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0521818613 - The Emergence of Private Authority in Global Governance

Edited by Rodney Bruce Hall and Thomas J. Biersteker

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Part I

Introduction: theorizing private authority

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1 The emergence of private authority in the international system

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Traditional notions about authority in the international system derive from Weberian conceptions of the state and of the domain of international politics. There is a presumption within much of international relations theory, consistent with Weber, that the domain of the domestic is fundamentally different from the domain of the international. For Weber, the essence of the state is its ability to claim “the monopoly of the legitimate use of physical force within a given territory.”¹ Because of their claims to legitimate authority, most states “can rely on the habitual obedience of their citizens by establishing legal codes in which the threat of physical coercion is only implicit.”²

According to most traditional accounts, however, this ability to rely upon legitimate authority for habitual obedience is largely absent in the international system. International politics take place in a realm where anarchy allegedly reigns. States act in their own interest and sometimes employ force to achieve their objectives. The absence of a global state has led many observers to deny the very existence of authority, defined as legitimized power, operating within the international arena.³ States are both the source, and the exclusive location, of legitimate, public authority. This applies to the operations of states both in the realm of domestic affairs, and in the international arena. Until recently, therefore, most explanations of international behavior have concentrated on the coercion employed by states or on the self-interested motivations of individual states, to the virtual exclusion of the recognition by states of the legitimacy and authority of rules and norms operating within the international system.⁴ Not only have states been asserted to be the principal actors in the international arena, but they are also considered to be the only legitimate actors in international relations. The authority they exercise over their subjects in the domestic realm conveys to them a legitimacy and agency to interact with other states in the international society of states.

However, during the latter decades of the twentieth century, it became increasingly obvious that there were a growing number of theoretical and empirical challenges to these traditional conceptions about authority and

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the international system. The concept of anarchy in the international system has been challenged and reconsidered from a variety of different perspectives.⁵ Rather than a simple Hobbesian state of nature, there is a growing recognition of degrees of order and institutionalized, patterned interaction within the international system. Forms of governance without the presence of formal state or interstate institutions have been identified in the international arena.⁶ International regimes, conventions, norms, and ideational convergence facilitate aspects of global governance. The boundaries between the domestic and the international have also begun to blur, as issues that were once solely under the purview of domestic law and politics, such as environmental standards and labor regulations, are both influenced by, and increasingly affect, international law and politics.⁷

At the same time, a growing number of actors – actors other than the state – appear to have taken on authoritative roles and functions in the international system. Many of these new actors have often been closely associated with the practices associated with the phenomenon of globalization. They include, but are not restricted to, the apparent authority exercised by global market forces, by private market institutions engaged in the setting of international standards, by human rights and environmental non-governmental organizations, by transnational religious movements, and even by mafias and mercenary armies in some instances.

While these new actors are not states, are not state-based, and do not rely exclusively on the actions or explicit support of states in the international arena, they often convey and/or appear to have been accorded some form of legitimate authority. That is, they perform the role of authorship over some important issue or domain. They claim to be, perform as, and are recognized as legitimate by some larger public (that often includes states themselves) as authors of policies, of practices, of rules, and of norms. They set agendas, they establish boundaries or limits for action, they certify, they offer salvation, they guarantee contracts, and they provide order and security. In short, they do many of the things traditionally, and exclusively, associated with the state. They act simultaneously both in the domestic and in the international arenas. What is most significant, however, is that they appear to have been accorded a form of legitimate authority.

While power and authority are closely related, authority is used here to refer to institutionalized forms or expressions of power. What differentiates authority from power is the legitimacy of claims of authority. That is, there are both rights claimed by some superior authority and obligations recognized as legitimate on the part of subordinates or subjects to that authority. Having legitimacy implies that there is some form

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of normative, uncoerced consent or recognition of authority on the part of the regulated or governed, “the normative belief by an actor that a rule of institution ought to be obeyed.”⁸ This consent is the product of persuasion, trust, or apathy, rather than coercion. People, institutions, and states recognize the authority of tradition, the authority of expertise, the authority of moral claims, and sometimes even the authority of a “natural” inequality. These forms of authority “import some general claim on human trust into a social relationship in order to introduce an additional pressure for conformity beyond that which the relationship itself can exert . . . if obedience is the counterpart of power, trust is the counterpart of authority.”⁹

There is an implicit social relationship between those who claim or exercise authority and those who are subject to, or recognize, authority. The relationship is a public one, to the extent that claims and recognition of claims of authority involve an open, visible process among different agents. As R. B. Friedman observes, “there must be some public way of identifying the persons whose utterances are to be taken as ‘authoritative.’”¹⁰ Being public does not, however, imply that a state or public institution must be involved, or be wielding authority, even though they might participate in recognizing it in certain situations. It does, however, imply that the social recognition of authority should be publicly expressed. This opens the possibility for the emergence of private, non-state based, or non-state legitimated authority and the idea that “authority does not necessarily have to be associated with government institutions.”¹¹

While we proceed from the notion that the sphere of the “private” can be defined in terms of what is *not* in the realm of the “public,” this reciprocal, mutually defining relationship between public and private is only a starting point for us. We do not intend to reify this distinction. Rather, we will attempt to transcend the liberal tendency to associate the private sphere “with the individual and freedom of markets and economic exchange, while the public sphere is associated with state authority and legitimate compulsion.”¹² We recognize how problematic this dualistic identification (of the private sector with the market and the public sector with legitimate authority) can be in actual practice. Our conception of “private authority” is intended to allow for the possibility that private sector markets, market actors, non-governmental organizations, transnational actors, and other institutions can exercise forms of legitimate authority. We find it telling that at the beginning of the twenty-first century there are so many examples of sites or locations of authority that are neither states, state-based, nor state-created. The state is no longer the sole, or in some instances even the principal, source of authority, in either the domestic arena or in the international system.

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There is a recognizable issue domain over which the relationship of authority is typically recognized, although the boundaries of this domain are often imprecise and subject to forms of contestation. Nevertheless, authority entails both a social relationship between author and subject, and a definable domain of action. The consent to authority is socially constructed through a variety of different political and rhetorical practices – ranging from behavioral consent to routines, norms, and public declarations of recognition.

With the advent of globalization, a great deal of attention has been focused on the authoritative role of the market and on market-based actors or institutions. Susan Strange has written that, while realists traditionally have overemphasized political structure, changes in information, communications, and financial technologies have “altered the basic relationship in any political economy – that between authority and market.”¹³ Strange contends that non-state actors, such as enterprises, transnational social institutions, international organizations, and non-governmental organizations, are increasingly acquiring power in the international political economy, and, to the extent that their power is not challenged, they are implicitly legitimated as authoritative. Ian Hurd has made a similar argument, maintaining “[t]o the extent that a state accepts some international rule or body as legitimate, that rule or body becomes an ‘authority.’”¹⁴

Authority can be exercised not only by intergovernmental institutions like the International Monetary Fund, but also “by creditor banks in negotiating debt rescheduling, or by firms choosing new locations for production and employment.”¹⁵ The mobility of capital and the competition among states as potential recipients of global capital have created a situation in which markets increasingly have the “authority to reward or punish according to their judgment of how any government manages its money supply, its fiscal deficit, its foreign debts, or, through deregulation of cozy banking cartels, improves the efficiency of its banks and its local credit markets.”¹⁶ States are often complicit in the creation of the market as authoritative. When state leaders proclaim that the “forces of the global market” give them little room for maneuver or independent policy choice, they are participating in the construction of the market as authoritative. They are not only ceding claims of authority to the market; they are creating the authority of the market.

While some suggested that the market itself is becoming authoritative, others have concentrated on the authority of private, market actors like firms, regimes, and institutions. Claire Cutler, Virginia Haufler, and Tony Porter have investigated the nature and functioning of private authority in the development of transnational private regimes.¹⁷ They define a transnational private regime as “an integrated complex of formal and informal institutions that is a source of governance for an economic issue

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area as a whole.”¹⁸ Their work explores other forms of organized interfirm cooperation that are also accorded the trappings of authority.

The essays included in this book review the debates about the nature of private authority in the international political economy. Claire Cutler summarizes and extends the research she and her colleagues have conducted over the past few years in the chapter that immediately follows this one. Stephen Kobrin, Louis Pauly, and Saskia Sassen define the parameters of the debate about the nature of the market as authority in the succeeding three chapters. However, this book takes the discussion of the concept of private authority one step further, beyond the international political economy, by exploring the authoritative dimensions of other private, non-state, and non-market based actors in the contemporary international system. Essays by Mark Juergensmeyer and by Ronnie Lipschutz and Cathleen Fogel consider the moral authority of transnational religious movements and non-governmental organizations. Chapters by Phil Williams and by Bernedette Muthien and Ian Taylor describe the actions of influential private actors such as mafias and mercenary armies, which are surely more problematic locations of authority, but which are actors behaving in an apparently authoritative manner in some contexts. In the pages that follow, we consider the emergence of private authority in the international system in general terms, in markets, as market actors, in transnational movements, and among mafias and mercenaries. This is the first comparative exploration of the notion of private authority in issue areas beyond the realm of international political economy. In addition to forms of “market” authority, the volume considers the “moral” authority exercised by non-governmental organizations or transnational religious movements, and the “illicit” authority of mafias and mercenaries.

We are interested in the extent and the nature of the emergence of private locations of authority in the international system, and their implications for the future of international order and global governance. Many of these issues are related to the identification of the boundaries of state and (interstate) public authority in a contemporary international system characterized by the globalization of neoliberal ideas and practices. Where (and how) are the boundaries of public authority being challenged, and by whom? To what extent are these challenges profound or insignificant? One salient analytical cut into the emerging issue of private authority in the international political economy is the debate about whether the state is complicit in the transfer of its once sovereign prerogatives (such as the setting of exchange rates, the maintenance of a stable currency, or trade management).

Where evidence exists that functions that were once the exclusive, sovereign prerogatives of the state have devolved to the responsibility of

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private actors, the question of state complicity arises. In such cases, is the state complicit in the devolution of its authority to private actors? Has the state delegated authority, enabled authority, or simply allowed authority to slip away, and for what purposes? Or is the state merely impotent to do much about this devolution of authority? Has the state no mechanism with which to combat the collusion and coordination of firms with interests in minimizing state authority through the development of “private regimes”?¹⁹ If the state is complicit in the transfer of authority to private actors, is it because state managers wish to escape domestic accountability for painful adjustments, which the requirements of macroeconomic policy coordination suggest are indicated and necessary?²⁰ Is neoliberal globalization reorganizing rather than bypassing states, sometimes with the participation of states in this process?²¹ Or is convergence among state policies inadequate to support a claim of “disciplinary neoliberalism” in the international system?²² Or, to take the question a step further, has the state been captured, perhaps through the “indifference” of domestic politics,²³ by powerful actors within domestic society, whose interests the captured state promulgates as economic, monetary, and trade policy?²⁴

These questions have important implications for some of the central debates within contemporary international relations. Disagreement about the dynamic nature of sovereignty – about the evolution (or non-evolution) of sovereignty – illustrates well some of the central disagreements between structuralist and constructivist theorists.²⁵ Constructivists and poststructuralists tend to view sovereignty as a dynamic social institution the character of which is not only historically and socially contingent, but which is also a constitutive element of the international system.²⁶ It is worth noting, in this context, that both of the editors of this volume have contributed to these arguments.²⁷ Committed structuralists, however, continue to see sovereignty as an essentially static concept, even at times an overemphasized concept.²⁸ Given that the concept of sovereignty involves claims about authority, identity, and territory, the idea that “authority” in the international system could be wielded by private, rather than public, actors has enormous implications for theorizing about the social institution of sovereignty, its salience, its changing meaning, and its endurance. The future of the sovereign state, and the resilience of its status as the principal unit of analysis of the international system, is as much an empirical as a theoretical question. The work of the contributors to this volume significantly enhances our understanding of these empirical issues.

Another issue of longstanding contention in international relations theory concerns the vitality, salience, and legitimacy of the state itself. Within the realm of international political economy, scholars as diverse as Saskia

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Sassen, Susan Strange, Matthew Horsman and Andrew Marshall, and Ethan B. Kapstein have argued that neoliberal globalization is a challenge to the legitimacy of states. They have suggested that social (as opposed to civil and political) citizenship is in abeyance; that, while firms may have full citizenship within the nation-state, the withdrawal of social rights from the modern welfare state has resulted in the degradation of individual citizenship.²⁹ Other scholars, however, have argued that these assertions may be overstated,³⁰ and that firms seek investment in states with stronger, not weaker state capacities to provide an attractive, stable climate for investment.³¹ Still others have argued that the impact of external economic pressures is largely determined domestically, and that the effect of such pressures varies with the strengths or strategies of domestic elites and institutions.³² Once again, the empirical and conceptual work contained in the chapters that follow add significantly to our understanding of the changing nature of the state as an institution.

Our book is organized around the exploration of three different types of authority identified above: market authority, moral authority, and “illicit” authority. We begin, however, with a review of the most significant work undertaken to date on the concept of private authority. Claire Cutler (chapter 2) summarizes the most significant findings of her collaborative work with Virginia Haufler and Tony Porter, and provides an essay that extends their work on private authority beyond the realm of the international political economy. She encourages us to break from traditional approaches to international relations and to explore the salience of private subnational and transnational socioeconomic forces. She draws upon materialist ontologies in her analysis, and her insistence on the recognition of the historical contingency of social action mirrors recent constructivist scholarship on the historical contingency of sovereignty. Cutler’s theoretical insights about the nature of authority suggest that two of its most prominent features are its public nature and its identity as a social construct.³³

Market authority

In chapters 3, 4, and 5, Stephen Kobrin, Louis Pauly, and Saskia Sassen offer three insightful and interestingly divergent perspectives about the nature of market authority. In some of his previous work, Kobrin has argued that globalization has replaced vertically integrated hierarchical firms functioning within national economies with “a global, postmodern, networked mode of organization where the very concept of geographically based economies may not even be relevant.”³⁴ In chapter 3, Kobrin describes how the “external sovereignty” of state actors has been

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diminished. He conceptualizes sovereignty as the state's capacity to exercise jurisdictional authority over its own affairs, and explains the reduction in sovereignty by the fusion of markets in high-tech industries brought on by prohibitive research and development costs. This confronts national governments with a tradeoff between efficiency and autonomy, and it appears that most national governments are opting for the former.³⁵ One possible outcome for state authority, he argues, is an evolution in the meaning of sovereignty that might result in the emergence of a neomedieval system of overlapping "subnational, national, regional, international, and supranational authorities."³⁶ A logical consequence of Kobrin's analysis is that the emerging authority of private institutional actors in technology and finance leaves states with a choice between *de facto* surrender of sovereign authority, or economic and technical marginalization. This implies a pyrrhic victory for those who "choose" sovereign autonomy.

In chapter 4, Louis Pauly raises important questions about whether globalization radically diminishes state power. Pauly directs our attention to the sources of neoliberal globalization, arguing that we are in the midst of an expansion of a specifically "American" vision of liberalism throughout the world. The power of this vision and the leverage provided by the expansion of the American economy has generated a grand neoliberal discourse on the blessings of markets and market solutions to national and global problems. However, Pauly reminds us that resistance to this project is only now emerging in discernible forms. He advises us to study the origins of the transnational economic order for clues that while "the logic of markets suggests globalism . . . the logic of politics remains deeply marked by distinctly national identities" (p. 78 below). Pauly also takes issue with "the language of inevitability" (p. 80 below) in the writings of both proponents and opponents of globalization, and argues that it is hardly inevitable that transnational capital actors will increasingly, or continue to, exercise a "determinative influence over a widening range of [national] economic . . . policies" (p. 81 below). For Pauly, there is nothing new in the fact that capital mobility exercises constraining effects on national fiscal, monetary, and macroeconomic policies. "[W]hat is new," he argues, "is the widespread perception that all states, all societies, and all social groups are now . . . affected" (p. 81 below).

Pauly finds the state to be complicit in some of the devolution of its authority to the vagaries of the market, because markets have always served as a way to "obscure distributive issues" (p. 82 below) in democratic societies. Markets help to diffuse the blame for negative economic outcomes for the losers in domestic society, and the United States appears to be extending this arrangement to the international arena. There is good

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evidence to support the argument that the nearly universal global relaxation of capital controls and attendant moves to market-based decision-making procedures in the formulation of national economic policy have generated confusion among those who suffer the consequences of such policies about just who is to blame. Matthew Horsman and Andrew Marshall have consequently concluded that “the nation-state can no longer be held accountable on the very issues which so directly and persistently affect the daily lives of those that it purports to represent, mirror, sponsor and protect. Once the citizen discerns this trend, the exercise of authority by the state is undermined and authority necessarily shifts.”³⁷ Pauly, while recognizing the problem of legitimacy,³⁸ does not agree that these conclusions necessarily follow. If history is any guide, he argues, national citizens lay responsibility for financial crises and for their resolution squarely at the door of national governments. This suggests that governments failing to respond with any and all means, including capital controls and even economic closure, would not remain long in power. Because markets ultimately require stable political and institutional foundations, Pauly insists that it remains the case that “markets [a]re a tool of [state] policy, not a substitute for it” (p. 86 below). Like hegemonic stability theorists,³⁹ Pauly argues that the system requires a crisis manager to guarantee the stability of markets, and we can be certain that some state or international institution would always step in to fill this role should a crisis arise. When markets fail, “[a]gents of legitimate public authority” take back “regulatory power, or . . . markets collapse” (p. 87 below).

Saskia Sassen has argued that citizenship for the average person has been devalued by globalization, both in terms of the tangible, social benefits of citizenship, and in terms of the right to affect policy at the polls, or the political benefits of citizenship.⁴⁰ If consumptive power and capital are the new criteria for a full franchise, this situation disenfranchises the poor, who lack these assets.⁴¹ Sassen retains her concern with issues of global economic justice in chapter 5, but she also articulates an analytical perspective that differs in important respects from that of both Koblin and Pauly. She maintains that the global economy simultaneously transcends the authority of the national state, yet is at least partly implanted in national territories and institutions. She suggests new analytical methods for studying the relationship between globalization and state sovereignty. She points out that economic globalization materializes partly in national territory, and she develops a description of the international system in the era of globalization that comprises an entire set of governance mechanisms. Some of these are centered on the state, and some within a burgeoning private legal framework that is developing within national legal frameworks, but threatening to manifest itself independently.