

Evaluating the Potential of Public-Private Partnerships in Global Governance

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Transnational public-private partnerships (PPPs) and their offshoots such as global public policy networks (GPPNs) have become increasingly used catchphrases in contemporary global governance literature and practice. Initiatives in the field of corporate social responsibility (CSR), such as the UN-sponsored Global Compact, and cooperation between states, international organisations and business in the field of standardisation illustrate the rise of PPPs. Tanja Börzel and Thomas Risse have defined transnational public-private partnerships as “institutionalised cooperative relationships between public actors (both governments and international organisations) and private actors beyond the nation-state for...the making and implementation of norms and rules for the provision of goods and services that are considered to be binding by members” (2005: 198). Although they can take various forms, PPPs are generally aimed at performing the global governance functions of rule and standard setting, rule and standard implementation and service provision (Börzel and Risse 2005: 199).

This essay deals with a central question regarding the value of PPPs: what governance functions can “public-private partnerships” accomplish that neither public nor private authority can accomplish independently? This question in essence boils down to two subsidiary questions, which will be dealt with in turn:

- (1) What governance functions cannot be accomplished unilaterally by public actors on the one hand and private actors on the other?
- (2) How can PPPs overcome these governance problems?

To add some empirical clout to the theoretical discussion of the potential benefits of PPPs, CSR and international standard setting will illustrate the working of PPPs in theory as well as in practice. A broad conception of public and private actors will be used here. Public actors are seen as states (and their institutions) and what are often seen as – at least in the first instance – their derivatives at the international level, international organisations. Private actors include transnational corporations (TNCs) and international industry/business associations as well as what have been called the actors in/of ‘global civil society’, i.e. international nongovernmental organisations (NGOs), social movements and grass root groups (Kaldor 2003: 80).

The first section of this essay defines two crucial governance ‘functions’, relates them to the characteristics of effective governance, and subsequently looks at the strengths and weaknesses of public and private actors in global governance. The second section outlines the potential benefits and limits of partnership: how do PPPs make governance more effective and what can PPPs accomplish that public and private actors cannot do so individually? The conclusion reviews these arguments and assess whether the potential benefits of PPPs outweigh the potential costs.

Governance Functions and Effectiveness: Strengths and Weaknesses of Public and Private Actors

The existence of and demand for PPPs raises the aforementioned, fundamental, question: ‘what governance functions cannot be accomplished unilaterally by public actors on the one hand and private actors on the other?’ The

Evaluating the Potential of Public-Private Partnerships in Global Governance

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first part of this section clarifies what is meant by 'governance functions' and effective governance, while the second part shows how both public and private actors have unique strengths and weaknesses – which in turn lead to governance functions that public and private actors cannot perform well unilaterally.

Governance functions should not be seen as 'needs' of a system of governance, but as governance 'needs' of actors and governance tasks that actors can accomplish. For the current purposes, the two most relevant (and basic) governance functions are rulemaking and rule implementation, which in turn depend for their effectiveness on actors' legitimacy, accountability, rulemaking capacity, and enforcement capacity (Detomasi 2006: 324). Legitimacy refers to "some form of normative, uncoerced consent or recognition of authority on the part of the regulated or governed" (Hall and Biersteker 2002: 4-5). Accountability refers to the existence of mechanisms to (periodically) call to account decision-makers for the decisions they have taken (Detomasi 2006: 324). Rulemaking capacity and enforcement capacity require "that the institutions entrusted with the governance function possesses the resources, administrative capacity, and specialized technical knowledge necessary to exercise governance effectively" – and this essay takes the position that this includes the capacity to overcome collective action and coordination problems (Detomasi 2006: 324). It is already possible to see here why in certain situations public and private actors cannot appropriately attend to rulemaking and/or rule implementation, since they each have their unique strengths and weaknesses as regards legitimacy, accountability and capacity – which will be outlined below. As David Antony Detomasi points out, "no one actor is individually capable of providing these elements by itself" (2006: 324).

On the one hand, public actors generally have strong claims to legitimacy – states by virtue of their representative nature and international organisations by virtue of delegation of authority by states (Detomasi 2006: 326-328; Barnett and Finnemore 2004: 22). Additionally, many states are accountable for their decisions through elections (or even through other less institutionalised mechanisms such as the possibility of a *coup d'état*) and international organisations are – to a certain extent – accountable to their members. Finally, states (and to a degree international organisations) have unrivalled institutional capacities for enforcement of international rules, especially on the national level (Detomasi 2006: 328).

Yet, as Walter Mattli points out well, state actors and intergovernmental organisations often lack the capacity to make rules: not only are they often slow and lack the specific expertise for rulemaking, they frequently also face serious coordination or collective action problems. Mattli argues convincingly that in the case of early international standardisation efforts there has been a mismatch "between limited public capabilities and expansive private sector needs" (2003: 201). For instance, European Community legislation shows how intergovernmental regulation was "often obsolete by the time the legal acts were finally promulgated" (Mattli 2003: 213). International standardisation efforts by intergovernmental standard setting bodies are often inadequate in a globalised world in which governance needs are usually complex and immediate. Additionally, private actors are regularly in a much better position to assess their own needs (Mattli 2003: 206). In a related fashion, intergovernmental bargaining and international organisations often exclude relevant actors and engage in top-down rulemaking and rule implementation, which is likely to be less effective than joint decision making – which creates some form of 'ownership' in all stakeholders, in turn promoting implementation of rules (Detomasi 2006: 326). Finally, there may be a "failure of public rule making" in the sense that countries cannot agree on rules (coordination problems) or are not willing to bear the costs of rulemaking/implementation (collective action problems).

On the other hand, TNCs and business associations typically have "greater resources and technical sophistication, as well as a better feel for market needs, than public officials and thus may be in a better position to produce complex international standards in a timely and cost-effective way" (Mattli 2003: 212; see also Detomasi 2006: 325). Mattli shows that – in many cases – private actors can produce governance at lower marginal costs than public actors. Additionally, in areas such as CSR and standard-setting where governance involves the regulation of private actors, private actors are invaluable for implementation, since they can exert internal governance and change the "practice of their profession internationally" (Detomasi 2006: 325). NGOs and other civil society actors are likewise in possession of specific (and local) knowledge that many states lack. Additionally, their awareness raising potential should not be underestimated.

Yet, both business and NGOs suffer from a severe lack of legitimacy and accountability, being representative only of

Evaluating the Potential of Public-Private Partnerships in Global Governance

Written by Fedor Meerts

themselves and accountable only to respectively their shareholders/national governments (and their courts of law) and members/donors (Detomasi 2006: 325). Detomasi argues that TNCs and business associations lack the “legitimacy to exert governance in social as well as economic, realms” (2006: 325). The lack of accountability to the wider public is problematic in issue-areas such as standard-setting because of the “‘public goods’ character of standards” (Mattli 2003: 209). Dangers of capture of standardising efforts by producer interests and resultant “collusive and other anticompetitive activities” bring about calls for government control (Mattli 2003: 209). Finally, private governance can be very exclusive in practice, even when they are not in theory: weaker groups (or non-corporate ones such as consumer groups who have fewer resources) may fail to be heard because “[t]he costs of participating in technical committees or working groups can be quite significant, not least because the work is nonremunerative” (Mattli 2003: 207). In short, there may well be a “mismatch between private rulemaking and public policy goals” (Mattli 2003: 201).

Additionally, and very much like the capacity problems facing public actors, in certain issue areas “private actors may [also] not possess the requisite knowledge or skills to perform the specifically public functions of governance” – they could hold only part of the puzzle; this is especially relevant with relation to NGOs, who as a consequence of their limited resources need to focus on a small number of issues (Detomasi 2006: 326).

Finally, governance capacity of TNCs and business associations is often plagued by acute coordination and collective action problems. International standard setting provides a good example. First of all, as a starting point one should note that “reliance on markets provides no guarantee that standardisation will be achieved or, if it is, that the right standard will be chosen” – hence some form of governance by private (or, for that matter, public) actors is required for optimal outcomes (Mattli 2003: 204). Additionally, reliance on the market for standardisation involves wasteful duplication, i.e. an inefficient use of resources (Mattli 2003: 217). Secondly, even if private actors feel they should come together to create common standards, private actors “may not succeed in producing genuinely common standards because of divergent technological preferences among market rivals” – in other words, they face coordination problems (2003: 217). Thirdly, private actors also suffer from collective action problems – “they are often unwilling to incur the extra costs such measures entail unless they are assured that competitors will bear the same burdens” (Detomasi 2006: 326).

What, then, can be done to overcome these problems associated with public and private governance? One solution that has been proposed is the creation of PPPs, whose potential benefits and limits are discussed in the following section.

The Potential Benefits and Limits of PPPs

Detomasi foresees great things for PPPs, pointing to “Global Public Policy Networks (GPPN), in which the strengths of state, market, and civil society actors combine to create an effective international governance system that overcomes the weaknesses afflicting each individually” (Detomasi 2006: 321). Similarly, Mattli shows how PPPs are a natural response to the discrepancy between private regulation and public policy goals and argues that “[j]oint private-public governance is an arrangement that seeks to combine technical expertise, extensive resources, and market responsiveness with genuine openness, transparency, and legitimacy” (2003: 217). Börzel and Risse illustrate how – in theory – PPPs could increase legitimacy, accountability and effectiveness of global governance arrangements (2005).

However, Detomasi takes a rather detached and unrealistic view of PPPs as potentially combining the strengths and eliminating the weaknesses of public and private actors. In his analysis, he focuses mostly on why specific actors would participate in a PPP, but importantly fails to show in a conclusive manner how a ‘synthesis’ is to be achieved and, perhaps even more importantly, how it will work in practice. After all, global governance is not a straightforward recipe: you cannot just add a little bit of ‘state’ for that distinct flavour of legitimacy to the sturdy mix of TNC and NGO expertise, stir, and – *viola* – you have cooked up effective governance. In fact, when NGOs (and even states in the case of CSR) enter into a public-private partnership, they run the risk of “contamination by association” endangering their claims to authority and subsequently possibly undermining their resource base (Fowler 2002: 17). It would seem that in the case of PPPs one plus one is not always two.

Evaluating the Potential of Public-Private Partnerships in Global Governance

Written by Fedor Meerts

While Detomasi does not show in great detail how PPPs can enhance the legitimacy, accountability and capacity of global governance, he does – rightly – posit that PPPs can potentially overcome collective action problems and hints at other benefits such as inclusiveness (which could generate more information, as well as easier implementation through the creation of stakeholders) (Detomasi 2006: 328). Firstly, “[p]articipating in a GPPN network [...] helps states overcome collective action problems associated with the race-to-the-bottom literature; common standards across countries and industries can enhance clarity and transparency for both states and firms” (Detomasi 2006: 328). Moreover, states can – to a certain extent – overcome coordination and collective action problems by delegating rulemaking and/or rule implementation to international organisations or PPPs, as can be seen in the World Commission on Dams where the World Bank plays a pivotal role – this presupposes, though, that (major) states at least agree on the proposition that some kind of rule is required (Dingwerth 2005: 71). Secondly, collective action problems associated with private actors can be overcome by the threat of state regulation, and it seems that TNCs and business associations are suddenly a lot more willing to participate in regulatory efforts ‘in the shadow of hierarchy’ (Mügge 2006; see also Börzel and Risse 2005).

Börzel and Risse provide a more comprehensive (and critical) analysis of the potential benefits of PPPs, starting from the observation that “PPP are said to increase both the effectiveness (problem-solving capacity) and the legitimacy (democratic accountability) of international governance in terms of democratic participation and accountability” (Börzel and Risse 2005: 195).

Firstly, it has been argued that involvement of private actors such as NGOs “enhance[s] the democratic participation and legitimacy of international institutions” (Börzel and Risse: 208). Börzel and Risse do well to point out that NGOs and transnational social movements are not representative of anything but their own values – and therefore would be a poor substitute for the *démocratie*. Additionally, inevitably the question will arise (who decides) which NGOs are allowed to participate in a PPP; in other words, interested actors are necessarily excluded from PPPs (Börzel and Risse 2005: 212). Yet, it is not all bad. The moral authority that is held by NGOs by virtue of their expertise and (perceived) neutrality and the market authority that is held by business actors by virtue of their effectiveness can also help to legitimate PPPs (Börzel and Risse 2005: 199). Mattli argues with some force that, all in all, the “fusion of private and public elements in a joint form of governance has conferred upon European standardisation a high degree of legitimacy that it lacked in the 1980s” (Mattli 2003: 220). Moreover, it could well be argued that in cases where PPPs succeed purely private forms of governance, as is often the case in standard-setting, legitimacy of governance is likely to be enhanced because of the participation of the state (and/or NGOs). Additionally, public funding (subsidies) can to a certain degree ameliorate the abovementioned problem of underrepresentation of groups with fewer resources, guaranteeing greater openness, more attention to due process, more efficient checks and balances and broader societal representation (Mattli 2003: 207, 217).

Secondly, Börzel and Risse discuss the possibility that the capacity of rulemaking increases as public and private actors pool their resources, such as their administrative capacity and specialised knowledge (2005: 209). Although they make a point out of showing that resource pooling and mutual dependence do not necessarily lead to improved rulemaking capacity, arguing that PPPs can be neo-liberal privatisation in disguise, they seem to underestimate the specialised nature of the expertise that private actors (both business and NGOs) can muster – expertise that is often lacking in state actors or international organisations, especially in such technical fields as standard-setting (Börzel and Risse 2005: 209).

Thirdly, Börzel and Risse state that “[t]he ‘management perspective’ posits that the more rule targets are included in the process or rule making, the greater the likelihood of compliance with international norms and rules” (2005: 210). This could potentially greatly enhance the rule implementation capacity of global governance arrangements. Although evidence up to date remains scant, it seems that CSR arrangements such as the Global Compact create a sense of ownership among – and publicly show commitment of – business actors, who are therefore more likely to comply with agreed upon rules. However, one should realise that inclusion of many actors may also lead to lowest-common-denominator bargaining and resultant less-than-desired governance (Börzel and Risse 2005: 210).

Conclusions: the Prospects for PPPs

Evaluating the Potential of Public-Private Partnerships in Global Governance

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This essay has viewed rulemaking and rule implementation as the most important governance functions, especially in relation to corporate social responsibility and international standardisation. Subsequently, it identified legitimacy, accountability, rulemaking capacity and implementation capacity as the most important determinants of governance effectiveness. The strengths and weaknesses of public and private actors can be evaluated using these four indicators. On the one hand, public actors (the state and international organisations) have strong claims to legitimacy and strong implementation capacity, but are often slow to respond to market needs, lack specialised expertise to do so and face coordination and collective action problems. On the other hand, private actors (TNCs, international business associations, NGOs, social movements and grassroots groups) possess expert knowledge and the inclusion of TNCs in governance arrangements is often invaluable for implementation, but they lack legitimacy and accountability – and TNCs in particular also suffer from coordination and collective action problems. Detomasi and Mattli have pointed to PPPs as possible mechanisms for effective governance which overcome the individual weaknesses and draw upon the individual strengths of public and private actors, additionally allowing them to rise above coordination and collective action problems. However, it is far from clear that the PPP recipe is as straightforward as especially Detomasi makes us believe. PPPs could potentially contribute to more effective governance due to the inclusion of actors with rulemaking capacity (such as specialised knowledge) and allow public and private actors to overcome coordination and collection action problems. They could also lead to more effective rule implementation because of the inclusion of more stakeholders. Yet, it is unclear whether PPPs are more legitimate and/or accountable than public governance arrangements – since business and global civil society actors are not representative and difficult to hold accountable.

When taking into account actual practice, is there evidence that PPPs 'work' – i.e. that they provide more effective governance? Börzel and Risse show that "[d]espite the argument in favour of PPPs, the evidence pointing to their ability to increase the problem-solving capacity and the democratic nature of international governance remains inconclusive" (2005: 208). Additionally, PPPs have their own problems that are caused by their particular (and not necessarily their participants') characteristics: "whereas public-private rule making may be more inclusive than intergovernmental processes, it suffers from the lack of formal accountability" (Dingwerth 2005: 78). In sum, while PPPs allow public and private actors to combine their resources and increase implementation potential, it is not at all certain that they will fulfil that potential and continue to be viewed as legitimate governance mechanisms.

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Evaluating the Potential of Public-Private Partnerships in Global Governance

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