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Private actors, NGOs and civil society in multilevel governance

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1. Introduction

Multilevel governance (MLG) is fundamentally marked by the participation of private actors. Private actors take part in the development, interpretation, implementation and monitoring of norms and rules. They gain the legitimacy and power to regulate both themselves and others. This affects both private actors and MLG. It transcends and pluralizes the forms of authority in governance. This chapter discusses the resulting reconfiguration of authority in MLG using an authority-based approach. It starts by describing the relevance of private actors in MLG research and defining their variety in MLG. It then introduces the authority-based approach in order to specify the participation of private actors in MLG. This approach conceptualizes governance authority as consisting of power, legitimacy and a connection to public interests, which provides the basis of a more fine-grained analysis of public and private authority. The chapter traces the extent of private and public authority in relation to how private actors participate in MLG. Subsequently, it outlines the reconfiguration of MLG authority, which involves variance in the scope and substance of authority, its variation on different governance levels and its effects on MLG itself. The chapter concludes by offering suggestions and tasks for future research. One of these is a pattern of multiple MLG that extends beyond the public–private distinction, enabled by an authority-based approach that highlights public, private and hybrid roles within the components of MLG authority.

2. Private Actors in Multilevel Governance Research

References to private actors in MLG research oscillate between the two elements of the concept: multilevel and governance. Studies that focus on the *multilevel* dimension of MLG can easily overlook private actors. This is mainly due to MLG's significance for studies of the European Union (EU), comparative regionalism and federal governance systems, which focus on multiple levels of regulation and interdependence. This especially applies to what Hooghe and Marks (2010: 18–19) call Type I MLG, which consists of general-purpose jurisdictions, non-intersecting (usually territorial) memberships, a limited number of jurisdictional levels and a system-wide and stable institutionalization. While private actors may participate in these types of MLG, they do not play a defining role. Rather, studies in this realm 'highlight the staying power of national states' (Hooghe and Marks 2010: 20).

By contrast, research that focuses on the *governance* dimension of MLG considers private actors to be a pivotal criterion for MLG. This can be explained by the concept of global governance in international relations research, which shifts its focus to the agency of private actors (Wilkinson 2005). This shift extends to European MLG as well: 'the notion of governance refers to the fact that more often than not private actors are involved in [European] policy-making' (Benz 2010: 214). Private actors play a decisive role, especially in Type II MLG, which is characterized by multiple, task-specific jurisdictional levels, intersecting memberships and flexible designs (Hooghe and Marks 2010: 20–21).

Some studies link both elements of MLG by combining the relevance of private actors for defining MLG in encompassing definitions. Alcantara, Broschek and Nelles (2015: 39) define MLG as an inclusive decision-making process that involves at least one different scale and 'at least one governmental actor and one or more non-governmental actors'. They frame private actors as a defining criterion for MLG – but only if these are necessary co-producers of collective goods: 'not because it is a nice thing to do, but because collectively optimal solutions cannot be achieved by any of the participants alone' (Alcantara, Broschek and Nelles 2015: 41; also see Bache and Flinders 2004). If private actors participate in decision-making merely as consultants, input givers or lobbyists, Alcantara et al. do not characterize them as MLG actors (Alcantara, Broschek and Nelles 2015: 39).

Other researchers take a broader approach. For Zürn, Wälti and Enderlein (2010: 2), private actors engaging in 'lobbying, persuasion and threats that accompany the policymaking and implementation process' constitute MLG.¹ Their definition of MLG does not hinge upon *how* private actors participate. Instead, private actors qualify as participants in MLG when they make 'justificatory use of the concept of the public good' (Zürn, Wälti and Enderlein 2010: 2). This approach builds the basis for the following discussion.

3. Defining Private Actors in Multilevel Governance

The range of MLG perspectives on private actors outlined above corresponds to the variety of actors considered to be 'private'. Private actors are defined by not being a state or a governmental or public actor. They 'are not formally part of the governmental framework' (Peters and Pierre 2004: 77). Synonyms such as non-state actors or non-governmental actors illustrate that private actors are defined by what they are *not*. Hence the 'range of non-governmental actors is potentially limitless, comprising all organizations, firms, groups or individuals that do not satisfy our definition of a government actor [and do] not seek public office' (Alcantara, Broschek and Nelles 2015: 40).

Nevertheless, this broad range can be further sub-categorized. A common method differentiates for-profit actors (including businesses) from non-profit actors (including non-governmental organizations [NGOs], religious groups, trade unions, foundations and civil society groups). However, some actors cannot be categorized as either public or private because their roles are intertwined. Furthermore, actors with controversial aims, including those with reactionary aims, related to terrorist groups, serving states or disguised for-profit business actors, may appropriate the labels of NGOs and civil society.

In view of this, another way of differentiating private actors is to focus on their connection to public interests. The remainder of this chapter proposes a way to capture this connection, including its role in MLG and in relation to private actors – the authority-based approach.

4. A New Perspective in Multilevel Governance Research: The Authority-Based Approach

The authority-based approach helps us scrutinize and specify the roles of private actors in MLG by establishing their unique connection to public interests. It defines governance authority as a triadic concept: the authority of governance actors denotes power that is legitimated by its connection to public interests. Hence, governance authority comprises three components: power, legitimacy and the connection to public interests. Each component shapes and mutually influences the others, which allows us to explain their extent and their effects on an actor's authority (Mende 2021a). Each component is briefly discussed to demonstrate its resonance with MLG studies.

4.1 Power

Power is central to all definitions of authority in governance research, even though there is disagreement on whether power equals authority. In the triadic concept of authority, power does not equal authority but serves as one of its components. It can come in very different forms and thus resonates with different schools of thought. Lukes (1974 [2005]) identified three dimensions of power, which have since been further developed and applied in global governance and MLG research.

The first dimension, mostly applied in realist approaches, denotes the power to push through own interests in decision-making processes (Lukes 1974 [2005]: 16). It is primarily concerned with influencing the output side of politics, based on material resources (Fuchs 2004: 136) and enforcement instruments (Barnett and Finnemore 2005: 176). In MLG, it is mostly visible in lobbying, but also in veto powers (Hassel 2010: 157; Pierson 2015).

The second dimension is the capacity to set agendas, frame knowledge, define problems and their solutions, and hinder others from formulating their interests and agendas (Lukes 1974 [2005]: 20). This dimension is concerned with influencing the input side of politics (Barnett and Finnemore 2005: 177; also see Fuchs 2004: 137). It applies to MLG settings as opportunity structures that provide or deny private actors access to decision-making processes (Grande 1996; Hassel 2010: 157).

The third dimension of power describes the ability to form and shape (the perception of) ideas, interests and wishes, even before they become a part of political agendas (or not), by way of socialization, internalization and incorporation (Lukes 1974 [2005]: 139–144). This ideational power ‘does not simply pursue interests but creates them’ (Fuchs 2004: 138). It is exercised through norms, rules, standards, identities and political, cultural, religious, social and discursive practices and institutions. It lies at the heart of constructivist approaches to governance.

Some governance approaches add a fourth dimension of power, capturing Foucault’s understanding of power as productive and producing (Digesser 1992). Lukes rejected such an extension in order to delineate power as domination from simply any form of socialization (Lukes 1974 [2005]: 88–98). However, contemporary governance approaches tend to conflate the third and fourth dimensions, as the mechanisms of socialization and internalization are pivotal to both.

4.2 Legitimacy

The second component of governance authority is legitimacy. Legitimacy depends on shared beliefs (Zürn, Binder and Ecker-Ehrhardt 2012: 83) and the actor’s ‘minimal moral acceptability’ (Buchanan and Keohane 2006: 419). Accordingly, the legitimacy of governance authority denotes ‘the normative belief by an actor that a rule or institution ought to be obeyed. It is a subjective quality, relational between actor and institution, and defined by the actor’s *perception* of the institution’ (Hurd 1999: 381, emphasis in original; also see Beetham 2013: 11–13). Beyond this common definition, the role of legitimacy in governance authority divides research into two major strands (see Mende 2020a). The first strand suggests that authority equals legitimate power (i.e. power endowed with legitimacy). According to this view, ‘the phrase *legitimate authority* is, strictly speaking, redundant’ (Hurd 1999: 400, emphasis in original; also see Hall and Biersteker 2002: 4; Lake 2010).

The second strand, by contrast, emphasizes a difference between authority and legitimacy: ‘authority implies a rebuttable claim to legitimacy’ (Bogdandy, Goldmann and Venzke 2017: 140). While authority is based on recognition, it may or may not lead to legitimacy (Zürn, Binder and Ecker-Ehrhardt 2012: 83). Therefore, the authority of governance actors can lack legitimacy (Zürn, Binder and Ecker-Ehrhardt 2012: 70; similarly, see Buchanan and Keohane 2006: 407; Tallberg, Bäckstrand and Scholte 2018: 3).

Defining legitimacy as one of three components of authority circumvents the division between the two strands. This is because both capture the authority of private actors neither as forceful acquisition nor as a simple principal–agent model. Rather, authority in governance is the exercise of power that strives to be based on legitimacy. An actor with governance authority may lose or lack legitimacy up to a certain point but cannot waive it in the long term.

4.3 Connection to public interests

An actor with governance authority must refer to public interests to legitimate its power. As Koppell (2007: 194) summarizes: ‘Reduced to its essence, then, the core demand of authority is to make the institutionalization of power in the best interests of the governed population’. This also constitutes the normative essence of MLG. It builds on the assumption that public interests cannot be appropriately met at just one level: cooperation and regulation across levels are needed (Scharpf 1998).

In MLG research as outlined above, the reference to public interests denotes the discursive claim that an actor contributes to public interests, thereby striving to legitimize its power. Zürn et al.’s definition of MLG refers to private actors that ‘claim to act in the name of a collective interest or the common good’ (Zürn, Wälti and Enderlein 2010: 2).

This chapter suggests adding another aspect – the emphasis on a *connection* (rather than a reference or claim) to public interests. This connection includes discursive claims, yet it goes further by also incorporating non-discursive effects on public interests. It thus captures the effects of private actors’ behaviour on public interests – even if they do not claim them. The connection to public interests must be differentiated from both the actual fulfilment of public interests and from the perception that public interests are being fulfilled; the latter denotes legitimacy.

4.4 Public and private authority

The common distinction in MLG research between state actors and private actors translates into two forms of authority: the public authority² of state actors, and the private authority of non-state actors. The former denotes state actors’ ability to legitimately yield executive, legislative and judicative powers, and to use force – in sum, to govern. According to the Westphalian notion of statehood, the state as a public actor is endowed with legitimacy and

thus authority based on its contribution to public interests, ideally based on democratic sources (Best and Gheciu 2014; Schuppert and Neidhardt 2002). This marks a common frame of reference for otherwise different theories of democratic statehood, whether or not they characterize public interests with reference to the rule of law, Rousseau's *volonté générale* or the Hobbesian prevention of *bellum omnium contra omnes*.

The authority-based approach upholds the close connection between authority and public interests, yet it broadens the range of actors that might yield such authority to include private actors. The concept of private authority marks the ability of private actors to assume regulatory functions, tasks and roles that concern public interests (Cutler, Haufler and Porter 1999; Hall and Biersteker 2002), which – in the Westphalian frame of state sovereignty – have been traditionally assigned to states. It is based on legitimating sources, such as moral standing, technical expertise (Cutler, Haufler and Porter 1999; Hall and Biersteker 2002), internal and external accountability (Keohane 2006: 79), effective and problem-solving output (Scharpf 2003), inclusiveness and deliberation (Dingwerth 2007: 23–29). Private authority thus combines two ostensibly contradictory dimensions by recognizing that private actors can pursue and affect public interests, without simply merging private authority with public authority.

The concepts of private and public authority in MLG are backed by understanding the public–private distinction not as dichotomous but internally and externally mediated (Mende 2020b). Public and private are *externally mediated* in that each side's inclusion is the other side's exclusion, and vice versa. The concepts are *internally mediated* in the sense that each side (re)produces and (in)forms the scope, logics and content of the other side via regulation, deregulation or non-intervention. Each sphere has specific functions for (and effects on) the other. Each one serves as a constitutive part of the other. However, the two remain distinct: they do not dissolve into each other, but retain their own logics, even though their (internal) content and (external) boundaries may change. Notions of what is considered to be public or private therefore vary.

5. Private Actors' Participation in Multilevel Governance: Private and Public Authority

Applying the authority-based approach to private actors' forms of participation in MLG provides the basis for capturing the reconfiguration of authority

in MLG. Crossing the forms of participation of private actors in MLG with the extent of public and private authority highlights the interconnected nature of the spectrum (Figure 9.1). The forms of participation are based on the typology of public–private partnerships established by Börzel and Risse (2005) that includes consultation, negotiation, delegation and the shadow of hierarchy. These are extended by lobbying and advocacy at one end, and private self-regulation at the other.

The spectrum demonstrates the authority of private actors in MLG. At one end, private actors are mere lobbyists and advocates who strive to influence MLG (apparently) from outside MLG decision-making processes. Correspondingly, states enjoy public authority to its greatest extent (governance by governments). Private self-regulation, at the other end, demonstrates private authority without public authority (governance without government; Brühl and Rittberger 2001: 5; Hooghe and Marks 2010: 24). At the middle of the spectrum, public and private authority in MLG pertain to varying degrees.

Source: The author.

Figure 9.1 Authority in multilevel governance

5.1 Lobbying and advocacy

Lobbying and advocacy refer to how private actors seek to influence decision-making processes. The extent of private authority through lobbying and advocacy in MLG is rather low. This corresponds with studies on MLG that situate lobbying at one end of the spectrum of interaction between public and private actors, ‘in which organized interests can lobby governments but do not have public authority’ (Hassel 2010: 158). Although some authors do not

consider lobbying to be an MLG activity, the authority-based approach recognizes lobbying and advocacy as relevant to MLG for two reasons.

First, the access of lobbyists and advocates to MLG can be highly institutionalized and regulated, which thus integrates lobbying into MLG arrangements. The EU has established institutionalized settings for lobbyists, such as the Transparency Register of the European Parliament and the European Commission. At the same time, a lack of regulation and informal avenues also provides interest groups with influence on MLG, as evidenced by recurring scandals about politicians' involvement in private enterprises.

The second reason is that lobbying and advocacy have major effects on public interests, regardless of whether private actors claim to contribute to public interests or not. Tellingly, the EU's understanding of lobbying subsumes both business actors (lobbying for private interests) and civil society actors (claiming to advocate for public interests). The authority-based approach engenders further differentiation by investigating the interest groups' connection to (and their effects on) public interests.

5.2 Consultation

Consultation denotes the various ways in which private actors are invited to contribute their knowledge, expertise, networks and/or their moral status to MLG. Their authority here is rather weak because private actors are merely providers of certain functions, initiated by public actors. Yet the consulted private actors can make remarkable contributions to the output of MLG arrangements. They can, for example, strongly influence the wording of laws and international treaties, thereby wielding the first dimension of power. Consulted private actors also shape the input side of MLG by framing knowledge, problems and solutions – the second dimension of power. As advisers, private actors enjoy a gradually stronger authority than lobbyists. However, this does not necessarily translate into a higher degree of power. Furthermore, the roles as advisers and as lobbyists may overlap.

5.3 Negotiation

It is becoming increasingly common for private actors to not only provide knowledge or expertise, but to actively take part in MLG deliberations and negotiations. Even though they usually do not have formal voting or veto powers, private actors are perceived and treated as 'equal and legitimate part-

ners at the negotiating table' (Börzel and Risse 2005: 203; Holzscheiter 2016). This endows private actors with an extended authority in MLG that is nearly equal to that of public actors.

5.4 Delegation

Delegation denotes arrangements in which private actors are given responsibility for a specific MLG task. This often entails implementing and/or monitoring a certain policy or decision. It may even include delegating the legitimate use of force to private actors (Börzel and Risse 2005: 202). Delegation may rest on formal (Green 2010) or informal mechanisms (Liese 2010). Coordination represents one of the tasks frequently delegated; it is constantly growing in importance, providing coordinators with considerable room for manoeuvre. While the extent of power and the connection to public interests may vary, delegation both presumes and constructs strong legitimacy, thereby constituting a high level of private authority next to public authority.

5.5 Shadow of hierarchy

MLG in the shadow of hierarchy denotes governance arrangements in which private actors regulate themselves, but under the threat of public regulation (Börzel and Risse 2005: 203). This especially pertains to voluntary codes of conduct, norms, standards and principles that private actors develop, endorse and implement in order to circumvent regulation by public actors. The issue area of business and human rights provides plenty of examples of ways in which business actors engender voluntary principles and public-private partnerships that have the effect of forestalling binding regulation (Deva and Bilchitz 2013). This form of MLG participation allows a considerable degree of self-regulating power, which contributes to a high degree of private authority even though it is embedded within public authority.

5.6 Private self-regulation

Private self-regulation may transcend the shadow of hierarchy of public authority and thus enjoys an even greater degree of private authority. The lack of state actors calls into question whether private self-regulation is relevant for MLG. A pure form of private self-regulation with no involvement of state actors is considered to be 'relatively rare; in many cases, an element of public involvement, support or oversight can be identified' (Zürn and

Koenig-Archibugi 2006: 242). Nevertheless, MLG research must be able to take private self-regulation into account, because private actors do not only regulate themselves; their regulation also affects others. This includes peers (as with codes of conduct authored by a few companies that extend to whole business sectors) as well as the broader society. A renowned example for the latter is the private regulation of internet domains by the Internet Corporation for Assignment of Names and Numbers (ICANN), after the US ended their delegation contract in 2016 (Becker 2019). Private self-regulation may also influence public policies and state behaviour (Börzel and Risse 2005: 203–205; Hooghe and Marks 2010: 24) by shaping the latter with privately established standards or by forestalling binding forms of regulation.

6. The Reconfiguration of Authority in Multilevel Governance

The spectrum above illustrates a continuum: a strong private authority corresponds to weak public authority in MLG. However, the authority-based approach does not simply denote a quantitative zero-sum game in which private authority substitutes for public authority. Rather, it emphasizes variance within private authority, between different governance levels, and the effects on MLG. It thus amounts to a reconfiguration of authority in MLG.

6.1 Variance within private authority

The extent of private authority does not allow unilinear deductions about its three components (power, legitimacy and connection to public interests). Rather, the scope and substance of each component vary widely. It is their peculiar interplay that constitutes authority. For example, even though lobbying enjoys only a low degree of authority in MLG, the power of lobbyists can be tremendously strong, just as the effects of lobbying on public interests can be significant. Yet their legitimacy (e.g. endowed by formal participation) is lower, which diminishes their authority. At the other end of the spectrum, the authority of private self-regulation only thrives if it is based upon (and able to uphold) a high level of legitimacy. While this legitimacy engenders power, the component of power itself may be comparably low when it ceases to exist with descending legitimacy. Vice versa, a self-regulator's power may outgrow its dependence on legitimacy.

Finally, private actors may act as norm entrepreneurs or epistemic communities in all of the outlined forms of participation. For instance, private-sector norms as a result of self-regulation and regulation in the shadow of hierarchy affect public institutions (Porter 2005). Lobbying and advocacy encompass the framing of norms both during the creation of rules and laws as well as post hoc in the phase of their interpretation and implementation (Durkee 2021). Norm entrepreneurs and epistemic communities employ the ideational power dimension of authority. They primarily (yet not exclusively) rely on legitimacy.

6.2 Variance between governance levels

Both the extent of private authority and the scope and substance of its individual components vary with regard to the specific governance level at which they manifest. The multilevel character of governance can both strengthen and weaken private authority. One reason for this is that MLG arrangements provide different points of access that impact the participation and influence of private actors. Private actors can increase their authority when they adapt to the multilevel character by developing multilevel structures of organization and representation themselves. Business associations at the level of individual states and the EU or the international level demonstrate this point. Issue-specific interest groups that engage in functional coordination tend to be better equipped to operate on (and switch between) multiple governance levels than territorially bound actors (see Hooghe and Marks, Chapter 1, this volume). Civil society organizations that cooperate on a certain issue area make use of this advantage, such as the Treaty Alliance, a worldwide coalition of civil society actors that contributes decisively to the discussion about a binding UN instrument on business and human rights (Mende 2021a). At the same time, developing the capabilities to adapt and cooperate requires resources. This privileges well-equipped actors over others.

Multilevel architectures can also restrain private authority and thus benefit public actors. Grande's (1996: 389–392) notion of 'paradox of weakness' demonstrates how the multilevel fragmentation of state power makes targeted lobbying harder for private actors than in a centralized state, thereby closing access points and strengthening the states' bargaining power.

6.3 Effects on multilevel governance

Private actors' participation in MLG affects both the form and authority of MLG arrangements. This resonates with the very essence of MLG research,

which investigates the interplay of governance at different levels, resulting in a reconfiguration of governance authority rather than a simplified substitution of the nation-state level with regional and supranational levels or vice versa. The participation of private actors further contributes to this reconfiguration: 'the role of nonstate actors in shaping and carrying out global governance-functions is not an instance of transfer of power from the state to nonstate actors but rather an expression of a changing logic or rationality of government' (Sending and Neumann 2006: 651). At the same time, private actors' participation in MLG takes different forms and degrees of institutionalization than that of public actors.

The components of authority, as well as their variance at different governance levels, help capture this reconfiguration in MLG. In this sense, the participation of private actors in MLG not only affects the extent of their authority but also its substance. It endows private actors with new powers, sources of legitimacy, and connections to public interests. Although some of these components usually pre-date a private actor's participation in MLG arrangements, private authority is also (re)produced and reconfigured through MLG.

This reconfiguration also rebounds on MLG. The participation of a broad range of actors endows MLG with input legitimacy: 'social mobilization and changing standards of democratic legitimacy have increased the pressure on political authorities to include actors from civil society into various stages of the decision-making process' (Alcantara, Broschek and Nelles 2015: 36). As for output legitimacy, in addition to shaping the output itself, the integration of experts can enhance the effectiveness and efficiency of MLG (Börzel and Risse 2005: 195; Brühl and Rittberger 2001: 21–22).

In sum, the extent of private authority, its relationship to public authority, the scope and substance of its individual components, their variance at different governance levels and their effects on MLG arrangements all contribute to a reconfiguration of governance authority in MLG that deserves further research.

7. Private Actors in Multilevel Governance: Future Research

The authority-based approach highlights three aspects of private actors' involvement in MLG. First, the shift from a *claim* to public interests to a *con-*

nection to public interests importantly changes how private actors are defined in the context of MLG and how their effects on public goods are captured. The most apparent example of this extension is lobbying by business actors as part of MLG.

Second, the triadic approach allows the variance in private authority to be explained with regard to power, legitimacy and connection to public interests in the different forms of MLG participation and at different governance levels.

The third aspect relates to the distinction between public and private actors in MLG, and suggests that future research may identify more types of authorities beyond public and private. This aspect deserves further attention in the concluding remarks.

7.1 The multiplication of authorities beyond the public–private distinction

All degrees of authority exhibit a close connection between private actors and public interests. At first glance, this invites interpretations that blur the usual public–private distinction, leading some researchers to diagnose a blurring, fluidity or dissolution of the distinction between public and private in MLG (Alcantara, Broschek and Nelles 2015: 35). Others insist on applying the concept of public authority to private actors, which has the same blurring effect. Their concept of public authority is ‘independent of the question whether it is carried out by state or non-state actors. It involves an element of “publicness”’ (Zürn 2018: 4).

However, this interpretation of blurring faces a major challenge: characterizing (even the most extensive level of) private authority as public authority inhibits the distinction between public and private actors. This makes some authors fear that ‘the transfer of authority from elected governments to non-state actors leads to a dissolution of the division between the public and the private sphere’ (Schäferhoff, Campe and Kaan 2007: 24). Such dissolution would entail conceptual and normative as well as practical and political caveats. The major issue is that the public–private distinction is pivotal for democracy, as it differentiates democratically legitimized actors who hold public rights and duties from other actors. Then again, private actors are eminently relevant for public interests as well. In addition, public actors may also be contested or not democratically legitimated. Certain actors and roles may even escape the two-pole divide of the public–private distinction. The position of the market, for instance, is sometimes ‘presented as falling within the public sphere of eco-

conomic activity, while at others it is denoted as private and outside government regulation and control' (Chinkin 1999: 391). The same ambiguity applies to civil society actors who may be considered private, but also public actors (the latter mostly at the domestic level, but increasingly at the global level as well; see Ruggie 2004).

Against this background, the authority-based approach builds the basis for a more nuanced analysis of public and private roles in MLG. Instead of pre-defining actors as public or private, the individual components of authority – power, legitimacy and connection to public interests – indicate an overlapping of public and private elements. As a result, MLG actors can assume a variety of roles: public, private and even hybrid (Mende 2020b).

For example, analyzing an actor's connection to public interests (including claims, and intended and unwanted effects) allows interest groups to be classified as civil society actors or business actors, thereby distinguishing public from private interests. In addition, intersections may be highlighted (without a simple blurring). Civil society actors may pursue private interests (as with NGOs created by companies or NGOs that need to secure their own funding) or damage public interests (such as affiliating with certain armed groups), or public interests may contradict. Similarly, self-interested business actors can have a significant impact on public interests, both adversary and productive. For example, companies cannot only violate but also protect human rights, both in line with or contradictory to their own private interests. This challenges the state-centred human rights regime to address the roles of private actors and to develop hybrid forms of human rights responsibility (Mende 2020b).

The authority-based approach thus creates a foundation for developing a pattern of governance authorities that extends beyond the public–private distinction, denoting a variety of authorities induced by different constellations of the individual components and their position within the MLG architecture.³

7.2 Future tasks

The authority-based approach to private actors in MLG highlights at least three areas for future research. First, the example of analyzing private actors' connection to public interests raises the question of how to measure effects on public interests, including unintended consequences and side effects, as well as the difficulty of tying a certain outcome of MLG arrangements to a certain actor. Current MLG research does provide methods to deal with these tasks.

A second area is the question of a normative yardstick indicating what counts as public interests and to what extent. While defining public interests is a matter of deliberation and controversy (Scharpf 1998), societal and political developments do provide viable yardsticks, such as human rights (Mende 2021a), each of which allows pluralist readings. Hence, future research can pursue both empirical and normative readings of public interests, as long as the latter remain open to contestation (being incomplete) and openly transparent (being reflexive) (Mende 2021b: 50).

Finally, the reconfiguration of authority in MLG requires analysis not only of private actors' authority, but also of the authority of public actors and MLG institutions vis-à-vis private actors. Ultimately, the authority-based approach captures the reconfiguration of authority in MLG through the participation of private actors, which facilitates analyses of power, the connection to public interests and (democratic) legitimacy in MLG. Additionally, it allows us to develop a complex and dynamic pattern of multiple authorities that captures public, private and hybrid roles in MLG settings.

NOTES

1. However, the wording that MLG may 'also' consist of private actors (Zürn, Wälti and Enderlein 2010: 3) does not imply that they consider their participation to be a defining criterion of MLG.
2. Public actors also encompass federal and intergovernmental actors in MLG; see Börzel (Chapter 6) and Auel (Chapter 7), both in this volume.
3. The author's Max Planck Research Group, 'The Multiplication of Authorities in Global Governance Institutions', aims to develop such a pattern; see: <https://www.mpil.de/en/pub/research/projects/research-groups/the-multiplication-of-authorit.cfm>.

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