

Chapter Two: Contrasting Visions of Multi-Level Governance

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Centralized authority has given way to new forms of governing.¹ Formal authority has been dispersed from central states both up to supranational institutions and down to regional and local governments. A recent survey finds that 63 of 75 developing countries have been undergoing some decentralization of authority (Garman et al. 2001, 205). A detailed index drawn up by the authors of this paper finds that no EU country became more centralized since 1980, while half have decentralized authority to a regional tier of government (Hooghe and Marks 2001). The last two decades have also seen the creation of a large number of transnational regimes, some of which exercise real supranational authority. At the same time, public/private networks of diverse kinds have multiplied from the local to the international level.

The diffusion of authority in new political forms has led to a profusion of new terms: multi-level governance, multi-tiered governance, polycentric governance, multi-perspectival governance, FOCJ (functional, overlapping, competing jurisdictions), fragmentation (or spheres of authority), and consortio and condominio, to name but a few. The evolution of similar ideas in different fields can be explained partly as diffusion from two literatures – federalism and public policy. But we suspect that this conceptual invention has independent sources. In this chapter, we do not summarize the particularities of the concepts that have been put forward, nor do we do justice to the intellectual history of the field. Instead we mine the relevant literatures for some conceptual benchmarks in order to facilitate empirical analysis.

These literatures agree that the dispersion of governance across multiple jurisdictions is both more efficient than, and normatively superior to, central state monopoly (Marks and Hooghe 2000). They claim that governance must operate at multiple scales in order to capture variations in the territorial reach of policy externalities. Because externalities arising from the provision of public goods vary immensely – from planet-wide in the case of global warming to local in the case of most city services – so should the scale of governance. To internalize externalities, governance must be multi-level. This is the core argument for multi-level governance, but there are several other perceived benefits. For example, more decentralized jurisdictions can better reflect heterogeneity of preferences among citizens.² Multiple jurisdictions can facilitate credible policy commitments (Majone 1998; Pollack 1997). Multiple jurisdictions allow for jurisdictional competition (Frey and Eichenberger 1999; Weingast 1995). And they facilitate innovation and experimentation (Gray 1973).

However, beyond the presumption that governance has become (and should be) multi-jurisdictional, there is no agreement about how multi-level governance should be organized. We detect two contrasting visions.

The first conceives of dispersion of authority to jurisdictions at a limited number of levels. These jurisdictions – international, national, regional, meso, local – are *general-purpose*. That is to say, they bundle together multiple functions, including a range of policy responsibilities, and in many instances, a court system and representative institutions. The membership boundaries of such jurisdictions do not intersect. This is the case for jurisdictions at any one level, and it is the case for jurisdictions across levels.

In this form of governance, every citizen is located in a Russian Doll set of nested jurisdictions, where there is one and only one relevant jurisdiction at any particular territorial scale. Territorial jurisdictions are intended to be, and usually are, stable for several decades or more, though the allocation of policy competencies across levels is flexible.

A second vision of governance is distinctly different. It conceives of *specialized* jurisdictions that, for example, provide a particular local service, solve a common pool resource problem, select a product standard, monitor water quality in a particular river, or adjudicate international trade disputes. The number of such jurisdictions is potentially huge, and the scales at which they operate vary finely. And there is no great fixity in their existence. They tend to be lean and flexible – they come and go as demands for governance change.

Table 1 summarizes these visions of governance as logically consistent ideal-types. The first two attributes in Table 1 describe variation among individual jurisdictions, while the final three describe systemic properties. We call these types simply Type I and Type II to avoid burdening readers with yet more jargon in an already jargon-laden field.³

[Table 1 about here]

2.1 Type I Governance

The intellectual foundation for Type I governance is federalism, which is concerned with power sharing among governments operating at just a few levels. Federalism is

chiefly concerned with the relationship between central government and a tier of non-intersecting sub-national governments. The unit of analysis is the individual government, rather than the individual policy. In the words of Wallace Oates, dean of fiscal federalism, “the traditional theory of fiscal federalism lays out a general normative framework for the assignment of functions to different levels of government and the appropriate fiscal instruments for carrying out these functions” (Oates 1999, 1121). The framework is system-wide; the functions are bundled; and the levels of government are multiple but limited in number.⁴ Type I governance shares these basic characteristics, but is not confined to national states. We discuss these characteristics in turn.

- General-purpose jurisdictions. Decision-making powers are dispersed across jurisdictions, but bundled in a small number of packages. Federalists and students of intergovernmental relations tend to emphasize the costs of decomposing authority. This concern is especially strong in Europe where local government usually exercises “a wide spread of functions, reflecting the concept of general-purpose local authorities exercising comprehensive care for their communities” (Norton 1991, 22).

- Non-intersecting memberships. Type I jurisdictions are characterized by non-intersecting memberships.⁵ Membership is usually territorial, as in national states, regional, and local governments, but it can also be communal, as in consociational polities.⁶ Such jurisdictions are defined by durable memberships that do not intersect at any particular level. Moreover, the memberships of jurisdictions at higher and lower tiers do not intersect. This extends the Westphalian principle of exclusivity into the

domestic arena (Caporaso 2000, 10; see also Krasner 1999). The same principle is present in the international arena, where the United Nations, the WTO, and the European Union encompass national states.⁷

The key systemic characteristics of Type I governance are as follows:

- Limited number of jurisdictional levels. Type I governance organizes jurisdictions at just a few levels. Among students of intergovernmental relations, it is common to distinguish a local, an intermediate, and a central level although, in practice, the number of levels varies. According to the European NUTS classification, they vary between three in the case of Luxembourg and six for Finland, Greece, Portugal, and the UK. That count is on the high side; in some countries, not all NUTS tiers correspond to governmental organizations. For example, upon entry in the European Union, the Swedish government created eight larger regions (*riksområden*) at the NUTS 2 level to facilitate the implementation of EU cohesion policy. However, these are merely statistical constructs (Hooghe and Marks 2001).

- System-wide, durable architecture. One does not arrive at general-purpose, non-intersecting, and nested jurisdictions by accident. Systemic institutional choice is written all over Type I governance. In modern democracies, Type I jurisdictions usually adopt the *trias politica* structure of an elected legislature, an executive (with a professional civil service), and a court system. As one moves from smaller to larger jurisdictions, the institutions become more elaborate but the basic structure is similar. Though the institutions of the German federal government are far more complex than

those of a French town, they resemble each other more than they do the Type II arrangements described below.

Type I jurisdictions are durable. Jurisdictional reform – that is, creating, abolishing, or radically adjusting new jurisdictions – is costly and unusual. Change normally consists of re-allocating policy functions across existing levels of governance. The institutions responsible for governance are sticky, and they tend to outlive the conditions that brought them into being.

Type I governance is not limited to federalism and intergovernmental relations. It captures a notion of governance common among European Union scholars. Elsewhere, we have described the re-organization of authority in the European Union as “a polity-creating process in which authority and policy-making influence are shared across multiple levels of government – subnational, national, and supranational. While national governments [remain] formidable participants in EU policy making, control has slipped away from them” (Hooghe and Marks 2001, 2). Alberta Sbragia observes that, “The decision-making process evolving in the Community gives a key role to governments – national government at the moment, and . . . subnational government increasingly in selected arenas” (Sbragia 1992, 289). European integration and regionalization are viewed as complementary processes in which central state authority is dispersed above and below the national state (Ansell 2000; Bache 1998; Bomberg and Peterson 1998; Börzel and Risse 2000; Börzel 2001; Burgess 2000; Jeffery 1996; Keating 1998; Kohler-Koch 1998; Le Galès and Lequesne 1997; Marks, Hooghe, Blank 1996; Sbragia 1993; Scharpf 1988, 1994). Few observers expect the outcome to be as neat and

orderly as a conventional federation. Yet even fewer believe that the final product will resemble an Escher-like polity characterized by territorially variable, functionally specific, overlapping, non-hierarchical networks. Governments, according to Sbragia, “will continue to be central actors” because “the territorial claims that national governments represent . . . are exceedingly strong. It is nearly impossible to overestimate the importance of national boundaries as key organizers of political power and economic wealth in the European Community” (Sbragia 1992, 274; 289; see also Peters and Pierre 2000).

Type I governance dominates thinking in international relations among those describing the modification – but not elimination – of the Westphalian state (Caporaso 2000). These scholars do not deny that transnational movements, public-private partnerships, and corporations play important roles in international regimes, but they highlight the staying power of national states. Robert Keohane and Joseph Nye argue that, “Contrary to some prophetic views, the nation-state is not about to be replaced as the primary instrument of domestic and global governance. . . . Instead, we believe that the nation-state is being supplemented by other actors – private and third sector – in a more complex geography” (Keohane and Nye 2000, 12).

1.2 Type II Governance

An alternative form of multi-level governance is one in which jurisdictions are aligned not on just a few levels, but operate at numerous territorial scales; in which jurisdictions are task-specific rather than general-purpose; and where jurisdictions are intended to be

flexible rather than durable. This conception is predominant among neoclassical political economists and public choice theorists, but it also summarizes the ideas of several scholars of federalism, local government, international relations, and European studies.

- Task-specific jurisdictions. In Type II governance, multiple, independent jurisdictions fulfill distinct functions. “[E]ach citizen . . . is served not by ‘the’ government, but by a variety of different public service industries. . . . We can then think of the public sector as being composed of many public service industries including the police industry, the fire protection industry, the welfare industry, the health services industry, the transportation industry, and so on” (Ostrom and Ostrom 1999, 88-89). In Switzerland, where Type II governance is quite common at the local level, these jurisdictions are aptly called *Zweckverbände* – goal-oriented/functional associations (Frey and Eichenberger 1999).

- Intersecting memberships. “There is generally no reason why the smaller jurisdictions should be neatly contained within the borders of the larger ones. On the contrary, borders will be crossed, and jurisdictions will partly overlap. The ‘nested,’ hierarchical structure of the nation-state has no obvious economic rationale and is opposed by economic forces” (Casella and Weingast 1995, 13).

Frey and Eichenberger coin the acronym FOCJ (functional, overlapping, and competing jurisdictions) for this form of governance (1999). “Polycentricity” was initially used to describe metropolitan governance in the United States, which has historically been more fragmented than in Europe. It is now applied by Elinor and

Vincent Ostrom as a generic term for the co-existence of “many centers of decision-making that are formally independent of each other” (Ostrom, Tiebout, Warren 1961, 831). Philippe Schmitter uses the term *condominio* to describe “dispersed overlapping domains” having “incongruent memberships” that “act autonomously to solve common problems and produce different public goods” (1996, 136).

Type II governance has the following key systemic characteristics:

- Many jurisdictional levels. Type II governance is organized across a large number of levels. Instead of conceiving authority in neatly defined local, regional, national, and international layers, public choice students argue that each public good or service should be provided by the jurisdiction that effectively internalizes its benefits and costs. The result is jurisdictions at diverse scales – something akin to a marble cake. Students of Type II governance generally speak of multi- or poly-centered governance, which, they feel, have less a ring of hierarchy to them than the terms multi-level or multi-tiered governance.

Some scholars conceive of Type II governance in the international arena. A critic of the traditional statist view of governance describes this process as “fragemegration” – a neologism suggesting “the simultaneity and interaction of the fragmenting and integrating dynamics that are giving rise to new spheres of authority and transforming the old spheres. It is also a label that suggests the absence of clear-cut distinctions between domestic and foreign affairs, that local problems can become transnational in scope even as global challenges can have repercussions for neighborhoods” (Rosenau 1997, 38). In this conception, there is no up or down, no lower or higher, no dominant

class of actor; rather, a wide range of public and private actors who collaborate and compete in shifting coalitions. The outcome is akin to Escher's famous lithograph of incongruously descending and ascending steps.

▮ Flexible design. Type II jurisdictions are intended to respond flexibly to changing citizen preferences and functional requirements. The idea is rooted in Charles Tiebout's argument that mobility of citizens among multiple competing jurisdictions provides a functional equivalent to market competition (1956). In a subsequent article, Vincent Ostrom, Charles Tiebout, and Robert Warren describe a polity in which groups of citizens band together in "collective consumption units" to procure public goods. Individual citizens can join or leave particular collective consumption units, and these units can acquire a public good in one of several alternative ways—for example, by producing it themselves, hiring private producers, subsidizing local community groups, or joining up with other jurisdictions (V. Ostrom, Tiebout, Warren 1961; Ostrom and Ostrom 1999; for an assessment of the literature see Dowding, John, and Briggs 1994). A defining characteristic of polycentric governance is "the concurrence of multiple opportunities by which participants can forge or dissolve links among different collective entities" (McGinnis 1999, 6). In his advocacy of FOCJ, Frey and Eichenberger emphasize a similar jurisdictional flexibility: "FOCJ . . . are flexible units which are established when needed . . . [And] FOCJ are discontinued when their services are no longer demanded as more citizens and communities exit and the tax base shrinks" (1999, 18). "FOCJ are an institutional way to vary the size of public jurisdictions in order

to minimize spillovers. A change in size is, therefore, a normal occurrence” (Frey and Eichenberger 1999, 41).

Under Type II governance, the capacity to take collective decisions, and make them stick, is diffused among a wide variety of actors. As Elinor Ostrom and James Walker put it, “The choice that citizens face is not between an imperfect market, on the one hand, and an all-powerful, all-knowing, and public-interest-seeking institution on the other. The choice is, rather, from among an array of institutions – all of which are subject to weaknesses and failures. . . . These include families and clans, neighborhood associations, communal organizations, trade associations, buyers and producers’ cooperatives, local voluntary associations and clubs, special districts, international regimes, public-service industries, arbitration and mediation associations, and charitable organizations” (Ostrom and Walker 1997, 36). Type II governance comprises dispersed self-rule on the part of diverse voluntary groups. Collective action problems are dealt with in heterogeneous arenas mobilized by many kinds of groups.⁸

Several writers point out that Type II governance resembles pre-modern governance. John Ruggie identifies commonalities between contemporary and medieval “multiperspectival” governance (Ruggie 1993). Students of polycentric governance trace the prevalence of special districts and other forms of polycentric governance in the United States back to the conception of federalism anchored in the US constitution (Ostrom 1999). Analysts of multi-centered governance in Europe find inspiration in pre-modern theories of federalism. The father of societal federalism, Johannes Althusius,

formulated his ideas against Jean Bodin's unitary conception of the state (Nicolaidis 2001; Elazar 1987; Elazar and Kincaid eds. 2000; Hueglin 1999).

1.3 Locating Type I Governance

Type I governance predominates in conventional territorial government up to the national level. While measures of decentralization vary, cross-national analyses reveal a robust trend towards greater decentralization since the end of World War II.

Decentralization has been particularly impressive in Europe, but it has permeated the developing world as well (Bird and Vaillancourt 1998; Manor 1999). Data on taxation and spending confirm this. *Government Finance Statistics* of the International Monetary Fund show that the share of subnational expenditure in total government expenditure has risen from 20 percent in 1978 to over 32 percent by 1995. Fiscal decentralization has been most pronounced in Spain and Latin America (Rodden forthcoming). The same trend appears when one examines policy making. Vernon Henderson has traced the extent to which central government can override decisions of subnational governments. The proportion of countries in which central governments have this formal power has decreased from 79 percent in 1975 to 40 percent in 1995 (Henderson 2000). There has been a steep rise in political decentralization. 30 percent of local governments were directly elected in 1970; 86 percent were directly elected in 1999. The proportion of regional governments that are elected has increased from 25 percent to 55 percent in the same period (Henderson 2000; Rodden forthcoming).⁹

In Europe, Type I multi-level governance has been pressed forward by the simultaneous empowerment of supranational and subnational institutions (Goldsmith and Klausen 1998; Ansell, Parsons and Darden 1997; Kohler-Koch 1998; Bomberg and Peterson 1998; Keating and Hooghe 1996). An index summarizing the formal authority of regions, special territorial autonomy for minorities, the role of regions in central government, and whether the regional government is elected, reveals a deep and broad reallocation of authority from central states to regions in the European Union (Hooghe and Marks 2001, appendix 2). The greatest changes have been in France, Italy, Spain and Belgium, but no EU country has become more centralized since 1950. This index does not capture decentralization to local government. Local empowerment has been particularly pronounced in northern Europe, although recent local government reforms in several southern European countries have begun to narrow the gap (John 2001; Page and Goldsmith 1987).

Subnational dispersion of authority follows the logic of Type I – not Type II. The overall structure in the EU is relatively simple, even elegant. There are *few* rather than many tiers. The territorial scales of government across the EU range between three and six. This is a far cry from the near infinite jurisdictional dispersion conceived in Type II governance.

Once one reaches beyond the national state into the international arena, one finds very little Type I governance – with one major exception: the European Union. The EU bundles together policy competencies that in other parts of the world are handled by numerous, overlapping, and functionally specific jurisdictions. Most EU policies, with

the major exceptions of monetary policy and border controls, have a single unified jurisdiction.

However, some salient features of EU architecture are consistent with Type II governance: variable territorial jurisdictions as a result of treaty derogations; distinct governance systems or “pillars” for different policies; the multiplication of independent European agencies; and the flexibility clause of the Amsterdam and Nice Treaties specifying the conditions under which a subset of member states can engage in greater integration. As Richard Balme and Didier Chabanet point out, “the competencies of the European Union in different sectors (environment, agriculture, competition ...) are very different . . . Even in the same policy area the decision rules are variable and ad hoc” (Balme and Chabanet 2002, 44). Philippe Schmitter regards these characteristics as defining features of the European polity: “The core of the emerging Euro-polity’s novelty lies in the growing dissociation between territorial constituencies and functional competencies” (Schmitter 2000, 15).

1.4 Locating Type II Governance

Type II governance tends to be embedded in legal frameworks determined by Type I jurisdictions. The result is a large number of relatively self-contained, functionally differentiated Type II jurisdictions alongside a smaller number of general-purpose, nested Type I jurisdictions.

1.4.1 The national/international frontier

Type II governance is ubiquitous in efforts to internalize transnational spillovers in the absence of authoritative coordination. Most target specific policy problems ranging from ozone layer protection, to shipment of hazardous waste, to migratory species. Task-specificity is a common feature of international regimes.

Type II jurisdictions at the national/international frontier are more fluid than Type I jurisdictions. A count of international governmental organizations shows steep growth over the past half century, but also sizeable fluctuation. For example, of 1,063 organizations existing in 1981, only 723 survived a decade later, while an additional 400 or so came into being (Shanks, Jacobson, Kaplan 1996, 143). The mortality rate for international governmental organizations is estimated to be five times higher than for Type I organizations, such as American federal bureaucracies (Kaufman 1976, cited in Shanks, Jacobson, and Kaplan 1996, 143).

While public-private partnerships are found in Type I jurisdictions, they are more common in Type II.¹⁰ The role of public-private partnerships in the international arena is contested. In some cases, private actors negotiate on an equal basis with governmental actors, or bypass states altogether (Rosenau 1997, and in this volume; Hocking 1999; Young 1999). However, many Type II transnational jurisdictions coordinate governments – not private parties, or they open up public decision making to private actors to different degrees. Tanja Börzel and Thomas Risse distinguish five types of public-private partnerships. In the first type, private groups are merely consulted or co-opted by public actors. This is the case for the World Trade

Organization, the International Monetary Fund, and the World Bank, all of which have recently reached out to civil society representatives (O'Brien 2000). A second form includes private actors as negotiating partners next to public actors, as in the Transatlantic Business Dialogue, which brings together business and government representatives from both sides of the Atlantic. Public actors may also delegate functions to private actors, as is the case for many standardization bodies, e.g. the committee for European normalization (CEN). A fourth form authorizes self-regulation among firms in the shadow of hierarchy (e.g. the World Business Council for Sustainable Development). The final type of public-private partnership is one in which private actors predominate and in which the role of government is restricted to adopting, *post-hoc*, privately negotiated regimes. An example is the regulation of domain names in the Internet. Börzel and Risse conclude that "[P]rivate regimes appear to be confined to one issue-area: international political economy. In all other areas, states seem reluctant to provide private actors with true governance authority outside their control" (Börzel and Risse 2002, 5).

At the national/international frontier, Type II governance tends to predominate. The European Union, which is mainly a Type I jurisdiction, is an exception that proves the rule. It is extremely difficult to tie national states into authoritative transnational jurisdictions that are general-purpose, rather than designed around particular policy problems. Type II jurisdictions are instrumental arrangements that do not directly challenge state authority, nor do they demand a strong sense of identity on the part of their members. Most successful international regimes focus on pareto optimality and

avoid explicit redistribution. As we discuss below, this is both a virtue and a limitation of Type II governance.

1.4.2 Cross-Border Regions

Type II jurisdictions are common in cross-border regions, especially in North America and Western Europe. Ad-hoc, problem-driven jurisdictions in the form of inter-regional commissions, task forces, and inter-city agencies have mushroomed over the past three decades. In the Upper Rhine Valley, for example, the Swiss cantons of Basel-Land and Basel-Stadt, the French department Haut Rhin, and the German region Baden have created a web of trans-national jurisdictions, involving meetings of regional government leaders, a regional council of parliamentary representatives, a conference of city mayors, boards of regional planners, associations of local authorities, agricultural associations, chambers of commerce, cooperation projects among universities, joint research projects on regional climate change and biotechnology, teacher exchange programs, and school partnerships (Weyand 1996; Perkmann 1999). Dense cross-border cooperation has also emerged along the Californian/Mexican border and the US/Canadian border (Blatter 2001).

Governance arrangements that straddle national borders are usually functionally specific, and overlap with existing jurisdictions in order to solve particular collective action problems. Such jurisdictions operate within Type I architecture. Cooperation is difficult when regions and local authorities in different countries have dissimilar competencies or resources. This has constrained one of the Commission's best-known

programs, Interreg, which aims to facilitate inter-regional networks along the European Union's internal and external borders (Perkmann 1999). Contrasting Type I architectures in Europe and the United States help explain why crossborder cooperation has evolved differently (Blatter 2001). Joachim Blatter notes that in Europe, cross-border arrangements show a tendency to evolve in a Type I direction—under the influence of relatively resource-rich, general-purpose local and regional governments. In contrast, cross-border cooperation in North America has remained task-specific, territorially overlapping, and dominated by non-governmental actors, and thus complements uncoordinated, relatively resource-poor, Type I governments (Blatter 2001).

1.4.3 Local Level

Type II governance is widespread at the local level. In Switzerland, Frey and Eichenberger identify six types of functional, overlapping, competitive jurisdictions that complement or compete with general-purpose local governments. According to the authors' calculations, in 1994, 178 Type II associations provided specialized services such as local schooling, electricity, or street lighting, in the canton of Zurich alone (Frey and Eichenberger 1999, 49-53). The closest functional equivalent in the United States consists of "special districts," which, as in Switzerland, have intersecting territorial boundaries and perform specific tasks. Special district governance is particularly dense in metropolitan areas: in 1992, the metropolitan area of Houston had 665 special districts, Denver 358, and Chicago 357 (Foster 1997, 122). Overall, the number of special districts has risen three-fold from 12,340 in 1952 to 35,356 in 2002. Ninety-one percent of

these districts perform a single function concerned with natural resources, fire protection, water supply, housing, sewerage, cemeteries, libraries, parks and recreation, highways, hospitals, airports, electric power or gas supply, or public transit. These figures do not include several interstate special districts, such as the New York and New Jersey Port Authority; nor do they include independent school districts, of which there were over 13,500 in 2002 (U.S. Bureau of the Census 1999, 2002; Foster 1997, 1-22). Type II governance at the local level is more common in Switzerland and the US than in Europe, though “partnership between a whole variety of service providers and levels of [local] government is the normal practice in most West European countries” (Batley 1991, 225).

Type II special districts are generally embedded in Type I local government, but the way this works varies. There is no general blueprint. The legal context is decisive for the density of special districts in the US. A tally of district-enabling laws in California in the early 1980s counted 206 state statutes enabling 55 varieties of special districts for 30 government functions (Foster 1997, 11). No less than 200 pages of the most recent U.S. Census of Government were devoted to “a summary description” of local government variation across US states (U.S. Bureau of the Census 1999, 73-277). Some districts are created by state legislatures, others are set up by one or more counties or municipalities, while others are initiated by a citizen petition. Special districts may be governed by appointed or elected boards; for some elected boards, only property owners rather than residents can vote. Some special districts levy taxes or fees, while others do not. The geographical scope varies from interstate, to regional and submunicipal, but the

majority of special districts are a) smaller than the county *and* b) overlap with other local governments (Foster 1997, 9-15). The result is a baroque patchwork of Type II jurisdictions overlaying a nested pattern of Type I jurisdictions.

Type II governance may also appear where local communities are faced with local common pool resource problems, that is, where scarce, renewable resources – for example, a water basin, a lake, an irrigation system, fishing grounds, forests, hunting grounds, common meadows – are subject to depletion because it is difficult to restrict access. As Elinor Ostrom has argued, diversity of ecological systems is an important source of multi-level governance (Ostrom and Janssen 2002). Around the world, communities have developed task-specific governance structures, often self-generated, to cope with locally specific common pool resource problems (Ostrom 1990; also Keohane and Ostrom 1995).

1.5 Biases of Governance

The types of governance that we outline in this chapter frame basic political choices. Type I and Type II governance are not merely different ways of doing the same thing. Their contrasting institutional arrangements give rise to contrasting virtues and vices. We list these in Table 2, and describe them below.

[Table 2 about here]

1.5.1 Biases of Type I governance

- **Intrinsic community.** Type I jurisdictions express citizens' identities with a particular community. Intrinsic communities represented in Type I jurisdictions are often based in national, regional, and/or local identity, but they may also reflect religion, tribe, or ethnicity. Such jurisdictions satisfy a preference for collective self-government, a good that is independent of citizens' preferences for efficiency or for any particular policy output.
- **Voice.** Type I governance is biased towards voice, i.e. political deliberation in conventional liberal democratic institutions. Type I jurisdictions are determined in a deliberative multi-issue process in which conflicts are highly structured and articulated. Rules about rules (*Kompetenz-Kompetenz*) are decided consciously, collectively, and comprehensively. Conversely, barriers to exit are relatively high. Exit in a Type I world usually means moving from one locality, region, or country to another. Where jurisdictions are designed around religion or group membership, exit demands that one change one's identity.
- **Conflict articulation.** Bundling issues in a limited number of jurisdictions facilitates party competition and the articulation of dimensions that structure political contestation, first and foremost a left/right dimension tapping greater vs. less government regulation of market outcomes and, in many communities, a new politics dimension tapping communal, environmental, and cultural issues. This promotes meaningful choice for citizens. Type I governance is well suited to

deal with zero-sum issues, i.e. distributional bargaining, because it facilitates logrolling and cross-issue trading. And because barriers to exit are high, it is also well suited to provide non-excludable public goods.

1.5.2 Biases of Type II governance

- Extrinsic community. Type II jurisdictions are instrumental arrangements. They solve *ad hoc* coordination problems among individuals sharing the same geographical or functional space. Individuals relate to jurisdictions as members of fluid, intersecting communities – e.g. as professionals, women, parents, homeowners, nature lovers, sports fans, shoppers, and so forth.
- Exit. Type II governance is biased towards exit. Voluntary membership allows citizens, or the collective units of which they are members, to exit jurisdictions when these no longer serve their needs. To the extent that they facilitate entry and exit, Type II jurisdictions approximate markets. Jurisdictions may be created, deleted, or adjusted through interjurisdictional competition for citizens' participation or dues. Constitutional engineering is, therefore, a spontaneous process rather than a collective enterprise. Voice is secondary. The narrow focus of Type II jurisdictions concentrates the costs of liberal democratic institutions within small constituencies. Deliberation is focused on the production of a particular public good rather than on broader value choices.¹¹
- Conflict avoidance. By decomposing decision making into jurisdictions with limited externalities, Type II governance insulates decision making from other,

potentially contradictory, issues. This jurisdictional fragmentation raises the bar for articulating ideological conflict, but it concentrates the mind on improving efficiency within existing jurisdictional bounds. Type II jurisdictions are well suited for decisions characterized by a search for pareto-optimality.

Type I and Type II governance are not just different means to the same end. They embody contrasting visions of collective decision making. Type I jurisdictions are suited to political deliberation about basic value choices in a society: who gets what, when, and how. Because Type I governance bundles decision making in a limited number of jurisdictions at a few levels, it reaps economies of scale in translating citizen preferences into policy. Type I jurisdictions are at the heart of democratic elections, party systems, legislatures and executives. Type I jurisdictions sustain a class of professional politicians who mediate citizen preferences into law.

Type II jurisdictions, in contrast, emphasize problem solving. How can citizens obtain public goods that they are unable to create individually? What are the most efficient means to public ends? How can market efficiency, based on consumer choice and competition among producers, be translated into the provision of public goods? The assumption underlying Type II jurisdictions is that externalities among jurisdictions are sufficiently limited to sustain compartmentalized decision making.

1.6 Conclusion

How should multi-level governance be organized? Who should be included in a jurisdiction, and what should that jurisdiction do? What criteria are relevant to these choices, and what are the implications of such choices?

The main benefit of multi-level governance lies in its scale flexibility. Multi-level governance allows jurisdictions to be custom-designed in response to externalities, economies of scale, ecological niches, and preferences. Both Type I and Type II governance deliver scale flexibility. But they do so in contrasting ways. Type I governance does so by creating general-purpose jurisdictions with non-intersecting memberships. Jurisdictions at lower tiers are nested neatly into higher ones. Type II governance, by contrast, consists of special-purpose jurisdictions that tailor membership, rules of operation, and functions to a particular policy problems.

Each type has distinctive virtues. Type I governance is oriented to intrinsic communities and to their demands for self-rule. It is predisposed to the articulation and resolution of conflict, including conflict on redistributive issues. Type II jurisdictions are well suited to achieve pareto-optimality when redistribution is not salient. Yet, despite these differences – or more accurately, because of them – Type I and Type II governance are complementary.

As the European Union expands to the east and becomes yet more diverse, pressures for jurisdictional flexibility will intensify. Will it be possible to stretch a Type I jurisdiction over a European Union of 25 countries? Will there be more variable geometry – in our terms, Type II governance – in the EU? These questions take us

beyond the scope of this chapter, but the conceptual framework presented here appears to be relevant to their resolution.

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Endnotes

¹ We define governance as binding decision making in the public sphere.

² Assuming that this heterogeneity can be jurisdictionally captured. For most purposes, this demands that heterogeneity is territorial, so that groups with distinct preferences have a separate territorial government, or that heterogeneity is socially pillarized, and thus amenable to consociational arrangements. Moreover, the greater the number of jurisdictions, the higher the informational demands on citizens who are assumed to fully understand the costs/benefits of alternative jurisdictional arrangements. This assumption is often unrealistic, as has been demonstrated even at the local level, where opportunities for accurate citizen information are greatest (Lowery et al. 1995; Hoogland DeHoog, Lowery, and Lyons 1990).

³ This and the following section are based on Hooghe and Marks (forthcoming).

⁴ Traditional federalism studies focused on constitutional federations, which reduced the universe to a handful of primarily western cases (e.g. Riker 1964; Wheare 1953; but not Daniel Elazar 1987, 1991). Contemporary work focuses more broadly on the benefits and costs of centralization vs. decentralization of authority. This expands the universe of cases in two directions. First, it enables scholars to apply insights from federalism to all countries with some form of non-unitary rule. Hence, the wave of studies on decentralization in former non-democratic countries (Besley and Coates 1999; Inman and Rubinfeld 1997; Panizza 1999; Prud'homme 1995; Treisman 1999). Second, relaxing federalism to include non-constitutional dispersion of authority has led students of federalism to examine diffusion of authority *beyond* the national state. Applying categories from American federalism, Inman and Rubinfeld have analyzed the dynamics of fiscal federalism in post-EMU European Union (Inman and Rubinfeld 1992; see also Alesina and Wacziarg 1999; Bureau and Champsaur 1992; Casella and Frey 1992; Casella and Weingast 1995; Sbragia 1992, 1993; Scharpf 1988; Vaubel 1994; Weiler 2000). Yet the premises of this recent literature are the same: "how many local and state governments there should be; how they will be represented in the central government; and how policy responsibilities should be allocated between the central government and the lower tiers" (Inman and Rubinfeld 1997: 43). The levels of jurisdictions are limited – usually two or three, and sometimes four; the number of jurisdictions is restricted; and policy competencies are bundled.

⁵ While membership of Type I jurisdictions is non-intersecting, competencies are often shared or overlapping. There has, for example, been a secular trend away from compartmentalization in federal polities.

⁶ Other examples of non-territorial Type I governance are the clan system in Somalia, communal self-governance in the Ottoman empire, and religious self-governance in India.

⁷ There are a few exceptions. For example, Greenland and the Faeroe Islands, self-governing parts of Denmark, are not members of the European Union.

⁸ James Rosenau distinguishes eight types of collectivities (this volume).

⁹ Data limitations are a major constraint for this kind of analysis. For example, the International Monetary Fund has very incomplete time series data on fiscal decentralization; the results here are based on 29 countries for which IMF has complete, and credible, data for 1970-1995.

Henderson's data are primarily self-collected, and concern 43 developed and developing countries. For a thoughtful discussion of data collection problems, see Rodden forthcoming.

¹⁰ Neocorporatism is an example of a Type I public-private partnership.

¹¹ In *Governing the Commons* Elinor Ostrom describes several common pool resource arrangements with deliberative-democratic decision making. As Ostrom observes, such jurisdictions tend to become magnets for solving a wide range of community problems. Once such institutions are in place, it may be more efficient to add governance functions to an existing jurisdiction than to create a new one.

Table 1: Types of Multi-Level Governance

TYPE I	TYPE II
<i>general-purpose</i> jurisdictions	<i>task-specific</i> jurisdictions
<i>non-intersecting</i> memberships	<i>intersecting</i> memberships
jurisdictions organized on a <i>limited number of levels</i>	<i>no limit</i> to the number of jurisdictional levels
<i>system-wide architecture</i>	<i>flexible design</i>

Table 2: Biases of Type I and Type II

Governance

Type I	Type II
intrinsic community	extrinsic community
voice	exit
conflict articulation	conflict avoidance
