

10 Private authority as global governance

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Private locations of authority have begun to influence a growing number of issues in our contemporary world. Authoritative private actors are not only important players in the international political economy; they are increasingly beginning to play a critical role in the governance of other important spheres of social and political life. They are engaged in the establishment of standards, the provision of social welfare, the enforcement of contracts, and the maintenance of security. The essays in this volume illustrate well the extent of the phenomenon, its complex character, the controversies surrounding its definition, and some of its implications. While the very meanings of the “private,” of “authority,” and of “private authority” themselves remain controversial, we think we have made some important progress in our understanding of these phenomena.

Rather than define the realm of the private in an abstract, theoretical sense, most of the contributors to this volume define the private sector in terms of what it is not. For Claire Cutler, private actors are increasingly engaged in authoritative decision-making that was previously the prerogative of sovereign states, while for Saskia Sassen the domain of the private is taking over functions once enclosed in national legal frameworks. Ronnie Lipschutz and Cathleen Fogel differentiate the private sector from the public, while Mark Juergensmeyer locates it in opposition to the government. Thus, whether it is differentiated from the sovereign state, the government, the national legal framework, or the public sector, the private sector is typically defined in terms of some residual of the national state.

Illustrations of private actors abound throughout the essays included in this volume. For those with a primary interest in private market authority, firms, private international regimes, networks, or transnational private arenas (composed of regulatory agencies and/or networks) are primary examples of private, market-associated authority. For contributors with a primary interest in what we term moral authority, non-governmental organizations, transnational regimes, or religious transnationalists are examples of private actors that have assumed authoritative functions. In

the realm of security, organized crime syndicates, private armies, and private security agencies are different illustrations of private locations of authority.

In what sense, however, do any of these private actors possess authority? In chapter 1 of this volume, we differentiated authority from power, arguing that, to have authority, actors must be perceived as legitimate. In order to claim any rights of legitimacy, actors in authority must obtain some form of obligation from those subject to their authority. As Claire Cutler argues in her contribution to this volume, there must be an obligatory acceptance of the legitimacy of as well as respect for an authority “as a specialist, a scholar, or an expert” (p. 28 above). Authority thus requires both the recognition by, and the consent of, those governed by that authority. Drawing further on the work of Cutler and others, we also described the importance of the public social recognition of claims of authority. Authority, however, need not be accorded exclusively to public actors. As long as there is consent and social recognition, an actor – even a private actor – can be accorded the rights, the legitimacy, and the responsibilities of an authority.

While Louis Pauly forcefully challenges the very idea of private authority, and Phil Williams remains doubtful about whether transnational organized crime possesses authority, rather than simple, brute power, most of the contributors to this volume discuss what they term the growing authority of private actors. For Stephen Kobrin (and to some extent, for Saskia Sassen), the market itself is becoming increasingly authoritative. Sassen describes “accommodations on the part of the national state” to the requirements of the global capital market (p. 105 above). She argues further that the state has participated in the creation of private authority through its withdrawal, not, as Pauly maintains, only through its delegation of authority. Sassen also discusses some of the new normative roles assumed by the growing authority of non-state actors (p. 106 above).

Ronnie Lipschutz and Cathleen Fogel also describe the normative (as well as functional) roles filled by private actors. They consider explicit and implicit delegations of social authority to private actors who operate with “less formalized systems of norms, rules, and procedures that pattern behavior without the presence of written constitutions or material power” (p. 123 above). For Lipschutz and Fogel, private actors whose expertise is acquired through global networks of knowledge and practice are taking over responsibilities no other actor wants, resulting in a “very diffuse” system of globalizing governance (ranging from entirely private to mixed public and private ventures). Mark Juergensmeyer similarly describes how religious transnationalists challenge the state’s monopoly on morally sanctioned violence and construct for themselves

“a basis of legitimacy for public order other than that upon which the secular state relies” (p. 152 above). During the height of the Sikh rebellion of the 1980s, Juergensmeyer argues that the “militants were treated as if they possessed an authority rivaling that of police and other government officials” (p. 150 above).

Though he is wary about characterizing organized crime as possessing authority, rather than power, Phil Williams similarly describes how capacity gaps and functional holes are filled by criminal organizations that, in effect, substitute or compensate for the state. In transitional states like contemporary Russia, the lack of an appropriate regulatory framework means that there is “neither protection nor contract enforcement, a condition that allows organized crime to become a surrogate for government” (p. 172 above). With reference to Colombia, Williams goes even further to describe how the paternalism of the Medellin cartel earns the gratitude of the people “and at least tacit support from members of the populace” (p. 173 above). Thus, they are accorded certain rights of legitimate authority through the social recognition and public consent of the governed, granting them a form of private authority, as defined above.

Bernedette Muthien and Ian Taylor describe a market-driven return to the precolonial era within some states of contemporary Africa, to a period when large trading companies constituted themselves “into an effective government and established an administrative and legal infrastructure to run” countries (p. 190 above). In some parts of Africa today, “private companies are using their own resources to protect installations, enforce regulations, and discipline staff on compounds little touched by local laws.” As they conclude, “[a]uthority has become truly privatized” (p. 194 above).

Although private authority is not always equivalent to and/or does not always exceed the authority of the national state, the contributors to this volume present a persuasive argument about the extent, the significance, and the complexity of the emergence of private authority in the international system. Markets, market actors, transnational movements, mafias, and mercenaries are each recognized socially as possessing authority within certain issue domains. Their authority is legitimate to the extent that they obtain the consent of the governed and exercise certain rights within those domains.

How did private authority emerge? Was it delegated by the state, negotiated with the state, enabled by the state, allowed by the state, or seized from the state? The contributors to this volume are generally divided between those who contend that authority was yielded, implying that the state had little or no choice (Kobrin, Lipschutz and Fogel, and Muthien and Taylor) and those who argue that authority was seized deliberately by

private actors (Juergensmeyer and Williams). Saskia Sassen stakes a middle position on the issue, arguing that private authority has been enabled by states. Only Louis Pauly maintains that authority is delegated deliberately by the state (and only in good times), rendering it a momentary, temporary, or fleeting phenomenon.

These different assessments of how private authority emerged do not correspond directly to the three principal forms of private authority (market, moral, or illicit authority) considered in this volume. Among those interested primarily in private market authority, there is an implicit debate between the views of Stephen Kobrin, who describes the retreat of the state, and the skeptical views of Louis Pauly, who describes the state's strategic delegation of authority. Within the domain of moral authority, Mark Juergensmeyer's description of the seizure of authority by private transnational religious movements differs from Ronnie Lipschutz and Cathleen Fogel's characterization of the ways in which the state has yielded its regulatory authority. In the area of illicit authority, Phil Williams's assessment of the explicit challenges posed by mafias contrasts with Bernedette Muthien and Ian Taylor's assessment of the ways in which private armies have moved into the vacuum left by the state. Despite their different assessments of how it came about, however, nearly all of the contributors included in this volume agree that private locations of authority have emerged in the international system.

Implications of the emergence of private authority for global governance

What are some of the implications of the emergence of private authority in the international system? What are its implications for the changing role of the state, for the institution of state sovereignty, and for the prospects of accountability and global governance? There are a number of important insights contained within the work of the contributors to this volume that begin to answer some of these important questions about the emergence, the nature, and the functioning of private authority in the international system. These insights often extend across the threefold typology of market, moral, and illicit forms of private authority that serves as the organizing principle of the volume.

Private authority and the role of the state

Louis Pauly and Saskia Sassen agree that the state remains the ultimate guarantor of property rights (though they do not consider in detail the situation in transitional states, as described by Phil Williams). Sassen

develops this argument when she examines the role of the state in the neo-liberal globalization process. She asks whether the state is simply reducing its authority to market-based forms of decision-making, or whether it has a crucial role to play in the production of a new international legal-institutional framework that is conducive to the emerging international capital mobility regime. She argues strongly for the latter case, essentially agreeing with Pauly that the technical, administrative capacity of the state is irreplaceable in the context of guaranteeing property rights. However, she provides an important caveat to this argument by suggesting that the act of guaranteeing is itself becoming privatized to an important extent. She draws our attention to the impressive growth of international commercial arbitration as an example. Her observation suggests the potential for market authority to challenge sovereign authority as the sole guarantor of the “adequately firm political foundations” that Pauly (and others) argue that markets require (p. 83 above). Similarly, Claire Cutler, who emphasizes the broad and far-reaching effects of private market authority, notes that in many cases private actors turn to the state for assistance in enforcing regime norms.

In a similar vein, Ronnie Lipschutz and Cathleen Fogel argue that firms take advantage of different (and, typically, less restrictive) regulatory regimes across states. However, this imposes transaction costs for them, and hence they prefer a single global set of regulatory standards to mitigate these transaction costs. Drawing upon the work of Karl Polanyi, in a fashion that similarly resonates strongly with Louis Pauly’s analysis, Lipschutz and Fogel argue that markets require rules for orderly functioning. Thus they argue that, while market actors may desire *domestic* deregulation, they do not desire the elimination of all rules at the *international* level because this would subvert the orderly functioning of global markets, and drive up cost of transactions within these markets. Transnational market actors resist transnational social regulation on this basis as well. Thus market authority appears to have a strong influence in determining how some forms of transnational rules are formulated, while other forms are dismantled. Claire Cutler, similarly, emphasizes the self-regulatory nature of private authority, suggesting that market authority is acquiring the capacity to structure a transnational regulatory environment that is conducive to its operations.

Ronnie Lipschutz and Cathleen Fogel also agree with Louis Pauly when it comes to their assessment of some of the consequences of the emergence of private authority for the domestic political practices of the state. Lipschutz and Fogel discuss the social purpose of transnational regulatory harmonization provided by international regimes, and argue that the resulting regulatory harmonization is intended to “eliminate politics”

by removing from the domestic realm to the international realm. Similarly, Pauly contends that references to market “authority” are intended to allocate politics to the market. One of the questions posed in the introductory essay of this volume was that of whether and why the state is complicit in the devolution of its authority to private actors. Pauly, in particular, provides us with an answer. State managers may wish to avoid responsibility and domestic accountability for painful domestic adjustments generated by their liberalization policies. The invocation of the authority of the market permits them to deflect responsibility to the abstract entity of the global markets, which are not obviously accountable to a national citizenry, a point to which we will return in a later section.

Private authority and the transformation of state sovereignty

There is strong agreement among most of the contributors to this volume that the emergence of private authority has affected the operational meaning of state sovereignty. In the realm of market authority, Stephen Kobrin and Saskia Sassen emphasize different practices in their respective contributions, but both argue that, in Sassen’s lexicon, globalization generates an emerging “set of practices that destabilize another set of practices, i.e., some of the practices that . . . constitute national sovereignty” (p. 104 above). Kobrin sees this as a transition from a modern to a post-modern mode of organization. With the “end of geography” accompanying global financial integration, he argues that “the meaning of sovereignty will evolve”; he invokes the medieval period as analogous, where “[b]orders are diffuse and permeable,” “[r]elationships are increasingly networked,” and “[m]ultiple and competing loyalties result” (p. 65 above). This is a far cry from the Westphalian ideal of state sovereignty. Sassen argues that global financial integration is a process involving “multiple policy, analytic, and narrative negotiations” that have been “coded as ‘deregulation’” (p. 104 above). Both Kobrin and Sassen agree that there is a new grid of economic transactions that has been superimposed over traditional, geographic-economic patterns of organization. But Sassen is more circumspect than Kobrin (though less so than Louis Pauly) regarding the long-term consequences of this development for international organization and global governance.

Stephen Kobrin argues that transnational networks of private capital actors are replacing hierarchies and national markets as the basic form of organization, and he emphasizes the migration of markets into cyberspace. His analysis implies that not only is market authority supplanting sovereign authority, but also that “the real question is whether the

spatial concepts of borders, territory, and jurisdiction apply to electronically organized global networks” (p. 61 above). Saskia Sassen argues that because the global economy has to be produced, reproduced, serviced, and financed somewhere, its structure is not purely a function of the power of transnational firms or of markets. She emphasizes the extent to which the global economy materializes in national territories, in “global cities,” where financial networks and their support infrastructures provide the command and control functions of the global economy. This requires that the globalization process be negotiated with the state.

Saskia Sassen argues that these negotiations leave territorial boundaries intact, “but do transform the institutional encasements of that geographic fact” (p. 103 above). Thus in its manifestation as market authority, private authority transforms both the state and state sovereignty. However, the state participates in this transformation. We agree and would argue that market (private) authority does not simply supplant sovereign (public) authority, but that sovereign authority accommodates the burgeoning demands for market authority by participating in its own transformation. Louis Pauly argues that the globalization process enhances some state capacities, while Stephen Kobrin and Saskia Sassen contend that it diminishes others. Ronnie Lipschutz and Cathleen Fogel maintain that the state will remain an important actor for some time to come, but this does not mean that the state will remain the same institution that it has been in the past. They suggest that states are yielding “substantial” amounts of regulatory authority to transnational regulatory regimes. Thus, our contributors provide a preliminary response to the question about the future of state sovereignty posed in the introductory chapter of this volume. Most argue that we are witnessing a transformation, rather than the replacement, of state sovereignty.

In the form of private authority that we have termed moral authority, Ronnie Lipschutz and Cathleen Fogel discuss the emergence of overlapping sets of authorities arising to challenge the regulatory monopoly of the state that characterized much of the twentieth century. Like Stephen Kobrin, they see an emerging “globalizing ‘heteronomy’” (p. 124 above), in which regulatory authority is distributed across actors, but is focused on specific issues and problems. This form of private authority is developing because specific private actors, particularly NGOs, are shouldering responsibilities that other actors, including state actors, no longer wish to take on. Authority is accruing to NGOs on the basis of their technical expertise, or what Kratochwil has termed “consensual knowledge.”¹ In this instance, NGOs perform an “epistemic function” by providing the consensual knowledge necessary for the formation and maintenance of transnational regulatory regimes. State managers share regulatory

authority with NGOs, whose moral authority is translated into regulatory authority, as well as with transnational market actors, whose market authority is translated into regulatory authority.

In our other illustration of moral authority, Mark Juergensmeyer points out that transnational religious movements employ strategic violence to attack state authority directly, in an effort to demonstrate that the state no longer possesses a monopoly over the legitimate means of violence. To the extent that these groups, movements, and ideologies succeed in demonizing the secular, Western (Westphalian) state, and particularly the transnationally culturally influential United States, they undermine Weberian empirical statehood. The secular, Western state is, in their eyes, illegitimate. Since they regard their own actions as not merely legitimate, but divinely sanctioned, their actions may be seen as a dramatic and destructive way to establish that the entire model of the Westphalian state sovereignty is illegitimate. Juergensmeyer argues powerfully that the act of killing on behalf of a moral code is overtly political, because it attacks the state's monopoly of legitimate violence. Each of the groups Juergensmeyer examined in his contribution to this volume advances claims of transnational moral authority immanent within their doctrines that they believe are morally superior to the bases of the secular, Western state, and that provide the basis for viable alternatives to the Westphalian conception of sovereignty.

Within the realm of illicit (private) authority, the contributors to this volume demonstrate how actors such as mafias and mercenaries capitalize on the failures of sovereign (public) authority to fulfill certain basic functions or to provide fundamentally vital public goods for the citizenry. Phil Williams identifies common characteristics of weak states, which facilitate their penetration by transnational criminal organizations. He argues that they tend to possess low levels of state legitimacy, porous borders, ineffective legal structures and criminal justice systems, and corrupt civil administrations. All of these features presage low levels of Weberian empirical statehood and sovereign legitimacy. Thus he suggests these "capacity gaps" of weak states generate certain "functional holes" that appear to undermine the legitimacy of public authority. Illicit (private) authority in the form of transnational organized crime rushes into the vacuum created by these gaps. He notes that some criminal organizations and leaders "engage in a form of paternalism that earns them considerable gratitude and . . . support from members of the populace" and that their sometimes "[v]ery visible, and sometimes even ostentatious, support for charities is another aspect of the same tendency." The consequence for state sovereignty here is that illicit (private) authority becomes "a surrogate" for state (public) authority (pp. 170–174 above).

Bernedette Muthien and Ian Taylor argue similarly that in many of the weak states of mineral rich sub-Saharan Africa, “security is no longer a service [provided] by the state for all its citizens, but has become a market good” (p. 186 above). Their discussion of characteristics of weak African states, and how their weaknesses facilitate their penetration by private armies and mercenary forces, resonates strongly with Williams’s descriptions of the public authority failures that enable penetration by mafias. However, Muthien and Taylor note that, in some instances, the private provision of security services to embattled states has been legitimated by transnational international agencies such as the International Monetary Fund. While highly critical of most illicit mercenary arrangements, Muthien and Taylor consider whether they might serve a positive role in some instances (as the IMF seems to believe), ostensibly in the defense of an endangered public authority. Like the expansion of transnational criminal organizations, the introduction of mercenary forces also undermines the authority of the sovereign state and raises profound questions about the operational meaning of state sovereignty.

Private authority and democratic accountability

Many of the contributors to this volume raise explicit concerns about the limited degree (or virtual absence) of accountability of private authority. Claire Cutler contends that, as firms begin to function like governments, this raises major issues for democratic and representative theories of governance. She maintains that private entities are not normatively entitled to act authoritatively for the public, because they are not subject to mechanisms of political accountability, but rather are only subject to the accountability of their private members. Ronnie Lipschutz and Cathleen Fogel similarly raise questions about the privatization of global regulatory authority and conclude that the trend in the future “is likely to be toward greater privatization of regulation and less democracy and accountability around the world” (p. 121 above). Bernedette Muthien and Ian Taylor voice the same concern and warn that, because they are unaccountable to wider society, “private armies are able, in the most extreme cases, to asset-strip a country with virtual impunity, leading to irreversible ecological degradation, the illicit export of resource commodities, and the general encouragement of a culture of criminality” (p. 197 above).

In the domain of market authority Stephen Kobrin argues that, with globalization, emergent forms of private authority such as networked oligopolies are able to extract unprecedented regulatory concessions from host governments, to which multinational corporations had previously been relatively responsive. Louis Pauly notes the “discipline” imposed

on autonomous state action by market authority in the form of floating exchange rates and international capital mobility. He also suggests that this has implied cutting back on the welfare state, in spite of the fact that its services remain in high demand and enjoy high levels of popular support in most advanced, industrialized states. However, Pauly challenges the assertion that no one could be held accountable for a financial catastrophe resulting from truly integrated global financial markets. He argues that the authority to manage global finance either has been dispersed to supranational institutions or has been privatized. However, in the event of a major financial crisis, agencies like the IMF take on the role of scapegoat to buffer the political crises attending financial crisis to prevent a legitimation crisis of the global, socioeconomic order. The vituperative criticism attending the IMF's handling of the Asian financial crisis of 1997, from economists and commentators of all stripes, appears to bear Pauly out in this context.² In the final analysis, however, Pauly contends that justice and legitimacy are inextricably linked, and that governments will not be able to shift ultimate political authority to what we are calling market authority. He remains skeptical of the long-term causal significance of market authority and argues that markets are a tool of policy (of sovereign authority) rather than a substitute for it.

Saskia Sassen addresses the relationship between democratic accountability and the growth of private authority in the brief description of her new research oriented toward tracing the microhistory of US legal accommodations to the globalization process. The increased coordination of regulatory standards is being conducted in a manner that is largely hidden from the global public, and Sassen argues that there is a need for the state to do much more than it is doing to increase the level of accountability built into the global economy. Sassen issues a call for a "new politics of accountability" (p. 107 above). Perhaps the strong levels of protest seen at the meetings of the World Trade Organization in Seattle, and the IMF and World Bank in Washington in 2000, could be described as a popular echo of Sassen's call.

In the realm of moral authority, Ronnie Lipschutz and Cathleen Fogel provide a somewhat hopeful assessment of the prospects for greater accountability when they note the "growth in neofunctional authority" resulting from the proliferation of non-corporate NGOs with emancipatory goals and some influence in the global regulatory process. These organizations are accorded a certain degree of moral authority because of their non-state nature, their substantive expertise, and their positive normative commitments. However, Lipschutz and Fogel are concerned that those forms of global regulation that serve the narrow self-interests of specific actors may be legitimated via transnational

processes that pass for global governance. Like Saskia Sassen, they call for a countervailing movement to bring public scrutiny and participation to bear on these global regulatory processes. The application of more moral authority is seen as a democratic prescription for the undemocratic application of market authority.

Mark Juergensmeyer's study of the moral authority of transnational religious movements suggests that adherents of these movements wish precisely to attack the legitimacy of secular, democratically accountable public authority. The private application of religious violence ultimately aims to reconstruct both transnational and domestic public authority on transcendental bases. It does this with a combination of a dramatic demonstration of the weakness of public secular authority, coupled with an appeal to the moral authority of a transnational, transcendental creed to which "democracy" is either anathema, or is conceived in a radically different fashion than in the secular West. While they may promise a form of accountability (before God), transnational religious movements are not accountable in this world.

In the realm of illicit authority matters are somewhat simpler. Democracy has already been subverted by the partial or complete collapse of the public authority of weak sovereign entities. Illicit (private) authority steps in to provide public goods and to meet needs and responsibilities that the sovereign (public) authority has neglected or eschewed. To the extent that mafias and mercenaries are visible and successful in providing these public goods, they may enjoy the partial, popular legitimation of their exercise of private authority. However, it is difficult to see how these outcomes may be described as democratic or accountable (beyond the basic provision of public goods). The intervention by private military forces in Sierra Leone had some positive outcomes, but, as Bernedette Muthien and Ian Taylor suggest, "they only went where the payoff was high" (p. 194 above). The people who lived in the mineral-rich areas benefited from the protection provided by the mercenary force, but those who did not had to fend for themselves. Private entities in strong possession of the means of violence, whether these means are either locally or transnationally perceived as legitimate or as illegitimate, are ultimately accountable to no one.

The reversibility of private authority

Can the emergence of private authority be reversed? Louis Pauly argues forcefully that, since markets ultimately rely on stable political foundations, public authority may seize back its perquisites at any moment, and is likely to do so in the advent of bad times. He argues that the

responsibilities of a public authority to attend to the welfare of its citizenry may be displaced for a time, but it can never be completely avoided. Pauly concludes that “it is always easy to say ‘Let the market work.’ But it is politically unthinkable actually to do it” (p. 87 above). Having elaborated on the definition, the forms, and the implications of the emergence of private authority in the international system, we now need to examine the conditions under which the emergence of private authority might be reversed. In order to understand the potential for the reversal of different forms of private authority, we also need to understand the different bases (and types) of each of the three forms of private authority considered in this volume.

The potential reversal of private market authority

There are two principal types of private market authority considered in this volume: institutional and normative. Institutional market authority refers to the capacity of private actors to set standards that are recognized and adhered to by others. Normative market authority refers to the general acceptance of the more abstract idea that markets should determine decision-making over important issues.

Claire Cutler concentrates on institutional market authority in her contribution to this volume. She argues that institutional market authority ranges in degree of institutionalization from informal industry norms and practices on the low end of the continuum to highly institutionalized private international regimes on the other. The authority of private institutional actors is based on their capacity to establish technological, manufacturing, and regulatory standards that become recognized and adhered to by other actors. The proliferation of ISO standards generated by transnational market actors and the commercial regulatory authority adhering to burgeoning agency of corporate NGOs are both examples of institutional private market authority.

Normative market authority is based on the acceptance of essentially market-based modes of decision-making among important political actors. While social recognition is necessary to constitute authority, this form of private authority rests upon the power inherent in the private control of mobile, productive, and portfolio capital, along with the capacity to generate new productive technologies. The oligopolistic networks of transnational corporations that are featured in Stephen Kobrin’s analysis are exemplars of this type of private market authority, managed from the command and control centers of Saskia Sassen’s “global cities.” Louis Pauly refers to them as the international capital mobility regime.

How might the emergence of these different types of private market authority be reversed? Private market authority would most likely revert to public authority in the event of a major normative delegitimation of the market mechanism. A global financial crisis affecting the major financial centers or a broader crisis of global market capitalism could create the conditions under which, as Pauly suggests, the state might take unilateral action to seize back that which it has ceded (or delegated) to private, market-oriented actors. Public authorities would presumably revise their statements about the power and inevitability of global market forces in an effort to reassure the citizenry to whom Pauly suggests they remain accountable. However, the probability of this scenario is likely to be sharply contested by market optimists and observers who maintain that globalization is driven by irreversible technological developments. Institutional types of private market authority would be easier to reverse, particularly if their capacity to set and enforce standards were diminished by new players. However, the effects of this reversal would be less extensive and would most likely be contained within individual economic sectors.

The potential reversal of private moral authority

As with private market authority, there are different types of private moral authority, reflecting the different claims on which it is based: expertise, neutrality, or normative superiority. Some private actors possess moral authority because of their capacity to provide expertise on an important issue. Others claim moral authority because of a combination of their possession of expertise and the plausibility of their claims of neutrality on a controversial issue. Still other private actors claim moral authority because of more general normative claims that they are socially recognized to represent progressive or, in some instances, morally superior, transcendent social and political positions. The emerging regulatory authority of non-corporate NGOs featured in the work of Ronnie Lipschutz and Cathleen Fogel combines elements of all three (expertise, neutrality, and moral transcendence), while the claims of adherents of the transnational religious movements discussed by Mark Juergensmeyer are based primarily on claims of moral transcendence.

As in the case of the potential reversibility of different types of private market authority, the reversal of different examples of private moral authority is closely linked to the bases of their claims of moral authority. One circumstance under which the exercise of the moral authority of private actors might revert to a public authority would involve a normative delegitimation of the private actor through its own actions or through the strategic discursive efforts of other actors. For example, an action taken

by a non-governmental organization, or a socially recognized, discursive claim by its adversaries that it had abandoned its neutrality or become unable to generate expertise, could result in a crippling withdrawal of the social recognition of the moral authority of the NGO. Similarly, action by or socially recognized discursive claims against activist adherents to transnational religious movements could have similar effects. The exclusion of NGOs from input into transnational regulatory processes might temporarily enhance their moral authority in the view of their supporters, but would at the same time negate their regulatory authority. In as much as authority remains the legitimate use of power, the negation of the power to act necessarily negates the authority to act. However, the negation of legitimacy in action can be more crippling to the capacity to act authoritatively, because prohibitions that remove the capacity to act may ultimately enhance the legitimacy of the excluded actor.

The excluded actors' loss of capacity to act can itself be reversed by external pressure from outraged third parties who continue to grant social recognition to the legitimacy of the excluded actor. For example, the imprisonment of Nelson Mandela by the apartheid regime of South Africa negated his capacity or power to act against the regime directly by virtue of the fact of his incarceration and isolation. This actually enhanced his normative legitimacy and moral authority among reformist elements of the South African polity. His ultimate release from prison reversed his incapacity to act, and he emerged as an even stronger political actor in view of the moral authority that adhered to him for having suffered under the apartheid regime. He was consequently accorded the pinnacle of political (public) authority upon the delegitimation and collapse of the previous South African public authority.

The potential reversal of private illicit authority

The claim to authority of private illicit actors in the international system rests upon their capacity to provide public goods and their private control of the means of violence that competes with, or supercedes, the capacity of public authority. The social recognition of illicit authority is also essential to its emergence as private authority, not simply its possession of power. Accordingly, there are two principal ways in which private illicit authority might be reversed: either a normative delegitimation or a nullification of the capacity or power to act.

Failure to provide the public goods underprovided by public authority, either through conscious decision or through incapacity, might result in the normative delegitimation and local withdrawal of social recognition of illicit authority. For example, the mafias and mercenaries that fail to

provide public goods such as the enforcement of contracts and the provision of security tend to be viewed, even by prospective recipients of these public goods, as mere predators and parasites. Mafias and mercenaries most successfully penetrate weak states; hence, the emergence of private illicit authority might also be reversed by the success of state-building or institution-building efforts oriented toward strengthening state capacities to provide public goods to the citizenry. Unfortunately, state-building is a long-term project and is not terribly easy to accomplish. Finally, external intervention and/or policing by transnational public authorities could produce the same outcome as successful state- and institution-building. By generating a competing normative legitimacy for public authority, enabling state capacity to replace private violence capacity, and undermining the fiscal basis of illicit authority, external intervention could also reverse the emergence of private illicit authority, at least in the short term.

In table 7 we present a summary of the preceding discussion of the bases of each major subtype of private authority considered in this volume. We also suggest some major examples of each type of private authority. In the final column we derive, from the logic of the arguments about the bases of these different subtypes of private authority, some of the conditions under which the different types of private authority might be reversed.

Ideas for future research on private authority and the international system

The preceding discussion of the conditions under which private authority might be reversed suggests a rich agenda for future research. Many of the logical assertions summarized in table 7 could be converted into testable hypotheses about the nature and future direction of authority in the international system. At the same time, the research included in this volume has illuminated many questions that were obscured when we began. We believe we have made a useful beginning in exploring the phenomenon of private authority and its importance for the contemporary international system. We can now see more clearly some of the exploratory paths down which we could tread, paths that were obscured before we had conducted some reconnaissance of the general intellectual terrain.

There is clearly more conceptual work to be done. In this volume, we have provided a provisional typology of three forms of private authority that are being exercised in the contemporary international system: market, moral, and illicit authority. We have considered their bases, identified subtypes within each category, listed examples, and suggested some of the conditions under which we might anticipate a potential reversal of each form of private authority. However, our review of the chapters

Table 7. *Typology of private authority*

Type of private authority	Bases of private authority	Examples of private authority	Sources of potential reversal of private authority
Market authority	Capacity to set standards recognized and adhered to by others (<i>institutional market authority</i>) Acceptance of market-based decision-making (<i>normative market authority</i>)	ISO standards Corporate NGO regulatory authority Networks of transnational corporations International capital mobility regime	Normative delegitimation: – global financial crisis – crisis of global capitalism Breakdown of networks Unilateral action by public authority
Moral authority	Capacity to provide expertise (<i>authorship</i>) Status of non-state, non-self interested actor or neutral (<i>referee</i>) Claim to represent socially progressive or morally transcendent position (<i>normative</i>)	Non-corporate NGO regulatory authority Transnational religious movements	Normative delegitimation of non-state NGO action capacity Exclusion of non-state NGOs by market and public authority Normative delegitimation of transnational religious movements in view of adherents
Illicit authority	Capacity to provide <i>public goods</i> underprovided by public authority Control of private <i>means of violence</i>	Penetration of weak public authorities by transnational criminal organizations and private armed forces	Normative delegitimation via failure to provide public goods Successful state-/institution-building to strengthen public authority Successful intervention/ policing by transnational public authority

included in this volume suggests to us that each form of private authority in our typology might be conceptually disaggregated and further theorized in ways that could provide us some directions for future theoretical and empirical research.

In the realm of market authority, the distinctions raised in the introductory essay and in Claire Cutler's summation of her collaborative work on private regimes are highly suggestive of one way in which the concept of market authority might be further explored. As discussed above, two major subtypes of market authority present themselves. Cutler, Haufler, Porter, and their collaborators have recently studied one subtype: the authoritative consequences of constructing institutions of and by market actors, especially private transnational regimes and the norms, rules, principles, decision-making procedures, and institutions which comprise them. Their work is the definitive study to date of what we call *institutional market authority*. We regard their suggestions for future research into these institutions as excellent and refer the reader to their proposed research program designed to garner further insights into this subtype of market authority.

However, a second subtype of market authority, perhaps even more pervasive, is suggested by the normative acceptance of market-based modes of decision-making in general. This entails research into the following questions. By what processes have transnational market actors and, in many cases, public authorities normatively legitimated the neoliberal vision of a globalized economy? What discursive battles have been waged to effect this normative legitimation? Should we (or how shall we) theorize economics as ideology rather than as "science"? As the economist Robert Heilbroner has argued, the notion of economics "as ideology forces us to confront directly . . . the constitutive basis of what we call the economy and the pronouncements about it that comprise economics."³ How does the language of economics, employed in these discursive battles, help to "construct" the neoliberal globalized economy? As the economic historian, Deirdre McCloskey, has observed so adeptly, the rhetorical style in which economics is written relies upon a highly intersubjective set of social meanings. The reader (or listener) is intended to avail herself of these meanings as she draws "truth value" from the rhetorical style.⁴ In short, by what means does "market authority" acquire, for many actors, through discursive and operational construction, its own "moral authority" as a normatively legitimate means of allocating, for example, the painful economic adjustments that attend the neoliberal globalization process? We have labeled this subtype of market authority *normative market authority*. Note that we are not claiming our own adherence to the normative legitimacy of these market-based processes and outcomes. We are suggesting

that the observed levels of market authority exercised in the international system are inconsistent with purely coercive processes of allocating market-based adjustment costs. In other words, if these market-based processes and outcomes did not enjoy significant levels of normative legitimacy, this form of market authority could not be exercised.

Even more clearly than market authority, the form of private authority that we have designated as moral authority needs conceptual unbundling. As suggested in the introductory chapter, the concept of “moral authority” has been applied, in the context of the study by Ronnie Lipschutz and Cathleen Fogel, as well as that of Mark Juergensmeyer, in at least four specific contexts. First it has been applied to the authority that adheres to those who possess useful expertise. We call this the *authority of authorship*. Second, it has been applied to the authority that adheres to those who can claim the moral high ground, or status, of neutrality as an actor in a highly contested or conflictual social environment. It may also entail a claim of altruism, or at least an absence of personal or institutional, pecuniary or political self-interest.

Both the claim to expert status (specifically when it is accompanied by a discursive claim to the “scientific,” thus “neutral,” status of the expertise provided) may entail an implicit or explicit claim to hold the moral high ground in a contested social interaction. Thus we are comfortable in designating both as “moral” claims. Further, both of these claims must enjoy social recognition to function socially as claims to “authority” as opposed to simple “capacity” or “power.” We are therefore happy that both are forms of “authority.” Yet the variation in the source of these claims to moral authority is sufficiently significant that we deem it useful to delineate between them. We designate the second form of moral authority claim, which adheres to those claiming neutral status in a contested social dynamic, as the *authority of the referee*.

Two further distinctions arise in the work of our contributors that we believe suggests a further subtypology of moral authority. Let us first suggest that there is a generic form of the subtype. It entails a moral claim to a normatively legitimate social purpose in the course of social action. We shall, then, simply designate the third subtype of moral authority as *normative moral authority*. Among our contributors to this section we have two distinctive examples of the subtype. The first is the illustration by Ronnie Lipschutz and Cathleen Fogel of the moral claim on behalf of non-corporate NGOs to the secularly normatively legitimate claim to regulate and certify ecologically responsible manufactures. We could, then, designate this claim as “*secular*” *normative moral authority*, though we could just as easily further specify the context and designate it as “*ecologically*” *normative moral authority*. The illustration of normative moral authority

provided by Mark Juergensmeyer's study of the proclaimed social purposes of transnational religious movements can similarly be designated as a claim to "*transcendent*" *normative moral authority*.

In spite of the claims advanced by any social actor to possessing moral authority, or any form of private authority for that matter, the social recognition of these claims must be demonstrated to justify their claim to the actual exercise of private authority. The claims that non-corporate NGOs exercise private authority may not be recognized by corporate NGOs, or even by many public authorities. Yet they are valid to the extent that social recognition of the claims by other actors or publics lend the NGO agency that makes it effective in participating in the construction of regulatory frameworks for ecologically responsible manufactures, and in certifying these frameworks. The claim of these NGOs to the authority of authorship appears to enjoy somewhat unproblematic social recognition. The claims of NGOs to the authority of the referee, or to the possession of normative moral authority, are more likely to be contested by important actors, even if they enjoy social recognition from some of them. Social recognition of all relevant actors is not necessary to sustain a claim to legitimate and effective private authority. Whose recognition is required to sustain the claim is contingent upon the structure of each, unique, social interaction environment.

The forms of illicit private authority explored by Phil Williams and by Bernedette Muthien and Ian Taylor find their basis in the capacity of private actors to provide public goods that are underprovided by weak or inadequately institutionalized public authorities. The other major source of their authority is a high capacity for delivering the means of violence. Capabilities are a source of power, and they may be a source of authority when, as is the case of the Weberian empirical state, the entity in possession enjoys a socially recognized monopoly over the means of their employment. In the cases of mafias and mercenaries, any monopoly enjoyed through the means of private violence tends to be temporary, and social recognition of the monopoly of its use is likely to be spare among the citizenry, and grudging where it is accorded. Nevertheless, it is possible to disaggregate illicit private authority in accordance with the types of public goods, or social services, provided by that form of private authority.

There is clearly more theoretical and empirical work to be done. Our intention with the publication of this volume is to advance the debate and understanding of the emergence of private authority. In the final analysis, authority (private or public) is a social construct. The terms of its construction are always contingent upon the self-understandings of actors, in addition to their social understandings of one another. Like state sovereignty, both public and private authority are social conventions.

Social conventions may be strongly institutionalized or they may be weakly institutionalized. State sovereignty is highly institutionalized in most states, but it is so weakly institutionalized in others that private actors can exploit that weakness, and may enjoy a measure of private authority for delivering public goods that the state fails to provide. Similarly, private authority is weakly institutionalized in many of its manifestations. However, private authority may be so highly institutionalized in some of its manifestations, such as private regimes, that public authority may be forced to transform its institutional and regulatory environment in order to enjoy the “public goods” provided by the operations of transnational networks.

NOTES

- 1 Friedrich Kratochwil, “Regimes, Interpretation, and the ‘Science’ of Politics: A Reappraisal,” *Millennium: Journal of International Relations*, 17 (2) (1988), 263–84, and Kratochwil, *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989), pp. 60–61.
- 2 Martin Feldstein, “Refocusing the IMF,” *Foreign Affairs*, 77 (2) (March/ April 1998), 20–32; Paul Krugman, *The Return of Depression Economics* (New York: Norton, 1999); Joseph Stiglitz, “Must Financial Crises Be This Frequent and This Painful?” McKay Lecture, University of Pittsburgh, Pittsburgh, Penn., 23 September 1998, www.worldbank.org/html/extdr/extmel/js-092398/; Stiglitz, “Back to Basics: Policies and Strategies for Enhanced Growth and Equity in Post-Crisis East Asia,” delivered 19 July 1999, Shangri-la Hotel, Bangkok, Thailand; Stiglitz, “Whither Reform? Ten Years of the Transition,” keynote address for the World Bank Annual Bank Conference on Development Economics, Washington, D.C., 28–30 April 1999; Stiglitz, “The Insider: What I Learned at the World Economic Crisis,” *New Republic*, 17 & 24 April 2000, 56–60; Robert Wade and Frank Veneroso, “The Asian Crisis: The High Debt Model Versus the Wall Street–Treasury–IMF Complex,” *New Left Review*, 228 (March/April 1998), 3–24.
- 3 Robert Heilbroner, “Economics as Ideology,” in Warren J. Samuels (ed.), *Economics as Discourse: An Analysis of the Language of Economists* (Boston: Kluwer, 1990), p. 106.
- 4 Deirdre N. McCloskey, *The Rhetoric of Economics* (Madison: University of Wisconsin Press, 1998), p. 6.