporary ideas and practices of polycentric governing.

## Approach

Marxism means different things to different people. We can distinguish at least three general meanings in popular discussions: Marxism as the philosophy, theory, and methodology of *historical materialism*; Marxism as a *theory of capitalism*; and Marxism as a *political movement*. This section first describes these three understandings and then elaborates further on principles of historical and dialectical materialism as a general framework for a Marxist account of polycentric governing.

## Marxism

In the first understanding, Marxism covers Karl Marx's philosophy of history and his theory and methods of social enquiry: *historical materialism*. Historicization is crucial here. As Marx writes:

even the most abstract categories, despite their validity—precisely because of their abstractness—for all epochs, are nevertheless, in the specific character of this abstraction, themselves likewise a product of historic relations, and possess their full validity only for and within these relations.

(Marx 1973[1857], 105)

Thus, we need to carefully distinguish abstract and invariant properties of analytical concepts from historically specific characteristics.

Relating this insight to polycentric governance, in an abstract sense the concept refers to horizontal, networked, non-state forms of regulation of social and economic interaction. As such, we can discern polycentric governance in earlier epochs. Consider, for example, the regulatory role of commercial entities like the Dutch and English East India Companies between the sixteenth and eighteenth centuries, or the governance activities of the Roman

Catholic Church and Freemasonry over even longer periods. Then there are the historically specific conditions that made the concept of polycentric governing gain currency in the 1990s, and the question of how its concrete contemporary manifestations are related to older and more enduring ones. Here, Marx's method of abstraction is uniquely useful in conceptually addressing historical similarities and differences between current circumstances and earlier episodes (Marx 1973, 100–108). We shall return to this issue below.

In the second understanding, Marxism refers to a specific theoretical tradition of analysing the capitalist mode of production. It then comprises all those approaches to the study of capitalism that take their inspiration and guidance from Marx's critique of political economy as it culminated in the three volumes of *Capital* (Marx 1867, 1885, 1894). Marx always considered the capitalist mode of production to be a transnational, indeed global, phenomenon, as is clear from the opening sentences of the *Communist Manifesto*, all the way through to the concluding chapter of the first volume of *Capital*, which deals with the world market and modern colonialism. Although not every Marxist has recognized this global aspect so clearly (an understatement), it forms a core element in my own approach to the study of capitalism.

Marx's *theory of capitalism* has frequently been declared outdated, irrelevant in today's world, or simply dead. However, the world has never been as thoroughly ruled by capital as it has been since the 1990s, i.e. the days of deregulation and privatization in the West, the collapse of the Soviet system, and the rise of China as a major power in the capitalist world economy (Milanovic 2019). Hence, Marx's theory of capitalism, provided it is understood as a source of inspiration and not as divine dogma, can and indeed must play a major role in any attempt to understand what is driving today's global political economy, including how modes of governance vary in different stages of development.

In the third understanding, Marxism as *political movement* usually refers to the ideology and political praxis of the international communist movement, and more specifically the praxis of socialism as it was exercised in the former Soviet world. This particular strain of Marxism (still nominally adhered to by governments in China, North Korea, Laos, Vietnam, and Cuba) has become severely discredited with the collapse of the Soviet Union and its Eastern European allies and might indeed be considered 'dead'.

However, we should broaden our understanding of this political dimension of Marxism towards the type of critical theory first pioneered by members of the Frankfurt School, building on Marx's early work such as

*The German Ideology* (Marx and Engels 1845). The Frankfurt School sharply rejected the Marxist theory of the Third International as promoted by Stalin and the Communist Party of the Soviet Union and instead emphasized the mission of social theory to serve the emancipation of the weak and oppressed from alienation and exploitation in modern capitalist society. Along these lines, Marxism has been an essential source of inspiration for contemporary critical scholars such as Robert Cox.

Marxist political theory holds a very ambivalent attitude towards the concept and practice of polycentric governing. On the one hand, Marxist politics initially called for democratic decentralized self-governance in political and economic life. On the other, in reality, Marxist political praxis came to rely more and more on centralized top-down governance. Frankfurt School critical theory partly emerged as a critique of the authoritarian and anti-democratic tendencies in really existing socialism, but of course its followers never achieved state power. They were, in this sense, never put to the test—something they have in common with Antonio Gramsci, as we will see below.

In sum, Marxism in all three of its guises is still very much alive and relevant, provided that we employ it as a source of inspiration and not as dogma (of course, this principle applies for any theoretical tradition). As a necessary (if perforce brief) preliminary general discussion ahead of our more specific examination of polycentric governing, what, then, are the central tenets of the Marxist theoretical tradition?

## Historical Materialism: Class, Gender, Race

From the standpoint of historical materialism, any analysis of the world in which we live (including, as here, a study of polycentric governing) must be grounded in an understanding of the way that human beings organize the production and reproduction of their material life. The human is not a solitary animal, but lives and labours in close association with others, in the family and in the community. This is what Marx understood by social (as in ‘social relations of production’): the totality of all collaborative activity undertaken by human beings towards the (re-)production of their material existence. In the words of Marx and Engels:

The first premise of all human history is, of course, the existence of living human individuals.... [Human beings] begin to distinguish themselves from animals as soon as they begin to produce their means of subsistence.... The production of

life, both of one's own in labour and of fresh life in procreation, now appears as a double relationship: on the one hand as a natural, on the other as a social relationship.

(1845)

As these words show, social class is not a narrow and exclusive concept that relegates the non-economic to insignificance. On the contrary, class is an inclusive concept that refers to the situation of human beings in the social relations through which they structure the reproduction of their existence, and by which they are in turn simultaneously *constituted as social beings*. Understood in this way, social relations of production necessarily comprise gender relations. Indeed, this 'first premise of human history' allows us, or rather compels us, to consider how class and gender are interrelated and mutually constitute each other in concrete historical contexts (Kollontai 2009; Davis 1982; Vogel 1983; Giménez 2019; for a feminist-materialist critique of Marx's views, see Mies 1986).

Moving on to issues of race, the global expansion of capitalist relations through colonialism and imperialism has from the very beginning resulted in diverse forms of ethnic stratification permeating the emerging global class structure. Marx's views on colonialism have often been misrepresented, based on an isolated reading of articles, inter alia, on India and Ireland that Marx wrote for the *New York Tribune* in 1853. However, as Melotti (1977) has convincingly shown, Marx's views on the nature and effects of English colonialism fundamentally changed over time. In the case of the Irish question, Marx came to see decolonization as a precondition for socialism, as he made clear in a letter to Engels:

For a long time I believed that it would be possible to overthrow the Irish regime [i.e. English colonial rule, HO] by English working class ascendancy. I always expressed this point of view in the *New York Tribune*. Deeper study has now convinced me of the opposite. The English working class will *never accomplish anything* before it has got rid of Ireland. The lever must be applied in Ireland. That is why the Irish question is so important for the social movement in general.

(Marx 1869, emphasis in original)

Thus, while class, gender, and race cannot be reduced one to the other, neither can they be considered, in concrete historical conjunctures, as independent. These categories must be historicized: we can only grasp their full meaning if we situate them against the background of a concrete historically specific context of social relations. And today, in the days of polycentric governing,

these historic relations are the social relations of (advanced) capitalism. Gendered and racialized/ethnicized power structures have become intimately intertwined with capitalist class structures since the emergence of historical capitalism (Wallerstein 1983, 2000, 293–352; also Fanon 1967 [1952]; Davis 1982; Wolf 1982; Balibar and Wallerstein 2010; de Kom 2022 [1934]). These power structures cannot be reduced to class relations, but they do ‘possess their full validity only for and within these relations’ (Marx 1973, 105). If gender and ethnic/race identities are socially constructed, then they arise not only from inter-subjective communication, but also from the structures of social inequality that characterize each social formation, including today’s *capitalist* social formation (Giménez 2019; also Palermo 2019, 1367).

## Dialectical Materialism

A final point regarding the general Marxist approach concerns the issue of historical change. The historical process is not a smooth evolutionary process, but rather proceeds through ruptures and transformations, including transformations in the dominant mode of governance. Hence, making sense of these ruptures requires a theory of social change. In historical materialism, this theory of change is grounded in the concept of *dialectics*. From this perspective, social reality is seen as a ‘contradictory totality’ or a ‘unity of opposites’ in which social development occurs through the unfolding of the contradictions that are inherent in the social structures in question (and thus not as a consequence of exogenous factors). At the core are the contradictions associated with the fundamental class structure of society: in capitalism this being the contradiction between those who own and control the means of production (the capitalists) and those who depend for their survival on selling their labour power in the market (the workers). As Marx and Engels famously state at the outset of *The Communist Manifesto*, ‘[t]he history of all hitherto existing society is the history of class struggles’ (Marx and Engels 1848).

## Power

In Marxian political economy, power is central. Capital (the defining force of capitalism) is a power-based social relation, not, as is often thought, a quantity of wealth. Let me briefly illustrate this point; capital is wealth that generates a return: capitalists are not interested in being wealthy per se, but in



earning a profit on their invested 'capital'. The owner of a factory and a set of machines can make a profit only by hiring workers to operate the machines, finding buyers for the product, and distributing the product to these buyers. These workers offer their labour power to the factory owner because they have no other source of sustenance and depend for their livelihood on the wage they earn. Therefore, the elements of wealth, assets, only become *capital*, i.e. start generating a return (or in Marx's words become 'self-expanding value') if there is a category of people (a class) who *depend* for their living on offering their labour power in exchange for a wage. These structural relationships of dependency are central to the capitalist mode of production. Yes, these relations are to a certain point reciprocal: capitalists also depend on workers, since their assets are useless unless they can be exchanged against labour. But this mutuality is heavily skewed in favour of the owner of the means of production. Therefore, *capital* as a social relation is a relation of power. This power relation is structurally embedded in the foundations of the socio-economic order and is hidden by a semblance of equality as market parties codified by law.

The next question to address is how this social order is maintained and reproduced. The concept of polycentric governance answers some of the more superficial aspects of this question through its emphasis on the role of a variety of actors that manifest themselves in multiple sites. However, ultimately, the reproduction and stability of the socio-economic order in any modern society is guaranteed by *the state*, the institution through which political power is exercised. Therefore, any discussion of power in the modern world must acknowledge the pivotal role of the state. General definitions of the state lean heavily on Max Weber's notion of the institutional arrangement that exercises political rule over a particular territory, inhabited by a specific population, in particular by monopolizing the legitimate use of force (Weber 2014[1918, 1946], 3–4).

In capitalism, too, the reproduction of the existing social order is entrusted to the state. Does this mean that the propertied class—the bourgeoisie, the ruling class—directly controls the state as its exclusive instrument of power? The starting point is often taken to be the formulation that Marx and Engels chose in *The Communist Manifesto*: 'the bourgeoisie has at last, ... in the modern representative State, exclusive political sway. The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie' (1848).

This fragment can easily be read as representing an instrumentalist or elitist view of the relationship between the ruling class and the modern state,

according to which the ruling class (or the power elite) controls the state and through it directly imposes its rule on society (see for instance Mills 1956; Miliband 1973 [1969]; Domhoff 1979). In contrast, others argue that the ruling class or capital is not a homogenous, internally harmonious collective, but rather an internally fractured entity, divided not only by everyday competition, but also by deeper structural divisions. Following Poulantzas, this orientation sees the state in capitalism as ‘a relationship of forces, or more precisely the material condensation of such a relationship among classes and class fractions’ (Poulantzas 1978, 128–129). The key issue in this approach is to understand how the state, while being relatively autonomous vis-à-vis capital, or indeed any particular capitalist interest, still functions to serve the interests of capital-in-general over the longer run (‘the common affairs of the *whole* bourgeoisie’; Marx and Engels 1848, emphasis added).

The answer to this question consists of two parts, the second of which comes later in our discussion of legitimacy. Here we need to explore the idea that the state (as the primary institution of governing) is structurally embedded in the specific social power structure prevailing at the time. Normally (that is, outside moments of social revolution), the state’s agency is constrained by the prevailing social order (namely, of capitalism and its dominant class). Bob Jessop calls this *strategic selectivity*, where the strategies, projects, and visions of actors striving to mobilize the powers of the state for their particular purposes depend for their success

on complementarities with the deeper structure and logics of a given social formation and its insertion into the world market, interstate system, and world society. [... they] are most likely to succeed where they address the major structural constraints associated with the dominant institutional orders and with the prevailing balance of forces....

(Jessop 2016, 57, 59)

Now, it is one thing to affirm the strategic selectivity of the state, i.e. the central role of the state in consolidating social and political *power*. However, it is another to explain the general acceptance of given strategically selected courses of action, particularly by those social forces (classes, class fractions, politico-ideological actors, societal groups) whose interests and preferences are not immediately or fully served by that course of action. To understand this situation, we must explore how political power acquires *legitimacy*.

## Legitimacy

Thus, we move to the second part of our answer and Gramsci's concept of hegemony. Gramsci particularly wished to understand why the working class in more industrially advanced European countries was unable to prevail in the revolutionary struggles at the end of the First World War. The Bolsheviks, leading the revolution in the economically less developed and autocratically ruled Russian Empire, were able to take state power, yet the revolutions of 1919 in Germany and Italy failed, both because the working class at large did not follow the call of the revolutionary party, and because the seizure of key state institutions turned out to be insufficient to take control of wider society. Gramsci concluded that modes of political rule oscillate between two poles: one of *domination* (relying on subordination and the use of force) and another of intellectual and moral *leadership*. Political rule in the more advanced, more complex societies turned out to rest not so much on domination, but more on the intellectual and moral leadership of the ruling class, exercised through such civil society institutions as the Church and the educational system. Gramsci used the term hegemony to denote this form of political rule, which rests primarily on intellectual, moral, and cultural persuasion and consent, where the use of force arises only in the last instance (but is never totally absent!). Essential to the workings of hegemony is that power obtains consent through making concessions to subordinate groups:

Hegemony presupposes that account be taken of the interests and the tendencies of the groups over which hegemony is to be exercised, and that ... (t)he leading group should make sacrifices of an economic-corporate kind. But there is also no doubt that such sacrifices and such a compromise cannot touch the essential; for though hegemony is ethical-political, it must also be economic, must necessarily be based on the decisive function exercised by the leading group in the decisive nucleus of economic activity.

(Gramsci 1973, 161)

Both the emergence of a particular structurally inscribed hegemony as well as its reproduction over time (under continually changing circumstances and a fluctuating balance of forces) must be organized. This requires a *hegemonic project* (Jessop 2016, 69) or *comprehensive concept of control* (van der Pijl 1984, 33–4; Overbeek 2013, 167–168). These latter concepts build on Gramsci's understanding of hegemony but add a dimension of strategic agency. Specific class fractions successfully mobilize—on the basis of their

own strategic interest—a coalition of forces around a particular interpretation of the general interest. Key in the consolidation of such a ‘hegemonic bloc’ are so-called ‘organic intellectuals’: i.e. academics, journalists, and opinion makers with an organic link to the leading ruling-class factions in the hegemonic bloc, able to express the long-term interests of the leading forces in ‘national-popular’ terms (see [Jessop 2016](#), 106). In the concrete case of capitalism after the Second World War and continuing into the present, these organic intellectuals have convened in bodies like planning committees, think tanks, and (semi-) secret societies such as the Rockefeller Foundation, the Mont Pelerin Society, the Trilateral Commission, the Bilderberg Conference, the World Economic Forum, and many others (e.g. van der Pijl 1989, 98–135; [Gill 1990](#); [Carroll 2010](#); van [Apeldoorn 2002](#); van [Apeldoorn and de Graaff 2016](#)).

## Techniques

Let us now examine how, more precisely, governing in capitalist society takes place, or rather, which concrete governing techniques enable the reproduction of hegemony. Generally speaking, Marxist theory is stronger on dissecting the architecture of social power than on detailing governing techniques, and in this respect Marxists often lean on contributions from adjacent traditions such as poststructuralism (in particular Foucault), but let me give it a try.

Three interrelated dimensions need to be taken into account when analysing techniques of governing: the three i’s of institutions, (material) interests, and ideology (adapted from [Cox 1987](#), 29). These three dimensions co-constitute each other, without primacy being accorded to one.

## Institutions

The obvious primary institution of governing is, as we have seen, the state. Here we mean not just the narrow sense of ministries and government personnel (the Weberian state), but the broader sense that Gramsci referred to with the term integral state ([Gramsci 1973](#)), including also political institutions such as parliament; repressive institutions like the police, judiciary, prison system, and armed forces; and institutional sites in civil society for the reproduction of hegemony, including educational, religious, cultural, and other private domains.

In addition, *the law* has been absolutely central to the creation, consolidation, and functioning of the capitalist mode of production (Polanyi 1944, 33–129). For instance, the English Vagrancy Act (1824) made it illegal for landless peasants driven from the land by the landowners to wander about without seeking waged employment (thereby forcibly creating the industrial working class). Likewise, the Poor Law of 1834 provided some relief to the poor, but required recipients to work for a minimum of hours, thus in effect subsidizing employers.

Not only did law create and reproduce wage labour, but law has also been key in determining which objects, claims, ideas, and living beings (including humans) can be turned into capital, i.e. into assets that generate additional wealth. Katharina Pistor (2019) meticulously traces how law and lawyers have played key roles in the creation and protection of capital: from the early-sixteenth-century enclosures turning land into capital to the present day of early-twenty-first-century globalization, where, for example, we see intellectual property being turned into capital, i.e. into private titles that can be traded in the market.

We further see how law codifies governing practices in support of the rule of capital in what Stephen Gill has termed ‘New Constitutionalism’ (Gill 1998; Gill and Cutler 2014). This term refers to the ways in which, during the neoliberal era, the charters of organizations such as the World Trade Organization (WTO) and the European Central Bank in effect place what are clearly *political choices* behind an almost impenetrable *legal wall* that bestows a quasi-constitutional veil of authority upon these choices, shielding them against popular democratic oversight.

## Material Interests

The essence of capitalism is the exploitative power relation between capital and labour. As we have seen, this relation rests on the economic necessity for the working class to sell its labour power to ensure its livelihood. In that sense, the exploitation of material necessity for private profit is the foundation of the capitalist social order.

Of all the ways that material needs can be instrumentalized as a governing technique, debt is perhaps the most pervasive. Money creation in the modern capitalist economy takes place primarily through the extension of credit by banks, both private and public. But credit and debt are one and the same: the outstanding credit provided by the bank is the debt of the borrower, whether that is a private household, a firm, or a public authority.

The relation between the creditor and the debtor is always and everywhere exploitative, dividing society into a majority of the population that ‘must generate financial returns for a small minority’ (Di Muzio and Robbins 2015, 13). Debt thus reproduces (and deepens) the one-sided dependency between capital and labour, imposing a discipline that upholds and reproduces not just relationships among individuals, but simultaneously the broader social order (Ingham 2004; Di Muzio and Robbins 2015).

States and firms alike are subjected to the disciplining oversight of private, unregulated credit rating agencies (Sinclair 2005, 2021). Once engaged in international debt markets, state governments can be forced to introduce specific capital-friendly policies whenever financial markets are in turmoil. Examples include the imposition of structural adjustment programmes by the International Monetary Fund in the wake of the Third World debt crisis of the early 1980s and the treatment of the Greek Syriza government by international financial institutions in 2011–2015.

Similarly, households have increasingly been subjected to the power of (and exploitation by) finance, varying from the provision of mortgage finance and consumer credit to the extension of microcredit in developing countries (Soederberg 2014). The devastating social, political, and indeed psychological effects of debt addiction for the mass of the population have been extensively documented and theorized (e.g. Harmes 2001; Lazzarato 2012, 2015).

## Ideas

In a hegemonic capitalist order based on consent by most of the subordinated layers, the battle for the hearts and minds of the people is obviously of key importance. Consent does not just exist or arise: it must be organized, maintained and reproduced. Building on the earlier work of Marcuse (1964), Herman and Chomsky (1988) in their classic study *Manufacturing Consent* show how the traditional mass media and the corporate amusement industry (Hollywood) do this. Their basic model consists of five filters: (1) the size, ownership, and profit orientation of the corporate mass media (newspapers, magazines, television, radio); (2) the dependence of these media on particular funding sources (especially advertising); (3) the reliance on information provided by government, business, and expert sources funded and approved by these agents of power; (4) ‘flak’ as a means of disciplining the media through the threat of retaliation (with repercussions for reputation and advertising); (5) anti-communism (or more recently anti-terrorism) as fear-based control mechanisms.

The modern mass media furthermore entertain an intense symbiotic relationship with electoral politics: media outlets and politicians keep each other locked in a perverse embrace in which politicians pursue short-term voter approval and media pursue ratings and advertising revenue. The advent of digitalization, social media, artificial intelligence, and big data technology has added further layers to the ideological reproduction of hegemony, opening up new intrusive avenues for ideational influence such as algorithmic governance and invasive and omnipresent social, financial, and indeed ideological surveillance (e.g. [Foster and McChesney 2014](#); [Fuchs 2019](#); [Ulbricht and Yeung 2022](#); [Zuboff 2019](#)).

## Historical Capitalism and Modes of Polycentric Governing

Marx and key thinkers in the Marxist tradition (such as Lenin, Gramsci, and others) have always emphasized the transnational nature of the capitalist mode of production. In *Capital*, Marx examined a closed national economy in order to highlight the fundamental dynamics of the capitalist mode of production and of the capital-labour relationship in particular. At the same time, however, he always emphasized how capital by its essence transcends national boundaries, and how the actual basis is ‘the universality of intercourse, hence the world market’ ([Marx 1973](#), 542).

Similarly, hegemony in the Gramscian sense is not limited to national settings. Quite the contrary. In the words of Robert Cox, the pioneer of applying Gramsci’s conceptual framework to the field of international relations, ‘[t]he hegemonic concept of world order is founded ... upon a globally-conceived civil society, i.e. a mode of production of global extent which brings about links among social classes of the countries encompassed by it’ ([Cox 1983](#), 171).

At the international level, there is obviously no global state that can consolidate the rule of global capital in the way that the national state does for national capital. But during hegemonic world orders in particular, intellectual and moral leadership is exercised by a hegemonic state that projects the international leadership of a strong hegemonic bloc. During the *Pax Britannica* of the nineteenth century, such a hegemonic bloc was organized around the interests of the City of London, while the *Pax Americana* of the twentieth century revolved around the uncontested hegemony of corporate capital and Wall Street. Cox identifies such a transnational configuration of quasi-state structures as the *internationalization of the state* ([Cox 1981, 1987](#), 253–265).

He highlights three key moments in the process by which national states become 'part of a larger and more complex structure that is the counterpart to international production' (Cox 1987, 253–254): (1) interstate consensus within a common ideological framework regarding the needs of the world economy; (2) hierarchical participation in this consensus formation, with certain state(s) in a more powerful position; (3) adjustment of the internal structures of states, so that each translates the global consensus into national policy and practice, covering both the machinery of government and the historic bloc (the alignment of dominant and acquiescent social groups) on which the state rests.

Following this view, hegemony in the global system (as in the national context) entails class rule based on the accommodation of and consent by subaltern interests. A hegemonic international order is one where a hegemonic bloc of class forces operates across and beyond national boundaries, in the realm of transnational governance (van der Pijl 1984, 1989; Cox 1987; see also Djelic and Sahlin-Andersson 2006). The history of global capitalism shows an alternation of hegemonic and non-hegemonic world orders (Cox 1987, 111–267). Thus, the era of British-led hegemony (roughly 1815–1870) was followed by a non-hegemonic era of rival imperialisms between 1870 and 1945. After World War II, capitalism saw the arrival a new hegemonic world order, the *Pax Americana*. The construction and consolidation of such a transnational hegemony equally requires the agency of key organic intellectuals, as has been amply documented in a number of key empirical studies (van der Pijl 1984; Gill 1990; van Apeldoorn 2002; Carroll 2010).

We are now in a position to elaborate more fully our claim that social theory must distinguish clearly between historically invariant abstract and historically specific concrete aspects of social reality. We live in a capitalist world, but today's capitalism cannot simply be equated with the capitalism of the Dutch East Indies Company, or with that of the industrial revolution. Similarly, the polycentric mode of governing of the early twenty-first century is both akin to and yet radically different from global governing under *Pax Britannica*.

In terms of similarities, the 'unbundling of territoriality' (Ruggie 1993) in contemporary globalization in many ways resembles the configuration of bounded territories and non-territorial 'spheres of authority' in pre-modern times (Rosenau 2005). This likeness has led many to speak of a 'New Medievalism' (Friedrichs 2004). Moreover, *Pax Britannica* included forms of informal and private international governance that are not dissimilar to contemporary modes of governance (Murphy 1994). However, history is not merely a mechanical repetition of cycles. The challenge is to recognize recurring themes while at the same time identifying what is new and historically



specific. To that end, I suggest a multilayered periodization of the history of global capitalism.

One widely shared periodization of historical capitalism distinguishes four major phases: mercantile capitalism (1500–1750), competitive industrial capitalism (1750–1870), imperialism (1870–1945), and finally contemporary capitalism (1945–present). Contemporary capitalism can in turn be subdivided into two phases: the phase of American hegemony, the Cold War, and the Keynesian welfare state, from 1945 to the late 1970s; and the period of neoliberal globalization, since the 1980s.

As far as polycentric governing in the international sphere is concerned, the phase from 1945 to the late 1970s covers the construction, flourishing and crisis of American hegemony and American-led multilateralism in the capitalist world. The so-called *Pax Americana* was mirrored by the establishment of a Soviet-dominated system of alliances between socialist states, particularly in Eastern Europe (e.g. Comecon and the Warsaw Pact). In the capitalist world, this phase—identified as ‘embedded liberalism’ (Ruggie 1982) or ‘corporate liberalism’ (van der Pijl 1984)—is characterized by the gradual and controlled liberalization of international trade (through the General Agreement on Tariffs and Trade) under conditions of continued capital controls and fixed exchange rates (through the Bretton Woods regime). International exchanges were gradually liberalized, but still bounded by state regulation, and thereby ultimately by political compromise, thus severely restricting the space for modes of governance that we would today identify as polycentric.

Turning to the phase of neoliberal globalization, it can in turn be subdivided into four further phases of roughly a decade each (see Overbeek and van Apeldoorn 2012, 1–15). The 1980s was a decade of neoliberal ascendancy, involving the delegitimation and destruction of the structures and institutions of corporate liberalism (both domestically and internationally) and the rise of neoliberal polycentric governing. Outside the core of the capitalist world, the Third World debt crisis led to the imposition of ‘disciplinary neoliberalism’ (Gill 1995). During this decade, socialism as an alternative social system crumbled and eventually collapsed—with *perestroika* and *glasnost* in the Soviet Union and the ‘Reform and Open’ policy in China.

In the 1990s, neoliberal hegemony consolidated and deepened in advanced Western states, including through so-called ‘Third Way social democracy’. At the international level, neoliberal hegemony was enshrined through the collapse of state socialism, the intensification of China’s transition to ‘market socialism’, the founding of the WTO, and the realization of the EU’s Single Market. This movement culminated in China’s accession to the WTO in 2001. Global economic interactions were increasingly governed through

the market or according to market-based arrangements of public–private and private governance. The 1990s represents the high tide of (neoliberal) polycentric governing in the global political economy.

In these first two decades of global neoliberalism, the interests of capital in the abstract (optimally free mobility) mostly coincided with the interests of US capital, in particular US-based transnational capital and Wall Street. However, this synchronism began to unravel after the turn of the millennium. Early in the 2000s, with the dotcom crisis, the events of 9/11 and the ensuing wars in Afghanistan and Iraq, we witness the rise of the security state in the West. Meanwhile Brazil, Russia, India, and China came together as the BRICs in 2006, joined by South Africa to form BRICS in 2009. Contradictions of neoliberal polycentric governing began to mount, as evidenced, for instance, by the breakdown of the Doha Round negotiations in the WTO after 2004. The global financial crisis in 2008 then made the retreat of neoliberal polycentric governing still more evident.

The decade of the 2010s signifies a transition of world order from the (weakening) hegemony of the US to a condition of ‘rival imperialisms’ (Cox 1987), as emphasized by the rise of economic nationalism and authoritarian capitalism (Russia/Putin, China/Xi Jinping, USA/Trump). Following the financial crisis, neoliberalism in advanced capitalist states becomes increasingly disciplinary in nature. The rise of money-dealing capital gives neoliberalism an openly predatory character (van der Pijl 2019). Ugly signs of authoritarian statism and rival imperialisms have intensified in the early 2020s, with political and economic responses to the Covid-19 pandemic, and rising tensions between the major powers reaching a new high with Russia’s invasion of Ukraine in February 2022.

Hence, today the dynamics of the global political economy no longer revolve around free mobility of capital supported by market-based modes of socio-economic governance. The arrival of a non-hegemonic global order and rival imperialisms has clearly exposed that the interests of US capital (never homogenous to begin with) clash more and more openly with those of European (especially German), Chinese, and Russian capital. American hegemonic leadership is thereby less and less evident (de Graaff and van Apeldoorn 2018; de Graaff et al. 2020).

## Conclusion

This chapter has presented a Marxist take on the phenomenon of polycentric governing. In it I have attempted to do several things. One was to introduce the reader to the overall approach of historical materialism. There, I

emphasized that Marxism is a lively, productive, and insightful tradition of social theory, provided it is used as a source of inspiration rather than as a fixed and immutable set of dogmas. Secondly, I discussed the key concepts guiding this volume (i.e. polycentric governing, power, legitimacy, and techniques of governance) from the standpoint of historical materialism. Finally, in the last section, I have provided a periodization of modes of international (polycentric) governance, taking seriously Marx's view that abstract concepts must be understood against the background of their specific historical context.

I have argued that the term polycentric governance acquired prominence during the era of neoliberal globalization in the 1990s, and that the empirical phenomenon captured by the concept was precisely the type of market-based, partly privatized governance of the political economy that became dominant after the end of the Cold War. However, like all historical phenomena, polycentric governing is a time-bound phenomenon. Over the past decade, the world has been moving into a new phase where polycentric governing is in retreat. Moreover, the deregulated network-based governance of socio-economic affairs within the advanced Western capitalist formations appears to be gradually giving way to more state-directed or even authoritarian top-down modes of governance. The days of polycentric governing in the global political economy are numbered.

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At the time that I was finalizing this contribution, the sad news of Timothy J. Sinclair's untimely death reached me. I dedicate this contribution to his memory.

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# A Governmentality Perspective on Polycentric Governing

*Frida Beckman*

## Introduction

‘Look for your inspiration to the victorious lobster, with its 350 million years of practical wisdom. Stand up straight, with your shoulders back.’ Popular psychology professor Jordan B. Peterson’s advice in his much-debated book, *12 Rules for Life: An Antidote to Chaos* (2018, 28), has gained much traction. A world widely perceived as chaotic and relativistic yearns for simple rules, logics, and explanations, as well as for people who can deliver this seeming clarity with the flair of expertise. Make your bed, pet cats, tell the truth, or at least don’t lie. To be sure, actual experts in the field have picked apart Peterson’s comparison between humans and lobsters ([Steinworth 2018](#)). Still, he is a charismatic professor who positions himself in opposition to what he sees as a manipulative liberal elite. As such, he has become a highly coveted conveyor of truths and advice. Understandably, holding onto a set of rules (the simpler the better) and finding a group with whom you can identify (as well as another group that you can identify yourself against) is attractive in a world that seems to have grown too complex to grasp.

Reviewing the historical role of facts in society, political theorist William Davies notes the virtual impossibility of negotiating the contemporary oversupply of information, sources, methods, and levels of credibility ([Davies 2018](#)). Today’s epistemic confusion can be compared to the earlier emergence during the modern period of the professional classes and new expert knowledge around inter alia psychology, medicine, and engineering. On this previous occasion, too, growing reliance on expertise brought with it increased uncertainty about the status of knowledge. However, modern experts were typically tied to an academic discipline and, as such, to a more identifiable formation of power and knowledge ([Trotter 2001](#)).



Today, in contrast, new information and communication technologies enable everyone to present themselves as an expert. We face increasing needs to filter and analyse endless streams of information that we constantly—and in vain—try to process. Proliferating communication channels—and the dispersed power structures that govern them—make it difficult to identify the source of information, as well as trustworthy expertise that can judge its truth-value. The contemporary proliferation of supposed ‘experts’ can be understood in this context. Experts seem to cut through the noise and tell us how things really are. Or so we would like to think. As Davies notes, we live in a world where experts and fact-producing agencies multiply: ‘If you really want to find an expert willing to endorse a fact, and have sufficient money or political clout behind you, you probably can’ (Davies 2016b, 1).

The situation just described resonates with this book’s theme of polycentric governing. Today, determining what counts as ‘fact’, ‘truth’, and ‘expertise’ is an elusive process. It relies less on established governmental institutions of the modern state and more on multiple, multiscalar, decentred, and diffused modes of social ordering. In the words of Frank Gadinger and Jan Aart Scholte in their introduction to the present volume, the contemporary regulation of knowledge is ‘headless’, in that it ‘works without a final arbiter, so that no single location holds ultimate determination and responsibility’.

In another sense, however, such practices are far from ‘headless’. While they do not rely on the state—or governmental institutional functions—this governing has relied very strongly on non-governmental experts and technocrats. This raises the question whether the increasingly precarious status of expertise, knowledge, and communication today poses problems for polycentric governing, for example, in terms of effective coordination and democratic debate.

Polycentric governing is constructed and developed according to the expertise, convictions, and decisions of countless independent actors. Its diffuse and uncoordinated character makes polycentric governing highly susceptible to, and vulnerable to, what it means to be an ‘expert’ and an ‘actor’ in different contexts. Indeed, how is legitimacy produced and maintained in circumstances where many contending experts proliferate? Fariborz Zelli notes in his chapter for this book that polycentric governing’s ‘technocratic bias’ benefits experts with access to epistemic networks, while leaving out other actors. Zelli further suggests that increasing governmental complexity aggravates this privilege for expertise. At the same time, this complexity is not necessarily accompanied by adequate communication to and with the public, as the Brexit campaign exemplifies.

In [Chapter 5](#) of this volume, Andreas Thiel notes that early theories of polycentrism rely on underlying and largely unquestioned optimistic assumptions about the nature of power and agency. These assumptions become particularly evident when liberal theorists associate the democratic potential and legitimacy of polycentric governing with the possibilities for actors to pursue contestation and change. Such oppositional actors thereby have the capacity to exit a particular relation or to self-organize and create new relations. However, as Thiel notes, institutionalist thinking about polycentrism fails to consider the nature and (unequal) distribution of such agency, as well as its spatio-temporal and historical configurations and conditions. In other words, liberal-institutionalist thinking about polycentric governing relies on idealized conditions of political participation.

For such research, Michel's Foucault concept of governmentality could be of great help. This perspective opens up a historical understanding of underlying structures of power and knowledge—and thus what it might mean to be an expert, an actor, and an independent agent in contemporary society. The concept of governmentality can also help us see some of the particular challenges that polycentric governing might face today.

This chapter explores these insights. The first section below elaborates on the concept of governmentality as a deep structure of modern politics. I give particular attention to the historical shift from earlier liberal governmentality (with its focus on the free individual) to contemporary neoliberal governmentality (with its focus on the market economy). Later sections follow the outline of other chapters in this volume to examine how governmentality theory respectively understands techniques, power, and legitimacy. We see that this perspective sheds distinctive light on polycentric governing, especially by illuminating some entanglements between histories of modern power and conceptions of the modern subject.

## **Governmentality: Key Signposts**

Foucault first coherently outlined the concept of governmentality in his 1978 lectures at the *Collège de France*. There he traces the co-evolution of state formation and subjectivity through Classical Greece, Christian pastoral society, liberal, and finally neoliberal times. The concept of governmentality has proven useful to a wide range of scholars interested in both older and newer forms of power and subjectivity. Since the publication and translation of these Foucauldian lectures into English at the beginning of the twenty-first

century, scholars in the social sciences and the humanities have much debated the relationship of governmentality and contemporary neoliberalism. Relevant authors include Robert Castel (1991), Jeffrey T. Nealon (2008), Thomas Lemke (2012), and, especially for our purposes here, Wendy Brown (2015).

Key to the concept of governmentality is the inseparability of government and the production of subjects. ‘The subject’ is a concept with a long history and many different conceptualizations that have had inestimable influence over Western culture. For Enlightenment thinkers such as Descartes, the subject is a self-reflexive inner essence—*res cogitans*, intellect separated from physical matter—as opposed to an external space—*res extensa*, material substance. Other formative conceptions of the subject emerge from seventeenth-century philosophers such as Thomas Hobbes, John Locke, and Immanuel Kant. With them, the individual subject also emerges more clearly as standing apart from, but also in relation to, the messiness of extended substance, including power and politics.

In Enlightenment thinking, the subject is in possession of and has the right to himself (yes, ‘him’) as separate and free from the interests and will of others. C.B. MacPherson famously outlines this subject position in terms of ‘possessive individualism,’ a view that comes to play a decisive role in the formation of liberal political theory. Indeed, at the heart of liberalism lies an insistence on the limitation of government interference into the lives of individuals and markets. Our more contemporary neoliberalism, some have argued, actually reverses this relationship, as the freedom of the market has come to supersede that of individuals, with crucial and critical consequences for what a subject can be. But we are running ahead of ourselves.

For Foucault, the subject is something quite different from the self-reflexive inner entity posited by Enlightenment thinkers. Likewise, he rejects the notion of the individual as separate and free from the interest and will of others. Instead, for Foucault, the subject emerges as inextricably linked to power: ‘human beings are *made* subjects’ (1982, 777, emphasis added).

Foucauldian subjectivity has two seemingly contradictory but simultaneously applicable meanings. One is to be ‘subject to someone else by control and dependence.’ The other is to be ‘tied to his own identity by a conscience or self-knowledge’ (1982, 781). Subjectivity emerges in the constant negotiation between these two meanings. On the one hand, power forms and subjects us. On the other hand, this—ever-changing—formation makes space for a conscience and self-knowledge that can resist power. Since subjects are not separable from their environment but are ‘made subjects’ by different modes of power, the history of these modes becomes of the highest interest in order to understand the production of subjectivity in times of modern governing.

Unlike the concept of government, the idea of governmentality suggests that power, knowledge, and the production of subjects are inseparable and therefore must be studied together. One may say that governmentality takes place before or beyond government. That is, governmentality focuses less on the power exercised by and over ready-made individuals and more on how individuals are constructed in the first place. Governmentality specifically examines how power shapes what will be possible to do, to know, to be, to become, and even to think in a given society.

Foucault describes the study of governmentality as taking the opposite route from conventional sociological-historical analysis and political philosophy. These established approaches take as given ‘notions such as the sovereign, sovereignty, the people, subjects, the state, and civil society’. In contrast, Foucault asks ‘how certain things—state and society, sovereign and subjects etcetera—were actually able to be formed’ (Foucault 2008, 2).

In bringing the concept of governmentality to bear on studies of polycentrism, the present chapter aims to contribute to the research that Thiel calls for by providing a Foucauldian perspective on power and its changing structures over time. More than other structural approaches in this book, such as Marxism and intersectionality, Foucault particularly highlights the interrelation between knowledge, power, and subjectivity. By conceptualizing and historicizing this trilateral relationship, Foucault’s conception of governmentality sheds a different light on the transscalar and transsectoral processes of polycentric governing. As we will see, Foucault explores the historical development of the knowledge-power-subjectivity relationship in terms of discipline, control, and neoliberalism. These concepts help us critically interrogate key aspects of contemporary polycentric governing in a historical perspective. A governmentality approach also reveals how contemporary power puts particular pressure on polycentric governing and thereby illuminates a legitimacy problem tied specifically to the question of the subject.

Thinking in terms of polycentrism also allows us to see governmentality at work across many channels of governing. Nowadays the dynamics of discipline, control, and neoliberalism operate not only through the nation-state, as the previously principal site of modern governing, but also elsewhere. Governmentality today extends beyond the national scale to happen also through regional and global venues such as the European Union (EU) and the United Nations (UN). Larner and Walters (2004) speak in this vein of ‘global governmentality’. Moreover, governmentality operates beyond public-sector authorities to happen also through private-sector governing, for example in the Forest Stewardship Council and the International Accounting Standards

Board. In other words, the deeper structure of governmentality today takes visible form in polycentric governing complexes.

## **Techniques: From Discipline to Control**

Governmentality is about understanding the co-evolution of governmental apparatuses and the subjects they produce. Therefore, interrogating polycentric governing via Foucault requires an understanding of the relation over time between governmental techniques and their corresponding forms of making subjects. Using Foucauldian analysis, we see a historical shift from more direct exercise of power in sovereign societies – where power centres on a monarch or other central authority – to more diffused modes of power in liberal and neoliberal societies. Foucault also shows how the ideal conditions of political participation that liberal-institutionalist understandings of polycentrism assume—that is, independent actors and networks with self-evident agency—are really under question.

Modern governmentality, as Foucault conceptualizes it, emerges around the middle of the eighteenth century. At this point governing increasingly comes to be constructed via a set of intrinsic limitations. What is established is a rationality that relies on rules that do not refer to metaphysical forces such as a divine authority. Earlier sovereign systems made a distinction between the subjects who govern (who then could have sovereign will and reason) and the subjects who are governed (who are subjected to this sovereignty and reason). This modern ‘age of critical governmental reason’ establishes a system in which every subject, at least theoretically, has equal rights and equal accountability. Modern government, in other words, appeals to popular and national sovereignty for its legitimacy. This order rests not on religious beliefs, feudal or royal power, but on an internal logic of the state itself. We have arrived, in other words, at secular modernity.

Modern governmentality is not a single uniform political system across all countries; nor are we looking at one notion of rights. Modern governmentality has different genealogies in France, Britain, the US—not to mention Africa, China, Latin America, and Russia. Crucially, however, most modern political systems emerge from a notion of equal rights as systemized by the writings and responses to Thomas Paine and different constellations of thinkers such as Rousseau, Locke, Hobbes, and Bentham.

A subject in and of this modern governmentality logic (which is essentially the logic of liberalism) develops a rationality of negotiating between the limitations agreed upon in the societal contract and the possibilities and

freedoms that this contract leaves open. Foucault ascribes the success of this modern self-limitation of governmental reason not to law, but to political economy (Foucault 2008, 13). As the logic of the market comes to prevail over the logic of the divine or the sovereign, a new standard of truth emerges: it is the market that determines the correctness of governmental practices and becomes their site of verification. And when the market decides, ‘good government’ is not necessarily based on justice, but functions ‘according to truth’ (Foucault 2008, 32). Thus, what emerges with the increasing influence of liberalism in the mid-eighteenth century is what Foucault calls a particular ‘regime of truth.’ Unlike earlier regimes of truth, which relied on moral or natural principles or divine law, this new order relies on the logic of the market and its discourses. As Foucault puts it, governmentality relies on:

the articulation of a particular type of discourse and a set of practices, a discourse that, on the one hand, constitutes these practices as a set bound together by an intelligible connection and, on the other hand, legislates and can legislate on these practices in terms of true and false.

(2008, 18)

As Foucault describes it, this early liberalism is both a consumer and a producer of freedom (2008, 63). It functions on the basis of multiple freedoms: the freedom of market, of property, of expression, and so on. Exactly for this reason, modern governmentality must also produce, manage, and organize freedom. Liberalism, as Foucault puts it, ‘is not acceptance of freedom,’ but rather ‘it proposes to manufacture it’ (2008, 65). Here emerges what seems like a paradoxical concern that is nonetheless key to Foucault’s conception of liberalism: its seemingly contradictory but absolutely essential reliance on security and control. Precisely because liberalism is based on individual interest, it must keep vigilant guard to ensure that the collective does not encroach upon this individual interest. Conversely, liberalism must also ensure that the individual does not endanger the collective interest.

The disciplinary techniques associated with liberalism emerge with the negotiation between, on the one hand, the logic of danger and risk that is central to economic liberalism and, on the other, the control and constraints that are needed to secure this same logic. The techniques employed are not the spectacular ones of pre-modern, sovereign societies—such as public torture and executions—but are more continuous and discreet. As Foucault theorizes it in *Discipline and Punish*, modern governmentality replaces the spectacle with ‘a punishment that acts in depth on the heart, the thoughts, the will, the inclinations’ (1977, 16). This disciplinary governing occurs via institutions

such as the family, school, prison, army, and hospitals, all of which contribute to the never-ending training of the individual subject. The aim is both to arrest unwanted behaviour (the ‘negative function’) and to produce a more suitable behaviour for ‘a society to come’ (1977, 209). This means also that disciplinary mechanisms spread and ‘swarm’: that is, they are not necessarily linked to institutions, but are ‘broken down into flexible methods of control’ (1977, 211). Thus, for example, schools have effects of social monitoring and surveillance that reach far beyond the pedagogical training of children.

Gradually, then, control is reconfigured, as Foucault shows in *The Birth of Biopolitics*. The initial modern project of an ‘exhaustively disciplinary society’ is over time replaced with ‘an optimization of systems of difference, in which the field is left open to fluctuating processes’ (2008, 259). In this ‘control society’ it is no longer primarily signatures or numbers that rule individuals, but codes and passwords. As philosopher Gilles Deleuze puts it, ‘We no longer find ourselves dealing with the mass/individual pair. Individuals have become “*dividuals*”, and masses have become samples, data, markets, or “*banks*”’ (1992a, 5, emphasis in original).

‘Dividuals’ is a concept that Deleuze employs to account for the more minute and fluctuating targets and constructions of power in contemporary society. What becomes interesting to control is not so much discreet individual bodies and subjects, but rather multiple and variable components, such as affects and desires. For example, in earlier times you might read an article in a newspaper and, if interested, go to the library to look up what other news sources had published on the topic. Now, in contrast, impersonal but personalized algorithms largely determine which news sources you first encounter online. Moreover, your Google search or Facebook feed may well lead to a fact-checked *New York Times* article, but it may also lead to the sender ‘NewYorkTimesPolitics.com’ a site constructed by Eastern European teenagers and full of made-up incendiary ‘news’ (Bridle 2018, 221). In this current situation, information and knowledge become short-term, free-floating, and continuously modulating. So, too, the ‘dividuals’ operating within this context acquire these characteristics.

Also, around the mid-twentieth century, Foucault sees liberalism negotiating a key dilemma: i.e. how to protect economic freedom against threats from socialism, fascism, and Nazism. From this crisis in governmentality, argues Foucault, emerge two revised versions of liberalism: German ordoliberalism and American neoliberalism. Whereas the German version emerges from the particular tensions of mid-century Europe, American neoliberalism is, Foucault underlines, different, not the least because it emerges from a different historical background. As he notes, liberalism and its renewals has

been a constant in US politics (2008, 193). In the US, liberalism is not a choice or a matter of left versus right, as in Europe, but ‘a whole way of being and thinking’ (2008, 218).

The development from liberal to neoliberal governmentality entails a shift in focus. With liberalism, governing practices work to secure space for the market; however, with neoliberalism, market principles themselves become the basis of governing (Foucault 2008, 131). Neoliberalism does not say that government and other regulatory agencies should interfere less, as in a more general liberal tradition, but that governing should interfere *in a particular way*. Like its liberal forerunners, neoliberal governing must not work against market processes. Instead, regulation—‘in its fabric and depth’—must give space for the market (Foucault 2008, 145): ‘One must govern for the market, rather than because of the market’ (Foucault 2008, 121). Yet this purpose requires extensive intervention in respect of all manner of technical, scientific, legal, geographic, and social factors (Foucault 2008, 141).

Before we discuss, in the next section, what this development in techniques means for contemporary structures of power, we must specify our conception of the historical timeline. We are not looking at a precise periodization, where an old era of liberalism is neatly replaced by a new era of neoliberalism. It is a matter not of sequencing so much as layering. In this vein, Stephen Gill’s conception of ‘disciplinary neoliberalism’ describes the co-existence and interplay between institutionalized, hierarchal, and frequently transnational macrostructures in what he calls a ‘new constitutionalism’ (Gill 1995). Gill underlines how disciplinary neoliberalism is a ‘system of global economic governance’, showing how policy-makers and private sectors alike are forced to exercise social control on a national level in order to maintain credibility among transnational investors and markets (Gill 1998, 25). In practice, Gill notes, this new constitutionalism insulates dominant economic forces from democratic rule as well as popular accountability and confers ‘privileged rights of citizenship and representation to corporate capital’ (1998, 23; see also Gill and Cutler 2014). This transnational quality (of both public and private mechanisms of governing) gives contemporary neoliberal governmentality a distinctly polycentric character.

## **Power: Losing Sight of the Political**

Understanding the evolution of power as a history of governmentality not only necessitates a reevaluation of the independent power of agents (states, corporations, individuals, etc.). It also makes it necessary to interrogate the



particular challenges that contemporary neoliberal control puts to polycentric governing. Neoliberal control, as we began to see above, is not control only of the market, but also of society and culture at large. Indeed, as Foucault sees it, there is actually an ‘inversion of the relationships of the social to the economic’ (2008, 240). With neoliberalism, the economic model becomes the model of social relations, of the social system, of existence, of the individual and of its relationships (2008, 242).

A good example of this increasing reliance on the economic model can be seen in Alejandro Esguerra’s chapter in this book. Although adopting a different theoretical perspective, Esguerra points to the increasing power of economic indicators and assessments as supposedly neutral socio-material practices of expertise. Political theorist Wendy Brown puts it quite explicitly: ‘neoliberalism transmogrifies every human domain and endeavour, along with humans themselves, according to a specific image of the economic’ (2015, 10). In this respect, American neoliberalism is more exhaustive than its German counterpart, as the whole social body is characterized by the absolute generalization of the market. A key implication of this generalization is, Foucault notes, that the market becomes ‘a principle of intelligibility and a principle of decipherment of social relations and individual behavior’ (2008, 243). Since Foucault’s 1970s theorizations, as we began to see via Gill above, this principle increasingly extends across and indeed, sometimes even overrides, national borders and logics. It also, in polycentric fashion, interweaves itself through suprapstate institutions and non-state regulatory apparatuses alike.

Whereas power in liberal society is organized largely via disciplinary techniques of standardization, a neoliberal society yields its power to market enterprise and competition (Foucault 2008, 147). In place of targeting individual units of discipline, neoliberal power expresses control via diffused and multiplying of units of enterprise. Individuals need not necessarily be regulated with normative mechanisms, but rather become part of a fluctuating field of differences and desires. Multiple practices are at play, and liberalism’s subjugation of individuals to fit with predetermined norms is replaced by neoliberalism’s intervention in environments, making everything and everyone, ultimately, intelligible primarily via grids of economic behaviour (Foucault 2008, 252, 259–260).

The configuration of news mentioned earlier is a case in point. The algorithmic logic that we all now live under may seem less sinister when, for example, it suggests new songs and artists for us on Spotify. This logic may appear more sinister, however, when it enables high frequency trading that is

too complex for most humans to understand and that causes havoc on major financial markets (Bridle 2018, 122–124).

Differential modes emerge here, as Robert Castel notes, modes that do not necessarily segregate or even eliminate unwanted elements nor work to reintegrate them into the social body through normalizing or corrective techniques. Rather, these elements are increasingly captured and assigned whatever roles they are capable of in the game of competition and profit in order to maximize returns (Castel 1991, 294). But, asks Foucault, ‘What does it mean to form human capital, and so to form these kinds of abilities-machines which will produce income?’ What it means, he suggests, is ‘taking this social fabric and arranging things so that it can be broken down, subdivided, and reduced, not according to the grain of individuals, but according to the grain of enterprises’ (2008, 229). In this context, the individual’s life is lodged, not within a framework of the corporate enterprise or the state, but within a framework of multiple diverse enterprises connected up to and entangled with each other. This structure, ultimately, makes the individual ‘into a sort of permanent and multiple enterprise’ (Foucault 2008, 241).

For example, through a smart phone we constantly give away information about ourselves, our interests, our whereabouts, our political convictions, and our likely next purchase. We use that same technology to produce an ideal identity on social media and, perhaps, sign political proposals or join online protests. The market no longer thrives on subjects with set identities but benefits from a constant fluctuation in the subject’s desires and affects.

This neoliberal logic is harder to grasp than its liberal predecessor. Neoliberalism lacks the more clearly identifiable identities and institutions of earlier modes of power, and so is rather simultaneously ubiquitous and diverse. Neoliberalism weaves itself into many different cultural and political traditions, multiplying and diversifying its enunciations (Brown 2015, 48). This diffuse power has nothing to gain from delimitation and ‘normation.’ Instead of, in liberal fashion, demarcating subjective interests and governing practices, neoliberalism proliferates them.

Foucault uses the concept ‘normation’ to specify and differentiate between the respective regulatory processes of discipline and control. Under a regime of discipline, normation involves what we might more often call normalization: i.e. a set norm according to which subjects can be trained and corrected. Yet under a regime of control, normalization is a fundamentally opposite procedure. Now norms are more flexible, set not according to a fixed standard, but according to a fluctuating conception of what Foucault calls ‘a plotting of the normal’ (2007, 63). As a result, ‘Normalizing discipline is not as clearly

evident as it once was' (May and McWorther 2016, 245). As sociologist and Foucault expert Thomas Lemke notes, technologies of the self become centred on a very active and calculating subject, one that acts on the basis of self-esteem, self-management, and self-determination. In the shift from liberalism to neoliberalism, power is no longer hard and delimiting, but 'soft' and even 'empowering' (Lemke 2012, 86–87).

And yet, Foucault underlines, the subject of neoliberal governmentality is 'eminently governable' (2008, 270). Whereas liberalism gave the individual freedom to negotiate the market, neoliberalism positions the market on a pre-individual field. In other words, when governing occurs for the market rather than because of it, the individual is subordinated to the market. In this sense we can talk about the neoliberal subject as post-rational, post-political, and perhaps even posthuman. Naming this individual, Foucault critically evokes the term *homo oeconomicus*.

It is under the power of neoliberalism, argues Brown, that *homo oeconomicus* finally attains complete dominance over *homo politicus*. This political man (because 'man' he was), famously outlined by Aristotle, is distinguished from animals and 'mere life' in his 'distinctive capacities for association, speech, law, action, moral judgement, and ethics' (Brown 2015, 88). Political man also mobilizes as a bulwark against purely economic interest. Twentieth-century theorists such as Hannah Arendt, Antonio Gramsci, and Jürgen Habermas have argued that *homo politicus* and the public life that constitutes him withers and vanishes already with the rise of property and modern capitalism in the seventeenth and eighteenth centuries. In contrast, Brown maintains that it is only with neoliberalism that *homo politicus* (with the aforementioned capacities for association, speech, law, action, moral judgement, and ethics) is finally completely vanquished (2015, 99). The 'ruse', Brown suggests, is that while neoliberal governing claims legitimacy on the grounds of freedom, in actuality it separates freedom from its grounding in subjects and states. Power shifts. States become firms, governing only for the market. Meanwhile subjects, 'emancipated from all concerns with and regulation by the social, the political, the common, or the collective, are inserted into the norms and imperatives of market conduct' (2015, 108).

Brown illustrates this point with a speech by then US President Barack Obama in which he promotes a neoliberal agenda by articulating politics in terms of economic stimulus. This formulation shows that economic growth and competition have superseded democratic values of equality and liberty. As Brown puts it, 'the state's table of purposes and priorities has become indistinguishable from that of modern firms' (2015, 26–27). States become sources of investment for themselves as well as for society and are left without political

autonomy and sovereignty and without guarantees of any kind: ‘the social contract is turned inside out’ (2015, 110–111). Neoliberalism’s contemporary construction of individuals and states entails an evacuation and erosion of democratic principles and institutions and, detrimentally, an evisceration of ‘the democratic imaginary’ (2015, 28).

The undermining of democratic principles under neoliberal governmentality is also elucidated by William Davies, who discusses it in terms of a deflation of rational political discourse and critique. It no longer matters much what can and will be said. Davies gives an example from an interview with former Greek Finance Minister, Yanis Varoufakis, who describes the blank stares that confronted him after a critical talk at an EU meeting: ‘It is as if you haven’t spoken. What you say is independent of what they say. You might as well have sung the Swedish national anthem’ (Davies 2016a, 121). Davies sees a post-2008 phase of neoliberalism in which critical knowledge and ideological discourse have lost all ground. ‘The coercions of post-2008 policymaking’, he insists, ‘are those of a system in retreat from both the ideology and the reality of rational public dialogue, and the epistemological constraints which that involves’ (2016a, 134).

Jodi Dean also explores this demise of rational dialogue, noting a disconnect between official politics and what she calls ‘politics circulating as content’ (2005, 53). Official politics—the everyday workings of institutions, bureaucracies, corporations—run behind an ever-thickening veil of networked communications about politics, communications that mistakenly take themselves *as* politics. For example, we ‘feel political’ when signing, posting, sending, and responding online according to our opinions and convictions. However, in actuality we contribute to an ever-accelerating accumulation of content at the expense of substantive communication and politicization (2005, 70). All the messages and posts produce a circulation of content that is never truly received. Thus, ‘communicability’ comes at the expense of communication in the Habermasian sense, that is, as an intersubjective exchange that is geared towards mutual understanding (2005, 58). ‘Communicative capitalism’, as Dean calls this condition, contributes to a fantasy of wholeness and communication. Expressing and circulating our opinions at the range that digital communication technologies make possible might feel like democracy, but this ultimately superficial circulation seduces us. There is, as Dean puts it, ‘no arrival’ and therefore also ‘no response’ (2005, 70).

Key touchstones of polycentric neoliberal governmentality include communication, technocratic expertise, and knowledge sharing. In the process—as Foucault, Deleuze, Brown, Davies, and Dean in their different ways

remark—there is an increasing destabilization, if not demise, of political rationality and discourse. These developments—the declining capacities for association, speech, and moral judgement—help explain the increasing power of alternative facts and fake news, the deflation of knowledge, and the proliferation of ‘experts’ in the first decades of the twenty-first century.

In this light, the inspiration sought from ‘the victorious lobster’ in the opening of this chapter seems but a minor problem. But it is an indicative one. As the introductory chapter in this volume notes, polycentric governing (here interpreted as neoliberal governmentality) provokes worries ‘about the prospects for democratic, effective, peaceful, sustainable, and fair governing’ and these conditions ‘readily attract followings with promises of simple solutions.’ The consequences for politics are ominous.

### **Legitimacy: Linger with the Liberal Subject**

Legitimacy, as the introductory chapter notes, ‘prevails when people accord a governing apparatus approval, confidence, trust, and foundational support.’ As is also noted, modern political theory has usually studied legitimacy in relation to the nation-state. A question for polycentric governing is whether its more decentralized, fluid, and elusive structures—such as neoliberal governmentality discussed here—yield their own problems when it comes to legitimacy. Is, ask the editors in their chapter, ‘polycentrism more (or on the contrary less) prone to crises of legitimacy than state-centric modes of governing?’ A Foucauldian perspective on this question would, as we have begun to see, point to the gradual undermining over time of the very elements on which polycentric governing relies, such as expertise and rational independent individuals and organizations.

Returning briefly to the secularization of knowledge and the professionalization of experts may further clarify these changes in terms of the relation to truth. The new ‘conceptual relation to truth’ that Foucault sees emerging with liberalism and discipline in the mid-eighteenth century relies on:

the articulation of a particular type of discourse and a set of practices. This is a discourse that, on the one hand, constitutes these practices as a set bound together by an intelligible connection. On the other hand, it is a discourse that legislates and can legislate on these practices in terms of true and false.

(2008, 18)

In other words, knowledge, power, and truth come to rely, not on the god or the king, but on science and expertise. Importantly, at this point expertise is

negotiated and moulded via institutions and legislative practices as the ‘final arbiters’ of truth. The rule of expertise derives its legitimacy from the notion of the liberal subject in control of itself and capable of critical judgement.

However, governing in the neoliberal world does not rely on such arbiters or on such subjects. Rather, the contemporary circumstance of polycentric governing seems to be losing an ‘intelligible connection’ between discourses, practices, and actors. Thus, we have a Canadian psychology professor clad in a three-piece suit making assertive statements on lobsters, meat diets, and making your bed, as well as the evils of postmodernism, gender equality, and liberal politics. It works because it works. Gathering all these ideas in the same persona provides a sense of identity and purpose. It provides a seemingly intelligible connection: some ‘simple guarantees’.

If we follow Brown, the ‘intelligible connection’ in neoliberal polycentric governing is always and only an economic one. Brown, Davies, and Dean all point to a legitimacy crisis brought on by (polycentric) neoliberalism’s undermining of democratic principles and practices. Importantly, we struggle to recognize this crisis as a crisis, since it is dressed up in the guise of liberal discourse and individual self-realization (and indeed wearing a three-piece suit).

In such a context, how can one maintain the notions that underpin the legitimacy of polycentric governing, such as autonomy, independent actors, professional expertise, and, indeed, democracy itself, particularly as evoked in the pervasive contemporary discourse of ‘transparency’ and ‘accountability’? Importantly, from a Foucauldian perspective, we were never such independent actors or autonomous liberal subjects to begin with. Furthermore, his perspective illuminates that the liberal subject is a construction that has inhabited a relatively brief moment in history. Still, this powerful and largely Western narrative has had enormous influence over social, cultural, and political life across the world for at least two centuries.

Indeed, it is difficult to imagine the formation of modern politics and civil society—and indeed of polycentric governing—without the concept of the free individual and its rights, as developed in the liberal political theory that emerged from Hobbes, Locke, and Kant. The formative influence of such ideas on literature and culture is also difficult to overestimate. Thus, for example, the European novel as it emerges during this period builds on and embraces the formation of individual subjects in relation to economy, law, and institutions.

Even conceptions sceptical of the liberal subject, such as Foucault’s, recognize the individual to be central during the period from the mid-eighteenth century until the emergence and consolidation of neoliberalism in the

twentieth century. As Foucault shows, the ‘making’ of individuals under discipline is crucial, as individuals become the objects as well as the instruments of power (1977, 170). Arguably, then, the liberal subject and how it relates to the foundations of democracy in the West—*homo politicus* as ‘the creature who rules itself and rules as part of the demos’ (Brown 2015, 41)—has been central to modern conceptions of the self.

Today, however, human beings are configured ‘exhaustively as market actors, always, only, and everywhere as *homo oeconomicus*’ (Brown 2015, 31). As such, liberal conceptions of the subject are undermined: the subject ‘loses not only its orientation toward the public and toward values enshrined by, say, constitutions, it also ceases to carry the Kantian autonomy underpinning individual sovereignty’ (Brown 2015, 109). A human being morphed into human capital ‘does not have the standing of Kantian individuals, ends in themselves, intrinsically valuable’ (Brown 2015, 37–38). Indeed, we are dealing with nothing less than a new kind of human, or, rather, with a post-human subject. Brown suggests that, as economic parameters become the only ones that configure conduct and concern, we are reduced, once again, to what Aristotle and others after him call ‘mere life’. What these thinkers call ‘the good life’—that is, a life characterized by the possibility and practice of the ethical and the political, creativity and reflection—is reduced, under neoliberalism, to the mere life of survival and acquisition (Brown 2015, 43). In the same move, humanity is evacuated: neoliberalism, Brown argues, ‘is the rationality through which capitalism finally swallows humanity’ (Brown 2015, 44).

Brown suggests that the legitimacy of modern democracy itself is at stake. Perhaps all-encompassing neoliberalism also places the legitimacy of polycentric governing in peril. As I noted in the beginning of this chapter, the multiple and decentred nature of polycentric governing practices parallels the dispersed power structures of neoliberalism. But I also noted that their ‘headlessness’ is different, in that the lack of a ‘final arbiter’ was amended by a legitimating belief in the autonomy of individual and organizational agents. However, the subordination of subjects, expertise, and communication to the market leaves polycentric governing—as neoliberal governmentality—with precarious legitimacy.

## Conclusion

Today’s floating currency of news, facts, information, and knowledge makes perfect sense if we see this regime of truth as governed not by old-style

sovereign or disciplinary structures, but by the polycentric neoliberal 'expertise' of the market. A Foucauldian view suggests that, in order to understand why we are so susceptible to news and facts and information that 'feel' right, we need to disentangle ourselves from liberal conceptions of the human subject. However, this extraction is no easy task. In conclusion, we may in particular underline four challenges for a governmentality perspective on polycentric governing.

First is the challenge of going beyond critique to proposal. Certainly, a governmentality analysis identifies and critiques the unexamined assumptions about power and agency in conventional institutionalist approaches to polycentric governing. However, a Foucauldian approach risks offering critique (and generating accompanying despair) without providing alternatives.

Second, by arguing that power is 'everywhere' and by unveiling power structures at every turn, a Foucauldian perspective may exacerbate rather than relieve the uncertainties and anxieties that we already feel. As the introduction to this volume notes, one of polycentric governing's legitimacy problems is precisely that few people understand it and that its elusive character may generate more confusion in already confusing times. In this light, a Foucauldian perspective may further aggravate the confusion and even tip it over into paranoia. Indeed, it has been suggested that the all-pervasiveness of power that Foucault theorizes pushes us past 'the point at which it is possible to make a distinction between paranoia and anything else to which the term could be meaningfully opposed'. In such a view, we really are subject to 'unfathomable and inescapable manipulative power' (Farrell 2006, 4). As such, Foucault may not contribute a way out; it is deemed impossible to escape 'the machine' of control, surveillance, and exploitation (Rushing 2006, 390).

Third, Foucauldian perspectives have arguably neglected to develop productive dialogues with other approaches to polycentric governing. For example, Henk Overbeek's chapter on historical materialism (Chapter 13, this volume) helpfully shows how neoliberal market society plays out in contemporary global capitalism. In addition, Frank Gadinger's Bourdieusian perspective (Chapter 10, this volume) enables a concrete engagement with different and distinct practices of neoliberal governmentality via the concept of fields. While governmentality analysis can be silent on social hierarchies (e.g. of gender and race), Marianne Marchand's contribution on intersectionality explores specific ways that polycentric governing facilitates and/or complicates empowerment (Chapter 15, this volume). Engaging with such complementary perspectives could help make the governmentality perspective less abstract, less generalizing, and more hopeful.



Fourth, governmentality analysis could better recognize and address the gap between inherited liberal conceptions of the individual and the political and the actual forms of neoliberal governing that we see today. Then we would also need to see that the inherited conceptions are exactly that— inherited and conceptions. Grasping this insight is obviously easier said than done. Indeed, a dominant culture of the liberal self pervades the history of philosophy from Kant onwards, the history of the industrialization onwards, and the history of liberal politics from Hobbes and Locke onwards. So, we often see polycentric governing through inherited liberal lenses rather than through the governmentality insight that Foucault provides.

If we are not autonomous Kantian liberal subjects capable of critical judgement, then what are we, and what does such realization of our faltering autonomy and judgement do to our understanding of polycentric governing? While polycentric governing has not been a focal concern for critical political theory, rethinking the humanist subject has been going on for a while, not least in the ‘posthumanist’ field of study, though it also goes back more generally to thinkers such as Jacques Derrida, Louis Althusser, Deleuze, and, indeed, to Foucault. Theories of this kind could, as I have begun to indicate here, be useful for understanding the ‘missing’ rationality in contemporary discourse.

Still, returning to the key contribution of a governmentality perspective, such an analysis of polycentric governing yields a realization that contemporary challenges to our conceptions of ourselves as liberal political subjects are not about losing a subjectivity and expertise that we once had. Rather, a governmentality framework allows us to rethink the very nature of that subjectivity and expertise in the first place. Such rethinking would help us better understand contemporary challenges to democracy. A Foucauldian perspective illuminates contemporary market mechanisms that both undermine the idea of the liberal subject *and* hold it responsible under the guise of liberal discourse. A governmentality perspective thus provides a critical account of the function of and relation between institutions, markets, and individuals that challenges idealized conceptions of conditions of political participation.

This chapter has explored polycentric governing from a Foucauldian perspective. On the one hand, it has explored problems for the legitimacy of polycentric governing brought by neoliberal mechanisms such as the commercialization and relativization of expertise and communication. On the other hand, the chapter has sought to problematize notions such as rationality, expertise, and liberal subjectivity historically, suggesting that liberalism has always been shadowed by intricate techniques of power. A governmentality perspective suggests that the liberal subject has always been a ruse. Yet

this ruse has deeply formed modern political discourse and political systems. In this sense, understanding the particular challenges for polycentric governing today from a governmentality perspective requires a reconsideration of some of the grounding principles of modernity.

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# Polycentric Governing from an Intersectional and Transnational Feminist Perspective

New Openings and Opportunities for Women's Voices  
from the Global South?

*Marianne H. Marchand*

## Introduction

On 6 October 2019, the Mexican newspaper *La Silla Rota* published an article about a memorial dedicated to the victims of femicides in the border town of Ciudad Juárez. The memorial was part of the sentence imposed by the Inter-American Court of Justice on the Mexican state in 2009 for neglecting the plight of femicide victims. Ten years later, the newspaper editors claimed that local authorities were erasing the memorial and, in so doing, all memories related to the femicides and violence against women in general. According to *La Silla Rota* (6 October 2019) the erasure has been effected in different ways. For instance, posters put up in search of disappeared young women have been systematically removed by the city's cleaning services. Also, no tourism information includes a reference to the memorial site. Cecilia Espinosa, the coordinator of the *Red Mesa de Mujeres* in Ciudad Juárez, claims that 'the city council proposed to improve the city's image, so why put up the faces of the disappeared women? They say, "Let's erase that image and let's make it [the city] beautiful' (*La Silla Rota*, 6 October 2019; translation by the author).

Since the early 1990s, feminists and human rights activists have become increasingly concerned about the murders of young women in Ciudad Juárez, the Mexican border town across from El Paso in Texas. These femicides, defined as women being killed for being women, attracted national and international attention. As Mexican authorities did not seriously address

the issue, a range of actors, including national and international civil society organizations (CSOs), feminist and human rights activists, international organizations, and foreign governments became involved and put pressure on the Mexican state. In the process, a new term was coined to reflect the lack of attention paid by the authorities to the issue, resulting in impunity for the perpetrators: femicides, or *feminicidios* in Spanish (Cladem 2007, 13).

This chapter addresses, on the one hand, how CSOs and activists successfully navigated polycentric governing constellations to finally hold the Mexican state responsible for not seriously addressing the femicides and the perpetrators. On the other hand, in line with the vignette above, the chapter argues that polycentric governing reveals a resilience of patriarchy with respect to violence against women. The chapter thereby shows the ambivalent nature of polycentric governing, as it has opened up spaces for feminist and women's organizing and resistances, while also harbouring and sometimes creating spaces for patriarchal rearticulations that aim to redirect or diffuse such organizing efforts.

As discussed in this book's introduction, a critical analysis of polycentric governing needs to focus on the three dimensions of techniques, power, and legitimacy. These three dimensions are analysed in this chapter with an intersectional and transnational feminist lens. I analyse how power structures became more polycentric in the 1990s and thereby opened up spaces, or provided opportunity structures, for feminist and women's transnational organizing. In their organizing, these feminist networks and women's CSOs used a range of techniques to place the issue of femicides on the international and national agendas and to keep the attention focused. These techniques included the framing of femicides, gender performativity, cross-border organizing, and independent gathering of data to counter official government data. Finally, from an intersectional and transnational feminist perspective, legitimacy is about making silenced or marginalized voices heard in polycentric governing. For each of these dimensions, the chapter also discusses to what extent they include instances of patriarchal resilience, which limit the possibilities of advancing policies to significantly reduce violence against women. As such, the chapter shows how polycentric regulation is connected to and embedded in underlying ordering patterns of social life, including patriarchy.

The rest of the chapter first provides a brief overview of how international organizations have highlighted gender issues. The subsequent section introduces intersectional and transnational feminist analyses, which constitute the theoretical tools for analysing how polycentric governing is embedded

in patriarchy. I then consider how women's and feminist groups have used polycentric governing to forward the agenda on violence towards women. The subsequent section develops the three dimensions of power, techniques, and legitimacy. The chapter concludes with reflections on the limitations of the present analysis.

## **Global and Regional Governing Institutions Addressing Gender Issues**

While feminists and women's groups have used a wide range of venues for transborder and transnational organizing, the United Nations (UN) has been one of the main ones. In particular, the UN Women's Decade from 1975 to 1985 and the subsequent Fourth World Conference on Women in Beijing (1995) provided such a framework. As a result, the UN has created a host of gender-specific policies and related activities. In addition, the United Nations Development Fund for Women and the Division for the Advancement of Women, now bundled together under the umbrella of UN Women, have enhanced the institutionalization of gender issues within the UN. Similar processes have taken place in various regional contexts, including some initiatives that predate UN efforts, such as the Inter-American Commission of Women, established in 1928. Landmark accomplishments include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Security Council Resolution 1325 on Women, Peace and Security, Sustainable Development Goal 5 on Gender Equality and Empowerment, and the Inter-American Convention of Belém do Pará 'On the Prevention, Punishment and Eradication of Violence Against Women.' Many of these initiatives have transcended different scales, from the local to the national, regional, and global.

While the UN and regional organizations pay considerable attention to gender equality, critical questions remain to be considered. First, which women's (and men's) issues and voices are included and considered in the pursuit of gender equality? Second, to what extent is the question of gender equality being 'mainstreamed,' that is, taken up in all activities and policy formulations? Third, does the overarching concern of this volume, polycentric governing, facilitate or complicate gender-oriented interventions intended to increase gender equality and empowerment? While each of these questions deserves an in-depth analysis, this chapter focuses in particular on the last one.

## Intersectionality and Transnational Feminism

Intersectionality is a multidimensional concept that can be understood in multiple ways: as dealing with structural inequalities or differences, as a question of identity construction, or as a methodology (Crenshaw 1991).<sup>1</sup> From a structuralist position, intersectionality analyses multiple (interconnected) mechanisms of oppression and how they marginalize and silence women and feminists of colour and from the Global South. Through the lens of identity construction, an intersectional approach queries what kinds of identities are constructed, reified, or marginalized and what kinds of hierarchies accompany them. As a methodology, intersectionality analyses how gender, race, ethnicity, and class dimensions interrelate to create (polycentric) governing structures. Although the concept of intersectionality is used in these multiple fashions, the different dimensions are interconnected and, ultimately, not easy to treat separately.

The concept of intersectionality was introduced into gender analysis and feminist theory in the early 1990s. It broadened the analytical spectrum for feminist theory and gender analysis to include multiple intersecting power relations and mechanisms of inequality. Although feminist theory has many strands, they share the central idea that gender is a fundamental axis of inequality. Gender operates in multiple ways. Building on the insights of feminist International Relations (IR) theorists, including V. Spike Peterson, Marianne Marchand and Anne Sisson Runyan approach gender as a relational concept: 'Gender operates in at least three distinct, yet interconnected, ways: (1) ideologically, especially in terms of gendered representations and valorizations of social processes and practices; (2) at the level of social relations; and (3) physically, through the social construction of male and female bodies' (Marchand and Runyan 2011, 11).

Since Kimberlé Crenshaw's early work (1991) on intersectionality, the concept has been developed, in particular by feminists from the Global South. Criticizing western feminist theory for approaching 'Third World women' as a single group and portraying them as subordinate and lacking power in contrast to liberated and modern western women, postcolonial and decolonial feminists have expanded the concept of intersectionality (Mohanty 2003). According to them, an intersectional approach needs to include several categories or mechanisms of oppression in addition to gender, including nation, class, colonialism, and religion (Fernandes 2013; Mohanty 2003). Likewise, the LGBTQI+ community and queer studies have emphasized sexuality within intersectionality. Therefore, intersectionality now goes beyond Crenshaw's early focus on gender and race and addresses multiple intertwined

mechanisms of oppression. However, the increased use of intersectionality across disciplines has also brought different understandings of the term. In response, some scholars have criticized an overemphasis on intersectionality as an identity theory, thereby marginalizing its structural dimensions (Collins and Bilge 2016, 124); or for not clearly addressing how individuals mobilize certain parts of their (intersecting) identity over other dimensions (Nash 2008, 11).

Going beyond Crenshaw's original notion of intersectionality, transnational feminism has addressed the implications for global organizing among women and feminists, in particular the marginalizing and silencing of subordinate groups, such as feminists and LGBTQI+ communities from the Global South. Transnational feminism acknowledges difference(s) and allows for inclusive agenda-setting that goes beyond the idea of a monolithic 'global sisterhood', which tends to obfuscate certain power structures that marginalize and silence voices from the Global South (Marchand 2018; Mendoza 2002). However, as Leela Fernandes argues, there are still limits to transnational feminism's inclusiveness, as its knowledge production is shaped by national conversations and contexts. She argues that, 'for instance, when transnational perspectives take liminal transnational identities of diasporic communities as unquestioned subjects, the generation and consumption of knowledge may inadvertently be located within particular kinds of U.S.-centered interests and concerns by centering transnational flows through the territorial space of the United States' (Fernandes 2013, 5).

Despite such critiques, intersectional and transnational feminist approaches have made important theoretical contributions, such as multiple intersecting mechanisms of oppression or questioning colonial knowledge production that silences voices from the Global South. The next section relies on combined insights from intersectional and transnational feminism to analyse, in particular, the patriarchal underpinnings of polycentric governing.

## **Polycentric Governing Seen through Lenses of Intersectionality and Transnational Feminism**

Polycentric governing has emerged in the context of globalization and is defined, in this volume, as a 'transscalar, transsectoral, dispersed, variable, messy, elusive, headless mode of governing' (Gadinger and Scholte, Chapter 1, this volume). With globalization, or increased world-scale social, political, economic, and cultural flows and connectivities, new spaces have emerged in



which ‘global’ masculinities and gender relations are constructed (Connell 2005; Marchand and Runyan 2011). From transnational feminist and intersectionality perspectives come two central issues. First, this analysis assesses whether polycentric governing is debilitating patriarchy or whether these power structures are adapting to new forms of governing as ‘resilient’ patriarchy. Second, transnational feminist and intersectionality perspectives are concerned with practices of inclusivity as well as power dimensions among feminists, women’s groups, and networks.

Patriarchy refers to male-dominated, masculinist rule that disproportionately benefits and privileges men and masculine activities. Patriarchy is a fundamental element of a social gender order. It is based on multiple forms of masculinity that are socially constructed and transform over time. Hegemonic masculinity is a relational concept that is socially constructed, in contrast to subordinate masculinities and femininity/ies (Connell 2005). According to Connell, ‘masculinities are configurations of practice structured by gender relations. They are inherently historical; and their making and remaking is a political process affecting the balance of interests in society and the direction of social change’ (2005, 44). She also suggests that, at any given time, there are multiple masculinities with one hegemonic masculinity as ‘the configuration of gender practice which embodies the currently accepted answer to the problem of the legitimacy of patriarchy’ (2005, 77).

Charlotte Hooper, in her analysis of *The Economist*, refers to the contemporary new masculinity as ‘Globalization Man’ (2000). Yet it appears that since 2001, ‘Globalization Man’, with ‘his dualistic image consist[ing] of a penchant for hard-edged penetration and domination of new markets accompanied by softer skills of non-hierarchical management associated with networking, teamwork, and flexibility’, has been replaced by a new hegemonic masculinity connected to the emergence of the War on Terror, that of ‘Security Man’ (Marchand and Runyan 2011, 17). At first sight, this new hegemonic (Anglo-American) masculinity is connected to the increased militarization and securitization of global politics, ‘combining such characteristics as muscle-power, preoccupation with high-tech warfare and xenophobia, especially toward the non-Western, non-Christian “other”’ (Marchand and Runyan 2011, 3).

Polycentric governing has emerged in the context of these two transformations – globalization and the War on Terror – and thus appears to straddle different articulations of hegemonic masculinity. How have these masculinities and social gender orders influenced different practices of polycentric governing? The issue of violence against women illustrates how women’s organizations and feminists have engaged with ‘global governing’ and the patriarchal resistances that they have encountered.

Polycentric governing implies new, and less state-centred, forms of international organization that have attracted the attention of feminist IR scholars (Meyer and Prügl 1999; Rai and Waylen 2008). Rai and Waylen identify two broad gender approaches to polycentric governing, or in their terms, global governance. The first one focuses on how women's and feminist groups, movements, or networks have systematically put pressure on the UN system to further gender equality in its practices and policies. The second approach is institutionally based and focuses in particular on the struggles around processes of gender mainstreaming within institutions and policy processes of global governance (Rai and Waylen 2008, 3–4). This approach relates to how women have 'carved out niches' in institutional structures to pursue women's interests (Meyer and Prügl 1999, 4). Sometimes, these (mostly female) bureaucrats are referred to as 'femocrats'. Finally, Meyer and Prügl (1999, 5) identify a third approach, which involves 'contestations of rules and discursive practices'. These different approaches are complementary, and all three have been pursued in relation to violence against women.

In the late 1980s and early 1990s, a loose global women's network emerged around the issue of violence against women and placed it on the international agenda (Keck and Sikkink 1998). The emergence of this network on violence against women occurred in the context of polycentric governing and a growing interest in human rights and the emergence of a human security agenda. As Keck and Sikkink argue, the issue of violence against women arose by putting together a range of different topics around which national or local activist campaigns had been organized. Within the single category of violence against women, the global women's network succeeded to combine concerns that were originally seen as unrelated, including domestic violence, dowry deaths, female genital mutilation, rape, and torture of (female) political prisoners (Keck and Sikkink 1998, 188). From an intersectional perspective, the category 'violence against women' helped to overcome differences and tensions among women's and feminist organizations from the Global North and South. The concept also represented an innovation in human rights discourse, in particular by crossing boundaries between public and private spheres (Keck and Sikkink 1998, 189).

## Power

Turning to the power dimensions of polycentric governing, the multiple global transformations that took place in the late 1980s and early 1990s generated opportunity structures for the global women's network to create the

category of violence against women and to feed into the international human rights' agenda. Several authors recognize that globalization and the post-Cold War order provided openings to have a range of gender issues included on the international agenda (Joachim 1999). This is also the case with the category of violence against women, which, interestingly, was not considered initially in discussions on gender equality and CEDAW.

According to Prügl and Meyer, women's and feminist groups and networks were able to put gender issues on the international agenda due to several factors. Firstly, they learned from two decades of UN conferences since the first UN Women's Conference in Mexico City in 1975 and honed their lobbying skills. A further development was the creation of the Women's Caucus in 1992, which helped to coordinate lobbying efforts and the dissemination of information. Finally, the communications and technology revolution helped to facilitate strategizing, encourage the exchange of ideas, broaden networks, and include women's organizations that had previously been excluded (Meyer and Prügl 1999, 11). Prügl and Meyer conclude that 'opportunity structures and feminist strategies thus coalesced in the 1990s to advance the international causes of feminists who were able to shape the political agendas of multilateral institutions in effective ways' (1999, 12).

The femicides in Ciudad Juárez provide an excellent illustration of how the global gender network on violence against women has used polycentric opportunity structures to advance their agenda. When local groups in Ciudad Juárez organized to demand justice for the victims and their families, they encountered much resistance from authorities at local and state levels. Local authorities and businessmen in Ciudad Juárez claimed that the attention paid to the femicides would damage the city's image and negatively influence prospective investors (Robles 2009). State authorities, too, did not take the femicides seriously. Francisco Barrio Terrazas, the governor of Chihuahua state from 1992 to 1998, declared on various occasions that 'the women were responsible [for their deaths] because they were wearing miniskirts', 'for going out late at night', that they were living a double life, and that the number of murdered women was 'normal' (Robles 2009). In other words, the governor downplayed the horrifying deaths of the women in Ciudad Juárez. Echoing the words of the governor, the state's Attorney General, Arturo Chávez Chávez (1996–1998), suggested that 'the women were guilty of the crimes against them for dressing provocatively' (Robles 2009). As a result, the authorities did not take the investigation of these femicides and identification of perpetrators very seriously, particularly from 1993 until

2004. The Inter-American Court of Human Rights (IACHR), in its landmark judgement regarding the femicides in Ciudad Juárez<sup>2</sup>, found that:

Several reports published between 1999 and 2005 agree that the investigations and proceedings concerning the murders of women in Ciudad Juárez have been plagued by irregularities and deficiencies and that these crimes have remained in impunity. According to the Special Prosecutor's Office, 'it should be emphasized that the impunity of the unsolved cases occurred, principally, from 1993 to 2003, owing to serious omissions made by the personnel of the Office of the Attorney General of the state [of Chihuahua].' It added that, over that period, the 'state governments failed to enact public policies to endow the state Attorney General's Office with the infrastructure, working methods and specialized personnel that would have allowed it to conduct the investigations into the killings of women with an acceptable level of reliability.'

(para. 149. 2009, 42)

In response to the state authorities' negligence, women's, feminist, and human rights organizations increasingly pressured the authorities to address the femicides in a more serious manner. When the activists started to challenge the abovementioned misogynist remarks and deficient measures in investigating the femicides, local women's and feminist organizations received threats, which included being persecuted and shot at, as well as death threats (Robles 2009; Robles 2010; Delgadillo 2015). In the face of these obstacles to discovering what happened to the murdered women, organizations such as *Nuestras Hijas de Regreso a Casa* (Our Daughters Returning Home) looked to expand their support networks, especially from across the border in El Paso. Excellent work by Kathleen Staudt (2008) on cross-border activism between Ciudad Juárez and El Paso shows how local organizations placed the issue of femicides and violence against women on binational and global agendas. Staudt's detailed analysis focuses on cross-border organizing, but does not consider how these networks also navigated the polycentric governing structures of international organizations. However, her analysis clearly illustrates what Keck and Sikkink (1998, 19–20) have called 'the boomerang effect' of using international networks and partners to pressure national governments.

The cross-border expansion of the activist network against femicides and violence against women occurred in several phases, culminating in 2003 and 2004. Between approximately 1993 and 2000, local groups and feminist academics started to organize around the issue of femicide and not only

challenged authorities at all levels of government, but also kept their own statistics about femicides and disappearances of young women. These data were used to challenge underreporting in the official records.

This local organizing stimulated several national and international organizations to become involved. In 1998, the National Commission on Human Rights issued its recommendations in relation to thirty-six cases of femicide and young women's disappearances (*Comisión Nacional de Derechos Humanos* 1998). In 1999, the United Nations Commission on Human Rights (UNCHR) Special Rapporteur on Violence against Women, Its Causes and Consequences requested information from the Mexican government about the situation in Ciudad Juárez (UNCHR 2000b). In the same year the UNCHR Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions visited the country to investigate a range of human rights issues, including that of the murdered women in Ciudad Juárez (UNCHR 2000a). However, these pressures by local activists and human rights organizations did not generate the desired results of reducing femicides and having the authorities take the issue seriously.

The political terrain in Ciudad Juárez is complex, bringing together international capital through the *maquiladoras* factories and national policies. Hence, local activists started to strengthen their ties with counterparts across the border in El Paso (Staudt 2008, 84–85). By 2001, several cross-border alliances were active, including the *Amigos de las Mujeres de Juárez* and the Coalition Against Violence Toward Women and Families at the U.S.–Mexico Border (Staudt 2008, 85). The period 2001–2005 witnessed unprecedented growth of transnational organizing, extending beyond the cross-border networks between Ciudad Juárez and El Paso to include 'distant activists' (Staudt 2008, 93).

This expansion of the network to encompass Mexico, the United States, and Europe brought in different agendas and generated tensions about 'framing, representation and beneficiaries from fund-raising' (Staudt 2008, 92). An intersectional and transnational feminist perspective allows us to make sense of such strains. Not surprisingly, local organizations tied to families of the murdered and disappeared young women felt increasingly marginalized, as they lost initiative on how to address the issue. Local organizations pushed to frame the issue as femicide, while cross-border and geographically distant activists advocated a broader framing of violence against women (Staudt 2008, 94–95). Although family members received support from local organizations, their socio-economic situation, limited experience with political organizing, and low access to (international) media left them marginalized.

The second point of tension concerned representation, an issue in which the Mexican government played a role. Reacting to increased national and international pressures, these authorities resorted to well-worn scripts of cooptation and symbolic politics. The Chihuahua Women's Institute provided funds to some mothers but not others, raising questions about who was being coopted and whether these women should be allowed to speak on behalf of the family members (Staudt 2008, 93, 97). This measure clearly spoke to the divide-and-rule politics often used by Mexican authorities.

The government also responded with symbolic politics. As Staudt comments:

The Mexican government, the main target of pressure, made some concessions, though more symbolic than real. One sure outcome was the appointment of various women to investigate and prosecute the crimes, but all too many of them served as bureaucratic decorations with little authority to render miracles from gendered institutions that long ignored violence against women, even its most brutal forms in femicide.

(2008, 151)

The initial knee-jerk reaction of the Mexican government can also be interpreted as a form of resilient patriarchy, a point that I develop further in the next section.

A third matter of tension related to finances. Most activist groups and organizations needed funds to support their activities, meaning that the better-organized groups had easier access to the limited funding opportunities. Again, an intersectional analysis indicates that local organizations were marginalized, as they tended to have limited social capital and organizational strength for fundraising. This situation led family members of the murdered and disappeared women to ask: 'Who profits from our pain?' (Staudt 2008, 93).

## Techniques

In this section, I analyse the techniques used by global or transnational women's and feminist groups and networks to place the issue of femicides and violence against women on the international agenda and how patriarchal resilience has countered these efforts. The activists have employed several interconnected, mutually reinforcing techniques, including powerful framing of femicides, gender performativity, cross-border organizing,

gathering data about the victims, and searching the sites where the murdered bodies were found.

To deepen the framing of the femicides in Ciudad Juárez, women's and feminist groups used descriptive testimonies about what happened to the victims. They also placed pink crosses as quasi-religious symbols in the fields where the bodies of victims were discovered. To reach different audiences, activists 'performed gender', in Staudt's words, using drama and other art forms such as documentary film and music to engage local cross-border communities and 'challenge the normalization of violence against women' (Staudt 2008, 79).

Cross-border organizing and solidarity were important in strengthening the movement, as they served to expand the stage on which issues of femicides and violence against women were raised. Various actors were important in making femicides and violence against women cross-border issues on stages throughout North America and Europe. For example, the Coalition Against Violence organized marches, letter-writing campaigns, and lectures to bring the issue to the business community in El Paso and local as well as national politicians. *Amigos de Mujeres de Juárez* focused more on supporting families of the victims, engaging in searches, and raising funds. This group also connected with the international Women in Black network, which resulted in demonstrations outside Mexican embassies and consulates abroad. Journalists in both Mexico and the US were also important in framing the femicides as a cross-border issue (Staudt 2008, 85–87).

Mexican authorities and (local) elites were not able to control the information flow and the framing of the femicides in Ciudad Juárez, especially as the internationalized stage was beyond their reach. However, they did respond locally and nationally. Locally, public officials and business elites formulated a Strategic Plan of Juárez (*Plan Estratégico de Juárez*) to improve the city's image. They even suggested the use of the ISO 9001 standard to improve local governance structures (Staudt 2008, 102–104). However, this technique has slowly marginalized and eventually erased the victims' visibility in public spaces.

Another technique of patriarchal resilience came from the federal government of Mexico. President Vicente Fox appointed several women to lead federal entities in charge of investigating and prosecuting the femicides. According to Staudt, this technique of 'decorat[ing] masculinist institutions' involves a symbolic politics to which Mexican authorities have resorted regularly: 'the creation of new offices and coordination mechanisms usually headed by female appointees' (2008, 117).

In sum, women's and feminist transnational organizing used various techniques to take the issue of femicides and violence against women beyond the local arena, employing the boomerang effect to pressure the Mexican government at different levels. However, Mexican authorities in turn demonstrated patriarchal resilience by resorting to the technique of symbolic politics, creating new bureaucratic structures headed by women which were unable to significantly reduce the femicides and violence against women.

## Legitimacy

An intersectional and transnational feminist analysis understands legitimacy to be about inclusion and countering or eliminating multiple intersecting mechanisms of power and oppression. Key is how to counteract the marginalization and silencing of subordinate groups and their voices within polycentric governing arenas. Activists have gained much legitimacy in this respect not only globally, but also nationally and locally. Globally, the activists gained legitimacy because of the findings of a wide range of international organizations including the UN [Commission on Human Rights \(2000a, 2000b\)](#), the Inter-American Commission on Human Rights (2003), the UN Committee on the Elimination of Discrimination against Women (2005), and the European Parliament's Committee on Women's Rights and Gender Equality (2007). These global initiatives culminated in the landmark decision by the [IACHR \(2009\)](#) against the Mexican state. International organizations, CSOs, social movements and other networks helped to put and keep the issue of femicides on the international and regional agendas, as a specific form of violence against women, ([Blunt 2019](#)).

As a result of international as well as national attention and pressure, national authorities in Mexico were unable to remove the issue of femicides from the political agenda. Over the years, the Mexican state adopted several policies and laws to address femicides and violence against women in general, culminating in the General Law of the Access of Women to a Life Free of Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia 2007*). Feminist activists and women's organizations played a pivotal role in this respect. For instance, feminist anthropologist Marcela Lagarde not only introduced the concept of *feminicidio* in Mexico and Latin America, but was also elected to the Mexican House of Representatives from 2003 to 2006, where she laid the groundwork for the abovementioned law (Marcela Lagarde n.d.; Marcela Lagarde y de los Ríos 2008, 215–216).



However, while Mexican authorities introduced legislation and other steps to stem femicides and violence against women, they also attempted to minimize these measures, for example by challenging the civil society calculations of the total numbers of femicides and violence against women. In particular, local authorities apply different methods to register victims of femicide and usually only include those cases that are under investigation (Flores 2021). For instance, the Observatorio Ciudadano Nacional de Femicidios (National Citizen's Observatory of Femicides) claims that 80 per cent of female homicides are femicides and not the 20 per cent considered by official sources (Flores 2021). According to the Observatory's analysis, 'of the 3752 violent deaths of women in 2020, only 969 were designated as femicides, when it should have been 3000' (Flores 2021; translation by the author). In its 2021 report, *Justice on Trial*, Amnesty International identifies serious flaws in the Mexican justice system, ranging from losing evidence, lacking adequate investigations, neglecting a gender perspective, and revictimizing family members who seek justice for their loved ones (Amnesty International 2021, 3–5). In particular, pursuing justice tends to be financially costly and emotionally taxing, while families are regularly faced with threats from those responsible for the femicides (Amnesty International 2021, 5). The underreporting and poor investigative performance by authorities as well as flaws in the justice system have the effect of minimizing and even delegitimizing the issues of femicides and violence against women. Despite the groundswell of activities by feminist networks and women's collectives, as well as the passing of legislation, femicides and violence against women have actually increased. Underreporting, failures in the justice system, threats, and the rise in femicides all point to patriarchal resilience. The response of feminist activists has been to organize massive marches for International Women's Day on 8 March which, according to the authorities, brought more than 80,000 demonstrators to the streets of Mexico City in 2020 (Animal Político 2020). Women's collectives and feminist networks also organized the first national general women's strike on 9 March of that year.

## Conclusion

In this chapter, I have addressed the question whether polycentric governing facilitates or complicates gender-oriented interventions that seek to increase gender equality and empowerment. I use the issue of femicides, as a particularly horrific form of violence against women, to trace and analyse the gendered dimensions of multi-layered polycentric governing, from the global to the local, and the actors involved.

In the case of the femicides in Ciudad Juárez, local women's groups and feminist activists managed to place the issue on the agenda after having received cross-border support. Applying multiple strategies and techniques, organizations also managed to move the issue of femicides and violence against women up the polycentric ladder to involve various UN institutions and the regional human rights machinery. The so-called boomerang effect forced Mexican authorities to take the issues seriously and to implement measures against femicides and violence of women. Still, patriarchy has remained resilient, as manifested in the creation new offices, headed by women, to investigate and prosecute perpetrators of femicides. The Mexican authorities have not fundamentally transformed the justice system, but rather have created relatively isolated offices. Mexican authorities also minimized or marginalized femicides and violence against women through underreporting and persistent failures in the justice system. As mentioned, these actions continue to receive severe criticism from feminist activists and women's collectives in Mexico, culminating in a yearly national women's strike on 9 March held since 2020.

In general terms, polycentric governing has provided spaces for gender issues to be placed on the political agenda. Since the International Women's Conference in Beijing (1995), many multilateral and national bureaucracies have established special 'women's units'. These bureaus have concentrated gender expertise and created visibility for gender-related issues. However, these units have also provided an implicit justification for other parts of the bureaucracy to neglect gender issues. In other words, these gender bureaucracies remain physically contained and disciplined within larger patriarchal bureaucracies.

Another limitation to advancing gender issues within multi-layered polycentric governing is that gender-oriented policies and programmes may well be accepted internationally, but do not necessarily receive follow-up at national and local levels. Patriarchal resistance and resilience at national and local levels often obstruct the implementation of gender-specific policies and programmes.

Discursive practices have also served patriarchal resilience. For instance, discussions on violence against women initially excluded sexual violence as a weapon of war (Leatherman 2011). Not until the war tribunals for Yugoslavia and Rwanda was sexual violence in armed conflict considered. Subsequent framing by feminist and women's networks have enabled more systematic inclusion through Security Council Resolution 1325 and the International Criminal Court.

Despite its apparent inclusiveness, polycentric governing is in practice hierarchical and not necessarily easily accessible for local women's groups,

in particular those from the Global South. As the experience of women's groups and families of the victims in Ciudad Juárez shows, navigating the terrain of polycentric governing is extremely complicated. For years, these local groups were not taken seriously and the femicide victims were blamed for their own murders. Concerted cross-border organizing finally made a difference and the issue of femicides progressed along polycentric governing channels. Yet, this begs the question how far local women's groups in Ciudad Juárez could influence the framing of these femicides, or whether they became marginalized in the polycentric process.

As seen in this chapter, intersectional and transnational feminist approaches are very useful for analysing polycentric governing structures. However, these perspectives also have certain limitations or blind spots. Indeed, scholars debate what an intersectional or transnational feminist approach entails. This chapter has refrained from comparing different strands of intersectional analysis, which can generate different accounts of the gendered underpinnings of polycentric governing. Likewise, the chapter has not fully developed a transnational feminist analysis of how polycentric governing reproduces coloniality/ies, especially in its framing of the problems to address and actors' subjectivities.

## Notes

1. This section draws upon my chapter 'The Amsterdam School: Gender as a Blind Spot?' (Marchand 2018).
2. Judgement of the Case of González et al. ('Cotton Field') v. Mexico (16 November 2009)

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**PART VI**  
**CONCLUSION**





## Conclusion

### What Does Polycentrism (Not) Reveal about Governing Today?

*Frank Gadinger and Jan Aart Scholte*

We, authors and readers, have now completed our tour of perspectives on the irresistible question: how does governing work today? In everyday life, how are rules shaping situations such as academic studies, eating habits, labour conditions, media communications, political negotiations, and security checks? On a larger scale, how is society (mis)handling matters such as ecological changes, technological innovations, geopolitical shifts, pandemics, demographical trends, new identity politics, and economic restructuring? Answers to these questions are vital for living well: for democracy, justice, peace, comfort, and sustainability.

Many scholars are arguing that established theory is inadequate to make sense of current dynamics of governing, sparking a wave of conceptual innovation. This book has, with an overarching theme of ‘polycentrism’, taken an interdisciplinary and inter-paradigm journey through this new thinking. We started with an observation that, from highly diverse ontological, epistemological, and methodological positions, many contemporary scholars perceive current processes of governing to be transscalar, transsectoral, diffuse, fluid, overlapping, ambiguous, and leaderless. Hence, we thought, it could be instructive to bring together a wide array of what this volume has classed as organizational, legal, relational, and structural understandings of contemporary governing. Chapter contributors have heralded from academic fields of development studies, economics, global studies, history, international relations, law, literary studies, political science, and sociology.

To recall from the introductory chapter, the book has pursued five main objectives. First, the volume has aimed, as no other existing publication, to provide a ‘one-stop-shop’ with an expansive coverage of new theories of governing. Second, assembling approaches that normally develop separately would, we anticipated, facilitate comparisons between viewpoints

and thereby sharpen awareness of the particular insights and oversights involved in each perspective. Third, interconnecting the different ways of thinking could, we hoped, stimulate integrative new knowledge that crosses the paradigmatic divides. Fourth, a productive interdisciplinary and inter-paradigm conversation could, we supposed, encourage more use of this methodology in social and political scholarship. Finally, we have aimed with the book to offer readers a context for furthering their own theoretical and practical engagement with contemporary politics.

Now, in this concluding chapter, comes a moment to assess how far the book has realized these goals. How well have the umbrella concept of polycentric governing (together with sub-themes of techniques, power, and legitimacy) served to encompass and connect a large breadth and depth of knowledge about contemporary society? How far has juxtaposition of and comparison between approaches illuminated their respective positions, contributions, and limitations? What kinds of new syntheses might emerge from the inter-paradigmatic dialogue-of-difference? Reflecting on the process of preparing this book, what fruits and challenges has its methodology manifested?

With this concluding agenda in mind, the rest of this chapter has three parts. First, the next section critically evaluates advantages and shortfalls of the book's organizing framework: namely, (a) 'polycentric governing' as a common principal reference point; (b) the fourfold distinction of organizational, legal, relational, and structural paradigms as a typology; and (c) techniques, power, and legitimacy as core cross-cutting issues. Second, a further section reflects on how inter-paradigm conversations and combinations around techniques, power, and legitimacy might lay grounds for new directions in theories of polycentric governing. Concluding remarks include an overall assessment of the project's methodology. The ultimate question of how well the book has served the knowledge and practice of its readers is of course for them to answer.

## **Reflections on an Analytical Framework**

Our envisioned dialogue-of-difference among multiple perspectives on governing today has required an analytical ordering scheme. Any effective conversation needs some shared orientation and vocabulary. Constructing such a playing field is particularly challenging in a context of radically diverse perspectives. The situation wants common reference points that encourage creative communication among contributors while also honouring the

heterogeneity of their positions. We suggested such a framework with a core concept of polycentrism; categories of organizational, legal, relational, and structural paradigms; and overarching issues of techniques, power, and legitimacy. Has this approach served the intended purpose? We think broadly yes, albeit with some important caveats.

## Core Concept

With regard to polycentrism as an umbrella label, a plethora of alternatives are on offer, as reviewed early in our introductory chapter. The multiple options include ‘assemblage’, ‘nébuleuse’, ‘new medievalism’, ‘regime complex’, ‘transnational legal orders’, and more. We selected ‘polycentrism’, since this term so distinctly and evocatively highlights the intersection of dispersion and arrangement—diffusion and order—in contemporary governing. The word also lacks a particular disciplinary or theoretical affiliation, thereby facilitating a more open development of diverse interpretations. Indeed, ‘polycentrism’ already has some circulation in the fields of economics, international relations, political science, and sociology. The label is moreover succinct, readily grasped, and easily recalled.

Looking back over the book, this choice of core concept appears extensively vindicated. All chapters have substantially and productively engaged with the notion of polycentrism, which has also consistently provided a channel of fruitful communication and debate with other perspectives. In this sense, polycentrism has offered a productive ‘trading zone’: that is, a concept that allows scientists to cooperate and exchange on theories, methods, and results, while simultaneously disagreeing on distinct meanings of core concepts (Galison 1997). Productive tensions between different perspectives have not been a problem, but a stimulus for pursuing dialogue without any claims of paradigmatic superiority.

The chapters have also shown that the idea of polycentrism operates well in empirical research across a broad range of policy fields. While the concept has thus far had more use in respect of environmental issues, contributors to this volume have also related polycentrism productively to finance, gender, investment, migration, science, security, and technology.

Throughout the volume, the concept of ‘polycentrism’ has delivered a particular benefit of illuminating hidden, poorly noticed, and less tangible processes of governing. The idea that regulatory dynamics of society operate diffusely and fluidly, across scales and sectors, encourages analysts (including our chapter authors) to find governing where it might otherwise

be overlooked. For example, the notion of polycentrism enables Philip Liste to identify governing dynamics around offshore finance that would otherwise remain in the murky shadows. Alejandro Esguerra discovers, through the lens of polycentrism, an expansive governing complex around a bottle of water. Likewise, the polycentrism concept allows Marianne Marchand to see pervasive (and often subtle) governing of gender relations.

We noted in the introductory chapter that our more encompassing idea of polycentrism in the vein of Michael Polanyi needs to be distinguished from the specific Ostrom/Bloomington School account of ‘polycentricity’. In this vein, Andreas Thiel’s discussion of the Bloomington School ([Chapter 5](#)) maintains a clear distinction between a generic polycentric *governing* and a specific polycentric *governance*. Nor have any other chapters confused the two conceptions. As this book has successfully distinguished the two usages, other social and political theory should be able to do so as well.

That said, the various perspectives on contemporary governing in this book have related to polycentrism with different degrees of ease. For example, accounts of ‘fragmentation’ (Zelli et al., [Chapter 4](#)) can struggle to find any order in the ‘complexity’ of governing today. Conversely, a Marxist analysis (Overbeek, [Chapter 13](#)) can struggle to find any disorder, with its tendency to subsume seeming untidiness among actors under a single macro structure of capitalism. Still, on the whole, the diverse approaches assembled in this book have adopted a common vocabulary of polycentrism quite comfortably, without a forced fit.

To be sure, certain important cautions around the idea of polycentrism remain, particularly concerning its historical, cultural, and ideological attributes. As Nina Schneider emphasizes in [Chapter 2](#), history is always an interplay of change *and continuity*, such that what may seem unprecedented and unique in present-day polycentric governing can have major antecedents and connections to long-term tendencies. As Tamirace Fakhoury and Rosalba Icaza stress in [Chapter 3](#), polycentrism like every concept is borne of a particular socio-cultural context and associated power relations. For instance, views from refugee camps in Lebanon bring Eurocentric inclinations of the polycentrism lens into sharp relief. Moreover, as Jothie Rajah and Henk Overbeek underline in their respective chapters, the notion of polycentrism can, if one is not careful, serve an ideological function of underplaying and distracting attention from significant power inequalities in contemporary society. So beware when polycentrism enters the language of bureaucrats, consultants, and politicians!

However, such potential pitfalls do not irreparably discredit the notion of polycentric governing. No concept will offer an equally good fit for all

disciplinary and theoretical perspectives. Nor can any idea escape historical location, cultural relativity, and ideological politics. The vital point is to recognize and sensitively navigate these issues, always with acute awareness of the knowledge-power relations in play, and always with openness to shift concepts when alternative constructions offer theoretical, methodological, empirical, and/or political advantages.

## Typology

While sharing a broad conception of polycentric governing, our contributors have developed highly divergent accounts of the processes involved. We grouped the perspectives according to a classificatory scheme that distinguishes between organizational, legal, relational, and structural understandings of polycentric governing. Recalling from the introductory chapter, the key point of differentiation relates to ontology, in terms of where the respective paradigms locate the primary source of governing. For organizational approaches, the main forces of governing derive from attributes of the individual and group *actors* involved. For legal approaches, governing arises principally from the regulatory *measures* in question, be they conventional formal laws (e.g. statutes and treaties) or a wider array of informal and semi-official guidelines (e.g. resolutions and standards). For relational approaches, governing chiefly entails *practices*, namely, everyday routines around artefacts, procedures, rituals, and discourses. For structural approaches, governing emanates first and foremost from *underlying orders*: macro societal patterns such as anthropocentrism, capitalism, heterosexism, and militarism.

As these distinctions underline, and as seen throughout the book, the four paradigms particularly diverge on the pervasive question of chaos-versus-order in contemporary governing. The actor-focused organizational chapters in Part II tend to perceive more messiness in governing processes and to develop policy responses with strategies such as ‘managing complexity’, ‘forum shopping’, and ‘orchestration’ among institutions. Meanwhile, the legal, relational, and structural chapters in Parts III–V place more emphasis on order, suggesting that polycentric governing can have coherence without formal central authority.

Yet these three other paradigms rest on very different accounts of how order in polycentric governing is built, maintained, and disrupted. Legal perspectives hold that well-constructed law—including new forms of law—can establish order across polycentric complexes. Relational conceptions find

order across diffuse polycentric governing through the subtle integrating effects of shared objects (e.g. flags), procedures (e.g. documentation), rituals (e.g. security checks), and discourses (e.g. shared narratives). Structural analyses look behind immediately visible laws and practices to identify order in terms of more encompassing and not directly tangible societal patterns. However, different structural theories (such as the Marxist, poststructuralist, and feminist accounts in Part V) have divergent notions of the character and dynamics of the macro structures. In a word, the three paradigms disagree about which ordering elements are most significant.

Revisiting this typology at the end of the book, we can ascertain that our fourfold distinction of approaches has indeed helped to spotlight key contrasts, to generate probing exchanges, to identify strengths and limitations, and (as elaborated in the next section) to suggest new avenues of thought. Governing does look very different depending on the kind of channel highlighted. Understandably, scholars who respectively emphasize actors, measures, practices, or macro structures tend to engage more comfortably within than between the corresponding paradigms. At the same time, pursuing this fourfold distinction between different sorts of sites and forces has in this book generated a productive debate about what counts in processes of governing, both today and across history more broadly.

As anticipated in the introduction, subsequent chapters have shown that our classification rests on ideal-type distinctions which do not neatly fit every academic account of governing today. So, for example, Sigrid Quack's concept of transnationalism in [Chapter 6](#) goes beyond a main emphasis on organizational actors to encompass also wider 'institutions' in the sense of social practices and structures. Alexis Galán's discussion of global administrative law in [Chapter 7](#) includes notable attention to transgovernmental networks as an organizational form of governing. Christian Bueger and Tobias Liebertrau in [Chapter 11](#) analyse the practices of an assemblage with substantial reference to a network of actors. Frank Gadinger shows in his Bourdieusian perspective ([Chapter 10](#)) that governing practices involve power dynamics that reproduce macro structural orders such as fields, capital, habitus, and doxa. Similarly, Frida Beckman in [Chapter 14](#) notes various practices while elaborating a macro structural account of neoliberal governmentality. Thus, our categorization of organizational, legal, relational, and structural approaches identifies relative emphases rather than hard boundaries.

Indeed, moments where paradigms are straddled, seen in several chapters, suggest that conversations between—and even combinations of—the four approaches need not be as difficult as a hard division of ideal-types might imply. On certain points, at least, some accounts of polycentric governing

are already well poised to engage across organizational-legal-relational-structural lines. To that extent our book has not initiated inter-paradigm exchanges and mixes from scratch.

However, this volume has substantially enlarged the ambition of the conversation. For one thing, we have made the interchange multidimensional across four ontologies, rather than bilateral between two as in the above examples. Moreover, we have placed inter-paradigm interchange at the heart of knowledge building, rather than treating it as a marginal add-on to theorizing that mainly unfolds within one of the four fields.

That said, looking back over the chapters, we observe that authors have in general taken the latter approach: i.e. chiefly staying on their home turf and hazarding only modest steps towards new knowledge syntheses. To be fair, our contributors were mainly tasked to develop their own theory's perspective on polycentric governing, and in the process to compare their position with that of contrasting approaches. Hence, the contemplation of possible ways to transcend organizational-legal-relational-structural divides is mostly for this concluding chapter, and we turn to that exercise more fully later.

## Issues

Before taking that step, however, it remains to assess the third aspect of this book's framework of analysis: namely, the identification of three core issues of polycentric governing in terms of techniques, power, and legitimacy. To recall, these focal themes for inter-paradigm conversation emerged organically from our author workshops, as three headline questions that all contributors from all perspectives found interesting and important. Indeed, techniques, power, and legitimacy have figured as a sequence of main sections within each chapter of Parts II–V. Now, at the close of the book, we can assess how well this threefold issue framework has served our inter-paradigm exchange.

From the workshops, our authors arrived at general and inclusive common definitions of these three matters. It was agreed to conceive of techniques as the ways that polycentric governing is done. Power would be taken widely to encompass the forces that shape polycentric governing. Legitimacy was defined generically as the belief that a polycentric governing arrangement is right and appropriate. We hoped that these broad formulations of key concepts would offer ample scope for each theory to specify its particular account of the matter, and in language that could speak to the other approaches.



Now looking back over the book, this issue framework has indeed proved highly productive. While certainly not offering comprehensive coverage of the theories, the three themes between them encompass a wide range of key questions about contemporary governing. Probing matters of techniques, power, and legitimacy has revealed, in a fairly succinct manner, a lot regarding the respective accounts of polycentrism.

The threefold issue framework has also served well for cross-paradigm comparison. Each of the multiple theories covered in Parts II–V offers important reflections on techniques, power, and legitimacy, so that all approaches can be included in the discussion of each issue. In some respects, cross-paradigm comparison shows overlap of interests and interpretations, including when different theories use different vocabularies to examine similar matters. In notable other respects, however, the theories diverge considerably in their perspectives on these matters, so that conversations around techniques, power, and legitimacy help to identify distinctive emphases and interpretations associated with the different understandings of polycentric governing.

### Techniques

Starting with techniques, the chapters have revealed a broadly shared interest across paradigms in establishing how polycentric governing happens. We initially believed that questions of techniques would be more pronounced in practice theories. However, it became evident in the course of developing the volume that the other paradigms also work on related issues, albeit often with different assumptions, terminologies, and priorities.

Organizational approaches address techniques primarily in terms of the visions, strategies, and tactics of the actors involved in polycentric governing. The emphasis thereby falls on how individuals and groups formulate and pursue deliberate policy goals. Intentionality, calculation, planning, and execution are key in organizational analyses of how governing occurs. Tactics of cooperation, coordination, contestation, and competition among actors tend also to figure prominently in these accounts. For example, Zelli et al. (Chapter 4, this volume) highlight techniques of navigation, orchestration, and simplification as ways for actors to manage institutional complexity. Thiel's chapter on the Bloomington School discusses how institutions and values shape the strategic choices of actors as they pursue the production and provision of collective goods. As illustrated in Quack's chapter on transnational governance, many organizational perspectives highlight instruments of accountability: i.e. ways to establish which individuals or

groups through their judgements and choices bear responsibility for particular outcomes of governing. Some organizational research furthermore addresses techniques of inclusion: namely, measures to facilitate the involvement of affected actors who tend otherwise to be marginalized in governing processes.

Legal theories approach techniques of polycentric governing chiefly in terms of the law. Key questions for legal analyses include: what laws exist; how are they employed; and to what purpose and in whose benefit do they operate? Galán argues that global administrative law, as a contemporary innovation in legal instruments, mainly serves certain powerful (especially Western) interests. Rajah's critical sociolegal analysis likewise regards law as a governing tool (often having violent expressions) for powerful Western corporate forces in the Global South. In the example of offshore finance, Liste describes law as a tool that chiefly benefits high-net-worth individuals who can afford the necessary expertise to make legal arrangements work to their advantage.

Relational perspectives on polycentric governing treat techniques with a primary emphasis on practices (rather than strategies or laws). These theories examine how governing occurs by means of established ways of doing things. In Bourdieu's approach, discussed in Gadinger's chapter, techniques involve actors playing the game of a particular field (such as academe or commerce), tacitly feeling its implied rules and in the process reproducing hierarchies of social privilege. In Bueger and Liebetrau's exploration of assemblage theory, governing occurs through 'best management practices', as reflected for example in the prescribed process of drafting a document, with related procedures and material objects. In actor-network theory, treated by Esguerra (Chapter 12, this volume), techniques involve governing by expertise and the associated practices of a specialism (e.g. the routine objects, procedures, and language of an accountant or an engineer).

Structural perspectives tend to be less interested than the other paradigms in micro techniques. If structural accounts consider strategies, laws, or practices at all, then it is in terms of their implications for the macro societal architecture: i.e. how they generate, sustain, and transform the broader social order. Structural understandings of polycentric governing also conceive of 'techniques' in a larger sense, such as hegemony, ideology, and norms. In this vein, for example, Marxism could regard the hegemony of the United States in post-1945 world order as a technique to further global capitalism. Post-structuralism could treat the ideology of the free market as a technique to sustain neoliberal governmentality. Feminism could view heteronormativity as a technique to reproduce patriarchy.

## Power

As with techniques, different theories of polycentric governing also treat the issue of power in varying ways. As we expected at the outset, structural approaches tend to give the most prominent and explicit attention to questions around the forces that shape polycentrism. Still, the issue of power also pervades the other paradigms, if generally less starkly and sometimes (particularly in the case of relational theories) more implicitly.

Organizational approaches mostly relate power to the capacity of actors to affect governance outcomes. In this vein, Zelli et al. identify three types of capacities (material, epistemic, and organizational) that actors may apply to shape complex governance systems. From a rationalist organizational position, Thiel's account of the Bloomington School analysis of polycentric governance understands power as an actor's ability to achieve its intended goals. Quack's discussion of transnational governance highlights power struggles among actors over access to governance institutions and influence over their outcomes. In transnational governance, these contestations of power involve both state and nonstate actors, with the latter including activist networks and social movements who contest official regulatory institutions.

Legal analyses assess power mainly with reference to the law: i.e. how the law is a force in shaping the course and outcomes of polycentric governing. Galán notes that studies of global administrative law tend to have a narrow conception of power that is limited to the exercise of formal judicial measures and procedures. This perspective thereby overlooks more subtle social power relations that shape the making and execution of the law. In contrast, sociolegal analysis (Rajah, [Chapter 8](#)) and legal realism (Liste, [Chapter 9](#)) criticize this 'law in the books' position and stress 'power at work within law', particularly as the law reproduces social inequalities.

Relational theories usually have less explicit discussion of power, but that does not mean that the issue is irrelevant in these accounts of polycentric governing. For example, the Bourdieusian approach presented by Gadinger highlights symbolic power struggles and practices of domination, including in relation to fields, capital, habitus, and doxa. For Bueger and Liebetau, assemblage theory is interested in 'how an assemblage generates the capacity to act in particular ways, and hence renders some actors more powerful than others' (p. 243 above). Esguerra's account of actor-network theory shows how power is important for building relations in networks, as he illustrates with the example of coal and transition to other energy sources.

As said before, issues of power figure particularly prominently in structural perspectives on polycentric governing. Thus, for example, Overbeek's Marxist approach affirms that the art of governing is the art of reproducing

class power. For Beckman's governmentality perspective, power concerns a neoliberal society of pervasive control. For Marchand's intersectionality analysis, power lies in (combinations of) structural hierarchies related to class, gender, nationality, and race. Meanwhile, Tamirace Fakhoury and Rosalba Icaza in their postcolonial critique underline that theories of polycentric governing themselves can embed (imperialist) power relationships, particularly by bolstering Western-modern worldviews and silencing other types of knowledge.

### Legitimacy

The various theories addressed in this book also develop diverse interpretations of legitimacy in polycentric governing. All of the approaches have something to say about the issue of rightful rule: i.e. how, when, and why a governing arrangement can be regarded as appropriate. However, the different perspectives give this question different degrees of prominence and also hold different views about the role of legitimacy in governing.

Organizational accounts are primarily interested in the question when, on what grounds, through what processes, and with what consequences actors perceive governing institutions to be legitimate. This paradigm highlights the legitimacy of the organizations that do governing: for example, the International Accounting Standards Board in global finance (Quack, [Chapter 6](#)); a local apparatus for watershed management (Thiel, [Chapter 5](#)); or a complex of agencies that rules environmental affairs (Zelli et al., [Chapter 4](#)). Quack furthermore looks at institutional processes to identify three alternative normative standards for legitimacy in transnational governance: namely, inclusive participation, expert problem-solving, and procedural fairness. Similarly, Thiel argues that effective performance, democratic procedures, and moral standards are necessary to achieve functioning polycentric governance arrangements. Meanwhile, Zelli et al. worry that legitimacy is difficult to achieve in complex polycentrism, given that many if not most affected people lack substantial knowledge about the institutions that are governing them.

Legal approaches to polycentric governing deal with legitimacy differently, by focusing on the qualities of law (rather than the features of institutions) as the major source of legitimacy. For legal scholars, rule is only legitimate if it rests on laws that are formulated and implemented according to recognized constitutional arrangements. In addition, many legal theorists require that, to be legitimate, the law must conform to certain normative principles of justice (however those standards might be precisely interpreted). Along these lines, Galán notes that the project of global administrative law seeks to overcome legitimacy problems with informal aspects of polycentric governing by reconstructing them as a new form of official law. Meanwhile, the critical legal

analyses of Rajah and Liste note that laws which are constitutionally legitimate can result in conduct and outcomes that are normatively illegitimate. Thus laws around the Mubende land grab may have emanated from legal authorities, but the violence to local people that has resulted from the application of these laws is illegitimate on philosophical grounds. Similarly, in Liste's legal realist perspective, law can generate an aura of legitimacy around morally dubious practices of tax avoidance.

In contrast to organizational and legal approaches, relational accounts of polycentric governing are not particularly interested in establishing whether or not a given regulatory arrangement is legitimate, and on what grounds. That said, these studies often consider how practices can have legitimating and/or delegitimizing effects on a process of governing. For example, in Gadinger's discussion of Bourdieu, agents constantly compete for recognition and claims of authority as they seek to position themselves as accepted players in a given field. In Bueger and Liebetrau's account of the counterpiracy assemblage, 'best management practices' have the effect of legitimating a technocratic solution to the problem. In Esguerra's presentation of actor-network theory, legitimation processes are manifested in contests over knowledge and evidence, and governing power flows to those (like Colin Powell in the United Nations Security Council) who prevail in such struggles to claim the truth.

In structural theories, meanwhile, conditions of legitimacy and processes of legitimation are assessed with regard to the larger governing patterns of society. Thus, the question for these accounts is not whether particular organizations or legal frameworks have a right to rule, but whether underlying orders such as capitalism, neoliberal governmentality, and patriarchy empirically do have and/or normatively should have the right to govern society. For instance, Overbeek highlights hegemony as a legitimation process within capitalism, whereby the ruling class establishes its dominance in part by successfully presenting its own narrow interest as the general public interest. Beckman argues that today's subordination of subjects to the market leaves neoliberal governmentality with precarious legitimacy. Marchand's account of feminist resistance emphasizes that legitimacy does not always remain with dominant structures, which can be successfully delegitimated through grassroots activism.

### **Wrap-Up**

Having drawn together the many theoretical positions presented in this book on techniques, power, and legitimacy in polycentric governing, we can make several broader observations. One is that, as we anticipated in our introductory chapter, questions of techniques, power, and legitimacy are

often interrelated. Thus, for example, Rajah's chapter demonstrates that law as a technique of polycentric governing both reflects and reinforces power relationships. Gadinger's chapter underlines the interdependency of power, legitimacy, and techniques in Bourdieu's vocabulary, particularly how these three matters combine when agents seek to advance their position in a field. Quack's chapter highlights the interconnection of legitimacy beliefs and legitimation techniques. Marchand's chapter indicates how legitimacy (and its contestation) interrelates with the power of patriarchy (and movements to counter it).

Interestingly, different theories sometimes engage relatively more or relatively less with the three issues. Techniques—micro 'how' questions of governing—arise most prominently in legal and relational approaches, with their respective main attention to measures and practices as ways of regulating society. In contrast, structural perspectives tend to place less emphasis on the nitty-gritty techniques of governing. Power—the forces that shape governing processes—generally attracts greater explicit attention in organizational perspectives (in terms of which actors affect polycentric governing) and structural approaches (in terms of which underlying societal patterns drive polycentric governing). In contrast, questions of power tend to remain more implicit in legal and (especially) relational accounts of polycentrism. Empirical legitimacy—how people perceive rightful rule—figures especially in organizational studies of polycentric governing, while normative legitimacy—philosophical principles for assessing rightful rule—tends to feature particularly in legal analyses. Legitimation practices—i.e. the activities through which legitimacy beliefs are generated and sustained—are a headline concern for relational analyses. Such differences in relative focus have led the chapters in this volume sometimes to address the three issues in different sequences rather than always in the order techniques-power-legitimacy.

Finally, addressing these three common themes across the chapters has also proved helpful for the book's substance and coherence. This shared framework of discussion has pushed the authors to specify and reflect on their own vocabularies, while also becoming more aware of the alternative theoretical orientations held by other approaches. Exploring the same core issues has furthermore promoted conversation among perspectives, as witnessed with the many cross-references between chapters. For the reader, meanwhile, the cross-paradigm discussion of techniques, power, and legitimacy has, we hope, facilitated comparisons between approaches and the identification of their respective distinct insights and oversights. This awareness of strengths and limitations of different perspectives on polycentric governing

can also suggest potentially fruitful inter-paradigm combinations to develop new theory, a question to which we now turn.

## **Beyond Comparison to Combination**

The previous section has amply demonstrated that, with several qualifications, our framework of analysis well serves the purpose of facilitating communications among, and drawing comparisons between, a broad range of theories concerning governing today. Polycentrism as an umbrella concept, the organizational-legal-relational-structural typology, and the techniques-power-legitimacy issue triangle have in this sense broadly done the wanted job. However, this book at the outset also asked whether our inter-paradigm conversation could go beyond communication and comparison to generate novel, more integrative knowledge about polycentric governing. Has the project also advanced towards this more ambitious end?

The proposition to obtain new and fuller insight through inter-paradigm crosspollination is appealing. As the respective chapters in this book have shown, each of the multiple existing approaches to polycentrism provides substantial contributions towards defining, describing, explaining, and normatively assessing how governing works today. At the same time, each perspective also has notable shortcomings, and competing theories often do better at addressing these gaps. However, those alternative understandings in turn have their own limitations. The question therefore arises whether one might construct new theory of polycentric governing that combines the strengths of diverse approaches and in the process perhaps reduces their respective drawbacks.

As noted earlier, chapters in Parts II–V concerning the various approaches to polycentric governing have mainly engaged with each other through cross-references and comparative observations. The additional question of combination has thereby been mostly deferred to this concluding chapter. In making the following suggestions towards new theoretical syntheses, we reiterate the disclaimer from our introductory chapter that we do not aspire to achieve some sort of definitive unifying knowledge. We only note some possibilities of creative amalgamation. No doubt other commentators—including you, readers of this book—can develop further inspirations for theoretical reconstruction.

Indeed, the suggestions that follow mainly offer a preliminary sketch of ways forward. Fuller elaboration of combinations across organizational, legal, relational, and structural analyses requires more attention than this

concluding chapter can provide. The discussion therefore mostly outlines metatheoretical parameters of new synthetic knowledge and leaves further theoretical specification to future work.

The rest of this section explores potential lines of new theorizing about polycentric governing through the themes, taken in turn, of techniques, power, and legitimacy. We especially consider how combinations of insights from organizational, legal, relational, and structural understandings might offer a basis for integrative cross-paradigm thinking. How might complementarities and productive tensions among our four identified ontologies provide the basis for alternative ‘fifth paradigms’?

## Techniques

We consider these possibilities of recombination first in relation to techniques, the ‘how’ of polycentric governing. To recall in summary, organizational theories interpret ‘how’ with primary reference to actors setting and pursuing goals. Legal approaches see ways of governing in terms of the formulation and implementation of laws (broadly conceived). Relational accounts hone in on governing through routine ways of behaving, speaking, and employing objects. Structural perspectives tend to underplay micro issues of strategies, laws, and practices and instead address techniques in a macro sense of institutions and ideologies that sustain (or change) the underlying societal order.

Placing these four general conceptions of governing techniques side by side in this fashion, each of them clearly offers vital insight. It is interesting and important to understand what aims and tactics people bring to their involvement in policy processes. It is interesting and important to see how laws set parameters for polycentric governing. It is interesting and important to realize how the subtleties of everyday practices can play a profound role in governing our lives. It is interesting and important to comprehend the governing effects of overarching ordering patterns in society.

Moreover, these respective insights on techniques of governing are highly complementary. Thus, for example, actor strategies do not exist separately from, and inherently contradict, legal processes, everyday practices, and macro institutions and ideologies. On the contrary, we obtain a fuller understanding of actors’ formulation and pursuit of goals in governing if we relate those processes to the other three kinds of techniques. Likewise, the generation and execution of laws comes into greater light when we see actor



tactics, routine practices, and macro structural tools operating within legal processes. The sources and implications of governing practices become more evident when those habits are related to actor intentions, legal frameworks, and macro structures. The techniques of underlying orders become more concrete, vivid, and politically relevant when we see them play out through actor manoeuvres, legal constructions, and everyday practices.

In the light of these highly evident complementarities, it is somewhat puzzling and indeed disappointing that existing perspectives on polycentric governing usually emphasize one or the other aspect of techniques, rather than their combination and interconnections. Hence, we have incredibly rich research that focuses on strategies, on regulatory measures, on practices, or on macro techniques. Yet each body of work develops largely in isolation from the other three. Debates thereby become ever more inward-looking within the respective four paradigms, and their respective languages become ever more arcane, building up ever greater barriers to combined knowledge.

To be sure, as seen in the chapters of this book, a number of scholars already reach out from their paradigm to one or several of the others. In this additive vein, for example, an organizational theorist stays focused on actor strategies, but brings in some legal, relational, and/or structural context to elucidate those strategies. Similarly, some legal scholars refer to organizational, relational, and/or structural circumstances as the surrounding environment of the law. Likewise, some relational and structural accounts of techniques incorporate considerations from other paradigms. Still, these exercises tag on considerations from other approaches while remaining primarily grounded in one of the four camps.

A more far-reaching theoretical reorientation would give primary attention to the interrelations of different aspects of techniques, without privileging strategies, laws, micro practices, or macro norms. All four types of techniques are concurrently in play: no governing occurs without actor deliberations, regulatory measures, everyday routines, and larger societal patterns. Scholarship arguably does better to examine the four as simultaneous and equally relevant dimensions of governing techniques, avoiding to impose a rank-order in which one type of technique subordinates the other three. Such an integrative 'fifth paradigm' would examine techniques of governing as an interplay of these four qualities, focusing on how they flow together.

We stop at this general urging to shift from fragmented to integrated analysis of techniques in polycentric governing. Many possible combinations of actor strategies, regulatory mechanisms, routine practices, and structural instruments can be imagined. The precise elements in the synthesis can vary enormously, depending on the situation that is being studied and

the theoretical proclivities of the researcher(s) who are doing the investigation. We therefore do not prescribe in advance which specific tactics, measures, practices, and systemic techniques to bring into the synthesis. The core metatheoretical point is to consider these four dimensions of governing techniques in combination.

To study polycentric governing in this alternative mode, then, one would take a particular scenario, be it a financial crisis, the use of digital data, maritime pollution, or a conflict settlement. Whatever the situation in question, one would: (a) map the actors, intentions, and strategies involved; (b) chart the available and missing laws, as well as how they are and are not employed; (c) spot the routine procedures, behaviours, objects, and discourses in play; (d) identify the prevailing structural norms, hegemonies, and ideologies; and (e) trace how these strategies, regulations, practices, and macro instruments combine in the governing process that is being investigated. In a stable context, the various techniques likely parallel and mutually reinforce one another, sustaining the governing arrangement in question. In a fluid situation, the different techniques likely push in different directions, for example, when actors seek to subvert existing laws or when newly emergent practices run counter to prevailing macro norms.

## Power

We turn now to possibilities of cross-paradigm combination in relation to questions of power in polycentric governing. To recall, this book has adopted a broad and open conception of power as ‘the forces that shape polycentric governing.’ This expansive definition has allowed each chapter to elaborate its own particular account of the features and dynamics of these ‘forces.’ The issue now is whether these diverse treatments can provide ingredients for a blended, more encompassing conception of power.

As seen in the preceding section, our four highlighted paradigms interpret questions of power very differently. Organizational approaches locate the forces that shape polycentric governing mainly in actors and their mutual interactions. From this perspective, power involves the capacity of individual and collective agents to influence policy processes. Legal theories relate power chiefly to the force of law: i.e. to matters of when and how regulatory measures affect the operations and outcomes of governing. From this perspective, power lies primarily in juridical devices and mechanisms, rather than with the actors who formulate and implement the law. Relational understandings identify power primarily with the capacity of routine practices to

mould behaviours and other circumstances in a given scenario of governing. From this perspective, power emanates from the objects, procedures, rituals, and discourses to and through which actors relate, rather than from the actors themselves. Structural understandings place power principally in the macro patterns of society. From this perspective, for example, the structural power of capitalism constrains people to engage in waged labour, and the structural power of patriarchy generally yields a predominance of men in official leadership positions. In short, the key inter-paradigm distinction concerns the *site* of power, whether it be with actors, measures, practices, or underlying societal patterns.

At the heart of these differences in conceptions of power are different accounts of the relationship between agency and structure in polycentric governing. The agent–structure question in social theory asks how power is distributed between (individual and collective) actors on the one hand and ordering frameworks of social relations on the other. Organizational understandings of polycentric governing locate power more on the actor side of the agent–structure spectrum, while the other three paradigms place power more on the frameworks side. The three structural (here in a broader sense of the word ‘structure’) approaches in turn hold different conceptions of the character of the ordering forces of governing: namely, whether they consist of regulatory measures (for legalists), largely informal practices (for relationists), or more intangible underlying orders (for macro structuralists).

Many social theorists have objected to the separation of agency and structure in accounts of power, instead positing their interrelation and co-constitution (Wendt 1999). In line with what Anthony Giddens calls ‘structuration’ (1984), actors and ordering principles are mutually determining in social relations (including processes of governing). On this understanding, power in polycentrism lies not *either* with agents *or* with structures, but with their interconnection (Barnett and Duvall 2005; Lukes 2021). Thus the forces driving polycentric governing emanate not from actors as such (following organizational approaches) or from structures as such (following legal, relational, and macro structural approaches), but from the dynamics of actor–structure interplay. Individuals and groups through their perceptions, decisions, and strategies make laws, practices, and underlying societal patterns; and, simultaneously, the various structures make those actor views, choices, and calculations. From a structuration perspective, then, power lies at the *intersection* of actor and structure.

One might further posit that the three different types or layers of structure in our typology (namely, laws, practices, and macro patterns) co-generate not only agency, but also each other. Hence, regulatory measures of governing

(such as bills, customs, benchmarks, resolutions, etc.) help to create, sustain, and change practices of governing (such as artefacts, procedures, performances, narratives), *and* vice versa. Simultaneously, practices both reflect and produce underlying orders of governing (such as industrialism, racism, anthropocentrism). On the third leg of this triangle of mutual constitution, primary societal patterns shape the character of the law, while legal processes are vital to the creation, evolution, and transformation of underlying orders. On this reading, power in polycentric governing involves a three-dimensional co-constitution of different kinds of ordering principles within the actor–structure interrelation.

Thus, as with techniques, an important way forward for understandings of power in polycentric governing can be to transcend divides of organizational, legal, relational, and structural approaches. At present, proponents of each paradigm tend to work mainly within one of the four spheres. Even when such researchers make forays into one of the other three conceptions of power, it is usually done as an add-on supplement to a main focus on the organizational *or* the legal *or* the relational *or* the macro structural understanding. So far, we generally miss analysis of power in polycentric governing that more fully *combines* insights from the four paradigms. Such an approach does not privilege any one of these four aspects of power, but instead focuses on power dynamics that interconnect actors, measures, practices, and deeper social patterns.

Also as with techniques earlier, we leave our present discussion at a broad plea for more integrated treatment of different dimensions of power in polycentric governing. We do not make more detailed suggestions on how to specify the interrelation of forces. Structuration is not a ‘theory’ so much as a metatheoretical proposition. It is up to each researcher to decide which actors, laws, routines, and underlying structures carry power in the particular situation being studied and how they combine in that setting. The key point is to transcend the paradigmatic divisions that prevail in current theorization of power in polycentric governing.

## Legitimacy

Additional opportunities for novel cross-paradigm combination arise in respect of this book’s third core issue of legitimacy. To reiterate, we have taken legitimacy to entail perceptions and beliefs that a given governing arrangement has a right to rule. As seen across the chapters, different theories of polycentric governing have developed this broad conception in quite

diverse ways. Can these multiple insights be integrated into alternative and perhaps fuller understandings of legitimacy in contemporary polycentric governing?

To summarize the different perspectives in a nutshell, organizational accounts develop an institutional understanding of legitimacy, attributing the right to rule to qualities of the agencies that govern. In contrast, legal theories assess legitimacy in relation to the existence and normative character of relevant laws: i.e. whether those measures are constitutionally grounded and whether the prevailing laws meet certain normative standards. Meanwhile, relational studies examine whether and how practices (administrative, behavioural, discursive, and material) have legitimating and delegitimizing effects on governing arrangements. For their part, structural analyses relate questions of the right to rule to underlying patterns of social relations: i.e. whether people believe (or ought—not—to believe) that society is rightly governed by prevailing macro ordering principles, such as capitalism, modernity, patriarchy, etc.

Each of the four paradigms highlights important aspects of legitimacy and—as with techniques and power—these insights are generally complementary rather than contradictory. Thus, the question is not whether legitimacy lies with organizations *or* laws *or* practices *or* macro structures. Rather, the four can be seen as interrelated aspects of the right to rule which can be examined in combination so as to acquire a fuller appreciation of the issue. Legitimacy in the governing of contemporary challenges (such as biodiversity, digitization, migration, pandemics, etc.) then involves organizational workings, *and* the nature and impacts of relevant laws, *and* everyday routines in the respective policy spheres, *and* related underlying societal structures. Taking each of these four dimensions on its own provides important insight into legitimacy, but also only a partial and more limited understanding.

Thus, it is not enough to assess the right to rule in terms of the law alone: without also considering the legitimating practices that help make the law as it is; without also examining how the law is operationalized through governing organizations; and without also relating the law to underlying norms and associated questions of social justice. Equally, it is overly restrictive to consider the legitimacy of macro societal patterns on its own, without relating it to legitimacy dynamics around the organizations, laws, and practices that reflect, reproduce, and potentially transform those deeper structures. Likewise, practices of legitimation and delegitimation need for fuller insight to be related to the organizations, laws, and macro structures that are being (de)legitimated. Organizational dynamics of legitimacy in turn need to be understood with reference to legal frameworks and wider societal norms,

as well as the informal practices that operate alongside formal institutional operations.

Actually, since legitimacy is a perception and belief, an encompassing theory of this issue in addition needs to consider a fifth dimension of psychological processes. Legitimacy resides in consciousness, so an adequate understanding of this issue must incorporate workings of the mind (Dellmuth et al. 2022). For example, legitimacy may relate to self-identification: i.e. whether or not people perceive a governing arrangement to reflect who they are and where they feel they belong. In addition, studies have shown that legitimacy can associate with utilitarian calculations: i.e. whether people perceive that a framework of governing serves their personal and/or collective interests. Other research in political psychology has found that legitimacy beliefs connect with the perception of trust: be it trust in particular rulers, trust in the political system, or social trust in general. Legitimacy also relates to levels of knowledge, in that people require awareness of governing processes in order to form opinions about them. With respect to legitimacy, then, a viable inter-paradigm synthesis needs to extend beyond our fourfold typology to encompass psychological analysis as well.

Yet, whether it be four or five dimensions, the core suggestion made here is to direct research on legitimacy in polycentric governing at the interrelation of aspects. Such a synthesis involves more than merely adding extra flavouring from other paradigms to an established recipe: e.g. referring to the underlying structural context in an organizationally focused account of legitimacy; or noting practices when elaborating a legally focused account of legitimacy. A full-scale integrative approach to legitimacy (and crises of legitimacy) in polycentric governing would study the interrelation of aspects without privilege to any dimension. The question is then how the organizational, the legal, the relational, the structural, and in this case also the psychological combine in multifaceted dynamics of legitimacy.

As in the discussions of techniques and power above, we stop at this broad metatheoretical call for more integrated knowledge of legitimacy in polycentric governing. Theoretically, different scholars can elaborate different accounts of which specific psychological, organizational, legal, relational, and structural aspects combine in legitimacy beliefs, and how. Empirically, too, the mix of particular psychological, organizational, legal, relational, and structural features will vary depending on the concrete situation at hand. The key prior overarching point is to consider the five dimensions of legitimacy in combination.

Finally regarding legitimacy, future integrative knowledge of polycentric governing would do well to examine both empirical and normative aspects

of the right to rule. Much current scholarship tends either to investigate actual legitimacy beliefs in the minds of governed subjects or to assess whether prevailing governing arrangements meet certain philosophical criteria of social justice. In particular, many organizational and relational analyses undertake extensive efforts to establish levels, sources, processes, and consequences of actually existing legitimacy perceptions, without considering whether, normatively, the governing arrangements are worthy of approval. Conversely, many legal and structural analyses evaluate the normative legitimacy of given governing arrangements without assessing whether, sociologically, affected people actually perceive them to be legitimate. This separation of 'is' (empirical) and 'ought' (normative) is unnecessary and unfortunate. The empirical research can thereby tend to lose moral compass, neglecting systematically to explore philosophical questions about ecological, economic, epistemic, and political justice. Meanwhile, normative scholarship on legitimacy can become detached from actual world conditions and thereby lose political relevance. A more holistic understanding of legitimacy in polycentric governing would integrate empirical and normative aspects of the issue.

In sum, on the theme of moving beyond comparison to combination, this book's inter-paradigm conversation on contemporary polycentric governing can provide inspiration for novel, more integrative knowledge. To underline again, the above ideas are offered as possible avenues for theoretical recombination: these suggestions are by no means the one and only possible way forward. Moreover, these propositions for a transcendent 'fifth-paradigm' synthesis remain deliberately sketchy. Fuller development of this agenda for integrative thinking is a task for future projects and books.

## **Methodological Inspiration**

We reserve our last comments for some final reflections on this book's methodology of interdisciplinary and inter-paradigmatic dialogue of difference. This approach to building knowledge of governing today has been quite maverick: we know of no other similar large-scale endeavour. The initiative has also carried considerable risks: could such intellectually diverse participants pursue productive exchanges? Certainly it has taken longer than anticipated to work through the conversation to the current point of publication, but we have reached a finish line.

What, apart from patient persistence, has enabled this interdisciplinary inter-paradigm conversation to yield the fruitful communications, comparisons, and combinations that this concluding chapter has described? Reviewing the process that has generated this book, we can identify several key

orientations that have been particularly conducive to a productive dialogue of difference. These precepts bear consideration for other future interdisciplinary inter-paradigm exchanges, whether those projects address governing or other subjects.

Broadly speaking, these favourable attitudes resonate with what one of us has elsewhere characterized as ‘transculturalism’ (Scholte 2015). In this case, the ‘cultures’ in question are academic dispositions rather than nationalities, religions, or other types of life-worlds. Yet we can attribute much of this project’s constructive dialogue of difference to the seven principles of positive engagement identified in that earlier work.

As a first key disposition for productive inter-paradigm exchange, participants in this project have adopted acute reflexivity. They have approached the dialogue with high self-awareness of their disciplinary and theoretical positions, including the particularity and even intellectual provinciality of their own outlook on polycentric governing. The contributors have thereby been conscious that their perspective is only one among many possible understandings of the subject. This reflexivity has made our authors more open to other views and has heightened their awareness that colleagues in other disciplines may not readily understand their language. That said, in retrospect the project could perhaps have nurtured more sensitivity to the wider sociohistorical context of contemporary theories of polycentric governing, as Schneider, Fakhoury, and Icaza urge in their chapters. Otherwise, knowledge about polycentric governing readily becomes ahistorical and Eurocentric.

Second, experience of this project suggests that searching and creative inter-paradigm interchange is furthered with acknowledgement and honest discussion of the power dimensions of academic knowledge, including in particular how mainstream orthodox theory can impose its domination over other views. In this vein, our contributors have laudably refrained from exerting arbitrary knowledge-power. Instead, every author has given every other account of polycentric governing due space to speak. Still, postcolonial critiques can identify an overarching hegemony of western-modern thinking in current knowledge about polycentric governing. Hence, for example, the conversation in this volume has not included indigenous and religious epistemologies.

Third, the dialogue of difference in this book has benefited from an appreciation of nuance and complexity, generally avoiding rigid and oversimplified categories. Our typology has distinguished broad tendencies of organizational, legal, relational, and structural perspectives, but we have also highlighted diversity within and overlaps between these approaches. This recognition of fluid boundaries between disciplines and paradigms has



discouraged our authors from drawing lines and exaggerating oppositions in ways that would hinder dialogue with an intellectual ‘other’.

Fourth, productive communication, comparison, and combination of insights about polycentric governing is facilitated with a celebration of diversity. Contributors to this project have generally embraced and welcomed the situation of multiple perspectives on polycentric governing. Rather than denying other viewpoints and defensively retreating into disciplinary and theoretical corners, our authors have been receptive to and curious about understandings besides their own. Diversity of perspectives has been appreciated not as a hindrance to knowledge building, but as a resource for creative scholarship. That said, openness to the paradigmatic ‘other’ always wants reinforcement, as disciplines and theoretical ‘schools’ exert strong pulls towards enclosure, *inter alia* with their separate networks, journals, conferences, funding schemes, and so on. In comparison, transdisciplinary knowledge generally has far less infrastructure.

Fifth, we have seen that inter-paradigm exchange benefits from an attitude of humility in the face of seemingly insurmountable paradigmatic differences. After all, scholars can hold deep-seated aversion to theoretical positions that fundamentally diverge from—and may even be felt to offend—their own commitments. For example, relational perspectives on governing have developed historically as a deliberate move away from actor-centric organizational approaches on the one hand and macro structural accounts on the other. Many legal theorists staunchly resist any suggestion that the law does not reign supreme in governing. Understandably, some scholars could balk when the project of this book urges conversation and crosspollination between seemingly diametrically opposed positions. Yet on the whole our authors have had the intellectual generosity and courage not to foreclose transactions.

Sixth, the interdisciplinary inter-paradigm dialogue in this project has confirmed the importance of ‘deep listening’ in order to achieve effective transdisciplinary communication. In encounters between profoundly different viewpoints, the parties have needed to give exceptional concentration to enter another academic life-world. Not surprisingly, our authors—and we as editors—have often struggled with this challenge of moving fully into the ‘foreign language’ of another paradigm. The effort delivers rich insight, as earlier sections of this conclusion testify, but it requires demanding levels of patience and perseverance.

Seventh and finally, we have discovered that the reward for persistent pursuit of these demanding principles of ‘transculturalism’ is learning for change. Reflexivity, sensitivity to knowledge-power relations, attention to

nuance, eager embrace of diversity, readiness to engage even with unpalatable positions, and deep listening to the other all require hard work. Yet we editors, chapter authors, and hopefully also you, our readers, emerge from the exertion with a changed—broader as well as deeper—knowledge of governing today. May these conversations continue.

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