

5. Multi-level Governance

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Chapter to be published in the *Encyclopedia of EU Public Policy*, edited by Paolo Graziano and Jale Tosun

1. Introduction

Scholars in European studies, governance, and public policy agree that political conflicts as well as the policy process extend over a variety of different political arenas, such as the international, national, subnational, and municipal levels of government as well as in non-state arenas of political decision-making. It is also uncontested that the European Union (EU) policy process spans across different levels of government and includes important non-state actors (Hooghe & Marks, 2003; Knill & Tosun, 2020; Leuffen et al., 2012). Researchers use the term multilevel governance, to refer to these different perspectives, however, the epistemological position of the term multi-level governance is less clear. Although multi-level governance is mostly used for the analysis of the EU, authors employ the concept to different descriptive and normative ends in political analysis (Piattoni, 2010). Against this background, recent contributions have called for conceptual clarifications and have pointed out that multi-level governance should take the role of an explanatory theory that would contain causal mechanisms to better understand the policy process (Bache et al., 2016; Maggetti & Trein, 2019; Tortola, 2017).

This chapter presents the concept of multi-level governance and discusses its role for EU public policy and beyond. After introduction, this chapter proceeds with a presentation of the origins of multi-level governance and discusses the research questions scholars have analyzed with respect to multi-level governance. Afterwards the chapter discusses how multi-level governance originates in the analysis of Europeanization and has developed into a versatile concept for the analysis of public policy and political processes. In its last section, this chapter assesses the way forward for multi-level governance research. In particular, the final section focuses on the potential and the limitations of multi-level governance as an analytical concept for European public policy and sheds light on its status as a theory of the policy process. Conclusions follow.

2. Research questions and definitional ambiguity

Authors use the term multi-level governance in a variety of ways. There is considerable ambiguity regarding how scholars have employed the expression multi-level governance (Tortola, 2017). This ambiguity becomes apparent if we look at the different types of research questions authors have raised since the origin of the concept in the early 1990s.

The first type of research questions operates in the context of analysis of intergovernmental relations, in the tradition of federalism studies. These research questions assess multi-level governance regarding the delegation of powers away from the central- to lower levels of government, such as regional and municipal authorities. This type of research basically aims at understanding the “the rise of political authority beyond the nation state” (Bache et al., 2016, p. 487). Empirical studies have demonstrated extensively how governments delegated competencies to different levels of government (Hooghe et al., 2016; Hooghe et al., 2017), as

well as the consequences, which this delegation of power has for the policy changes at the level of the nation state (Trein & Ansell, 2021; Trein & Maggetti, 2021).

The second type of research questions builds on the distinction of Type I and Type II governance. In their seminal article on types of multi-level governance, Hooghe and Marks distinguish Type I governance, which entails decision-making in general-purpose jurisdictions, non-intersecting memberships between jurisdictions, jurisdictions at limited numbers of levels, and systemwide architecture. Type I governance resembles the principles of power sharing in federal states. Contrarywise, Type II governance entails decision-making in task-specific jurisdictions, intersecting memberships, no limits to the number of jurisdictional levels, and a flexible design. Instances of functional jurisdictions entail the flexible and task-oriented cooperation, for example an institutionalized cooperation between municipalities regarding firefighting or public transportation (Hooghe & Marks, 2003, pp. 236–239). According to Bache et al., the second type of research questions concerning multi-level governance deal with the relationship between these types of jurisdictions, taking the EU as an example. The goal of this research is to analyze “the lack of stateness”, especially in the EU (Bache et al., 2016, p. 488).

A third set of research questions pertains to the normative implications of multi-level governance. Therein, authors explore the normative assumption that the delegation of powers away from the nation state, to subnational and international levels of government as well as to private (or non-state) actors improves the quality of governance, for example as lower levels of government are better equipped design policy solutions that respond to the needs of the local population (Bache et al., 2016, p. 488). Furthermore, a stronger role for private and non-state actors in decision-making and implementation is said to result in more efficient policies (Börzel & Heard-Lauréote, 2009). Another argument in favor multi-level governance is that multi-level policy arrangements, such as in the EU, are perceived as economically, administratively and politically efficient (Piattoni, 2010; Scharpf, 1999). Contrariwise, other scholars have pointed to the challenge which multi-level governance creates for democracy. For example, authors have held that the delegation of competencies to actors that are not part of the nation state creates problems of democratic accountability (Papadopoulos, 2003) and produces the risk of an authoritarian backlash (Zürn, 2021).

In a recent article, Tortola points to different ways in how authors use multi-level governance and uncovers ambiguities in the application of the concept. “Looking at the MLG literature as it has developed in the past two decades or so, such ambiguities can be summarised in three broad areas: the applicability of MLG [multi-level governance] beyond the EU; the role of nonstate actors; and the focus on policy-making structures versus processes“ (Tortola, 2017, 236). According to Tortola, research on multi-level governance is ambiguous regarding three questions. Firstly, whether multi-level governance can be applied beyond the EU; secondly, which is the role of non-state actors in multi-level governance; thirdly, whether multi-level governance focuses on a structural or a processual dimension. The following section illustrates the development of multi-level governance as an analytical concept for political research and explains the origins of these three ambiguities.

3. Conceptual development of multi-level governance

Conceptual origins in European studies

The origins of the concept multi-level governance can be found in the literature on European integration. Notably, in his seminal study of European structural policy, Gary Marks theorized the emergence a new political order in Europe. Therein, he argued that the European political system resembles a multi-level polity. Specifically, he holds, “I suggest that we are seeing the

emergence of *multilevel governance*, a system of continuous negotiation among nested governments at several territorial tiers—supranational, national, regional, and local—as the result of a broad process of institutional creation and decisional reallocation that has pulled some previously centralized functions of the state up to the supranational level and some down to the local/regional level” (Marks, 1993, p. 392). This definition paves the way of multi-level governance as a concept that describes the dispersion of state power across different levels of government in the context of EU policymaking.

Type I and Type II Governance

The next milestone in the development of the concept was the generalization of the idea behind multi-level governance to empirical examples beyond the European Union. In a seminal article Hooghe and Marks theorize the “unravelling” of the nation state by distinguishing Type 1 and Type 2 governance (cf. previous section). In their article, the authors put forward two hypotheses. Firstly, they argue that multi-level governance increases flexibility in governance arrangements but increases coordination costs and creates a coordination dilemma. Specifically, the authors hold, “The coordination dilemma confronting multi-level governance can be simply stated: To the extent that policies of one jurisdiction have spillovers (i.e., negative or positive externalities) for other jurisdictions, so coordination is necessary to avoid socially perverse outcomes. We conceive this as a second-order coordination problem because it involves coordination among institutions whose primary function is to coordinate human activity” (Hooghe & Marks 2003, p. 239). In other words, the integration and coordination of public policies across general-purpose and task-specific jurisdictions creates additional coordination problems, which need to be addressed by further political action.

The second hypothesis that Hooghe and Marks put forward concerns the role of identities in the coordination of different jurisdictions. The authors hold that the communities of Type I jurisdictions (general-purpose jurisdictions) are “often rooted in communal identity”, such as nationalism. Therefore, these communities deal with conflicts through voice and inclusion of various needs and demands. Contrariwise, Type II jurisdictions (task-specific jurisdictions) are held together by their problem-solving capacity. Conflicts are usually resolved through exit, i.e., members can leave the jurisdiction. Thus, the authors conclude that this distinction of intrinsic- and extrinsic community is a key theme of multi-level governance (Hooghe & Marks, 2003, p. 240). We will come back to this idea later in the chapter.

Towards an umbrella concept of political analysis

In 2010, Simon Piattoni published a seminal book that summarizes the state of the art in multi-level governance research. The author starts off by pointing out that, “Multi-level governance (MLG) is a rather popular term, widely used by students of European integration and international relations (IR) as well as by commentators and practitioners. It evokes the idea of increasingly complex arrangements for arriving at authoritative decisions in increasingly dense networks of public and private, individual and collective actors. In particular, it is deemed to capture important features of how binding decisions are arrived at in the European Union. Yet, MLG is not just a convenient description of political mobilization leading to European policy-making, it also points to fundamental changes in contemporary rule. As such, it suggests that structural transformations are taking place in contemporary European states under the impact of the process of European integration. Finally, MLG prompts reconsideration of what constitutes legitimate rule (in both state and non-state contexts), and therefore invites normative reflection on the conditions under which binding decisions gain widespread acceptance and bestow legitimacy on the institutions that produce them” (Piattoni, 2010, p. 1). This definition

points out that multi-level governance is a term that captures a variety of related problems. In addition to previous contributions, Piattoni underlines the importance of private, i.e., non-state actors in multi-level governance. Furthermore, the author points out that multi-level governance is linked to a transformational process of governance in nation states.

Notably, the inclusion of private actors is important and links multi-level governance to the wider governance literature, which emphasizes the rise of private and other non-state actors in policy-making- and implementation (Knill & Tosun, 2012; Kohler-Koch & Rittberger, 2006; Thomann et al., 2018; Trein & Tosun 2019), for example regarding climate change (Jordan et al., 2015), pharmaceutical policy (Maggetti et al., 2017) as well as in private governance regimes (Hsueh, 2019).

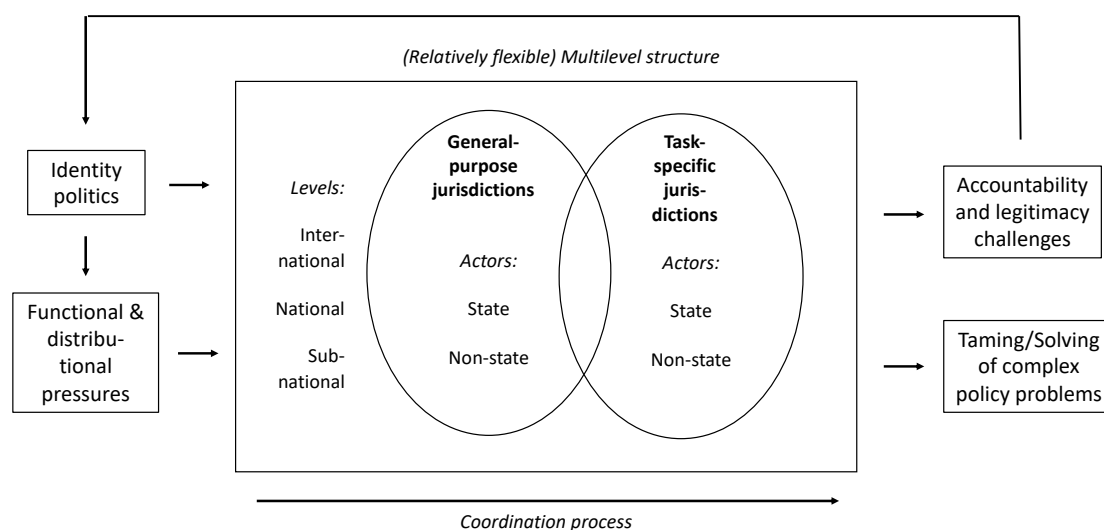
In her book, Piattoni also points out that multi-level governance has developed towards, “an umbrella under which many disparate phenomena are subsumed, to the point that it may lose all denotative precision and become “over-stretched”” (Piattoni, 2010, p. 2). To remedy this problem and to deal with some of the ambiguities in the usage of multi-level governance, Tortola has suggested two ways forward regarding the theoretical development of multi-level governance. Firstly, the theoretical development of multi-level governance should work towards a theory of state transformation, which explains the (re)distribution of authority between different levels of government. The second pathway for a future theoretical development concerns the development of multi-level governance into a theory of (EU) public policy (Tortola, 2017, pp. 244–246).

Defining multi-level governance

Figure 1 summarizes an encompassing definition of multi-level governance in political research. In simple terms, multi-level governance entails on the one hand a complex structure that links different levels of government in general-purpose- as well as in task-specific jurisdictions. It also combines the presence of state actors, especially governments and bureaucracies but also parliaments as well as non-state actors, such as private organizations that self-regulate and organize specific policy problems. In this structural context, multi-level governance is also a coordination process that aims at reaching politically binding decisions within the multi-level structure (Piattoni, 2010; Tortola, 2017). An important element of multi-level governance is structural flexibility. In other words, the development of policy solutions in a multi-level context oftentimes entails the development of new structures, for example task-specific jurisdictions that solve a new a complex problem, such as financial oversight or environmental protection. What is more, multi-level policymaking is often intertwined with a politicization of the multi-level structure itself. For example, EU anti-crisis policies came along with debates about the competencies and the form of the EU itself (Jachtenfuchs & Kasack 2017). Scholars have coined the term differentiated integration to indicate that in the context of the EU’s multi-level polity, some policy fields are highly integrated at the European level, whereas in others, member states retained important policy competencies (Holzinger & Schimmelfennig 2012; Leuffen et al., 2012; Stubb, 1996).

Two factors drive multi-level governance (Figure 5.1). Firstly, functional, and distributional pressures, for example, the creation of a new market requires the establishment of new regulations that span across countries and regions. Secondly, multi-level governance is driven by identity. This means that collective identities, such as the nation, the region, or the municipality, might be used as political arguments for why we ought to not delegate competencies to supranational jurisdictions. Decisionmakers mobilize such sentiments, for example in election campaigns or in referendums about membership in supranational organizations (Hooghe & Marks, 2009; Risse, 2014).

Figure 5.1: Multi-level governance and the political process



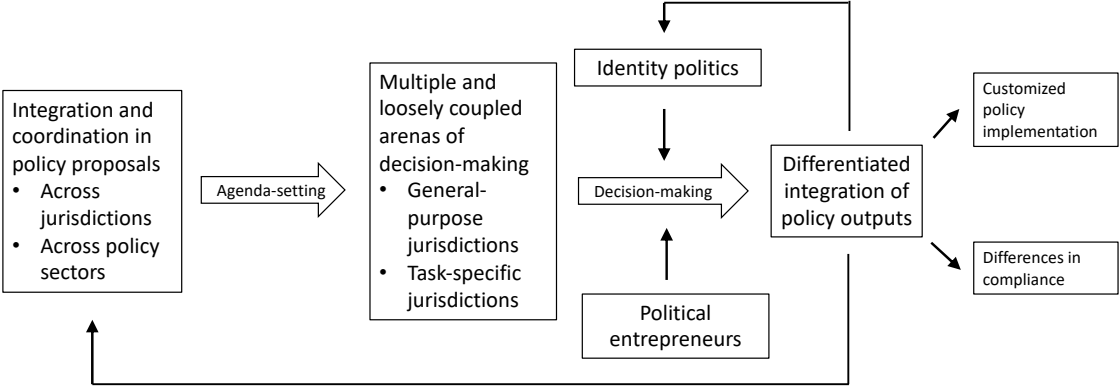
Furthermore, the literature has pointed to two major consequences of multi-level governance. On the one hand, multi-level governance result in the capacity to solve complex policy problems. The academic literature has held that multi-level governance arrangements have the capacity to solve complex policy problems and to deal with policies problems that span across jurisdictions and need a coordinated approach (Scharpf, 1997; Thomann et al., 2019; Tosun et al., 2019; Trein et al., 2019). For example, tobacco control policy is an example of problem-solving through multi-level governance through coordination at the different levels of government (Cairney et al., 2011). On the other hand, multi-level governance creates challenges for the democratic legitimacy of its results and policy outputs because those who decide, for example in the context of intergovernmental negotiations, are not democratically accountable to those who are affected by the policies (e.g., the population of all EU members) (Papadopoulos, 2003; Scharpf, 1999; Zürn, 2021). Researchers have also argued that multi-level governance arrangements empower governments over parliament and “hollow out” democracy (Benz, 2017; Mair, 2014). Furthermore, policy implementation in multi-level contexts can be challenging, especially because implementing agents have the possibility to shirk and might implement the policy only partially or not at all, or in a different way than intended by those who decided on the policy (Thomann et al., 2018).

4. Towards a theory of the policy process

The remainder of this chapter will focus on one of the challenges for multi-level governance research, which Tortola has put forward, namely the development of multi-level governance into a theory of the (EU) policy process (Tortola, 2017). Obviously, it will not be possible to develop a fully-fledged theory at this point. Nevertheless, this section will take stock of the literature and discuss those elements that are crucial for the formation of a theory of a multi-level policy process. Therefore, the paper links four themes from the public policy and European studies literatures into a descriptive typology of the multi-level policy process, which spans across agenda-setting, decision-making, and policy implementation. Figure 2 summarizes the different theoretical items. The theoretical model contains (1) policy proposals that entail the integration and / or coordination of jurisdictions and / or policy sectors, (2) multiple and

loosely coupled arenas of decision-making, (3) the moderation of decision-making by identity politics and political entrepreneurs, (4) differentiated integration of policy outputs, and (5) compliance and customized policy implementation (Figure 5.2).

Figure 5.2: *Process of multi-level policymaking*



Integration and coordination in policy proposals

The first element of a multi-level policy process is the development of policy proposals that require the coordination of different jurisdictions and that integrate policy competencies across various jurisdictions. There is a broad literature on policy coordination and integration, which points out that the increasing complexity of policy problems and pre-existing policies themselves requires to develop policies that span across different levels of government, in different countries and possible also international organizations as well as private governance regimes (Adam et al., 2018; Tosun & Lang 2017; Trein et al., 2019; Varone et al., 2013). Therefore, a multi-level policy process entails the development of policy proposals that affect different political arenas (jurisdictions) and / or policy sectors.

Loosely coupled arenas of decision-making

The second element that is important in a multi-level process of policymaking is the presence of loosely coupled arenas of decision-making. Loose coupling, "... intends to convey the image that coupled events are responsive, but that each event also preserves its own identity and some evidence of its physical or logical separateness" (Weick, 1976, p. 3). The idea of loose coupling has been used in political science and public administration research to denote that policy changes often require the coordination or integration of various loosely coupled policies (Trein, 2017), or to indicate that decision-making happens in contexts where different arenas are loosely linked, e.g., in federal states, the EU, or in international organizations (Benz et al., 2017; Zahariadis, 2003). Loose coupling entails that the control of a centrally governing instance on the policy decisions is limited. In other words, it assumes that decision-making happens in a networked rather than in a hierarchical context (Börzel, 1998).

Identity politics and political entrepreneurs

The third element that needs to be considered for the development of a theory of multi-level policymaking entails the moderating effect of identity politics and political entrepreneurs on decision-making in loosely coupled arenas. Identity politics entails the politicization of

jurisdictional identities in the policy process. Conflicts about specific policy proposals are politicized around the delegation of competencies to other levels of government than the nation state. For example, policy integration in the EU creates political feedback effects, which contain for example the questioning of EU membership by Eurosceptic political parties (Hobolt, 2016; Hooghe & Marks, 2009). A similar logic applies to the delegation of powers to other international organizations, such as the World Health Organization. A second moderating factor concerns the role of political entrepreneurs. In the context of loosely coupled arenas of decision-making, an important element to reach consensus and somewhat coherent results are actors that actively link different arenas, for example through intergovernmental negotiations at the international level but also in parliament at the national level (Vries et al., 2021). Political entrepreneurs are similar to policy entrepreneurs who push important policy ideas amongst different actors in the policy process (Mintrom, 1997). The difference between policy entrepreneurs and political entrepreneurs are that political entrepreneurs explicitly forge links between loosely coupled arenas of decision-making independently of the policy focus, whereas the action of policy entrepreneurs is mostly linked to a specific policy proposal.

Differentiated integration of policy outputs

The results of decision-making in a multi-level policy process result in a differentiated integration of policy results. This means that in some policy fields, competencies for policymaking are integrated at the international level, whereas in others they remain at the national level as well as at the subnational level respectively. Leuffen et al. have shown this dynamic for the European Union (Leuffen et al., 2012). Nevertheless, we know that this is also the case for federal states, especially in decentralized federations, such as Switzerland (Linder & Mueller, 2021). Furthermore, the differentiated integration of policies produces political feedback as it creates new challenges through identity politics (Hooghe & Marks 2009; Serricchio et al., 2013). At the same time, the growth of a differentially integrated polity leads to further the creation of policy proposals that are span across jurisdictions and policy sectors (Trein & Ansell, 2021).

Compliance and customized policy implementation

Finally, the multi-level policy process entails the implementation of public policies in multi-level settings. It is well known from the context of federalism studies, that policy implementation in federal states often results in differences in policy implementation at the level of implementing jurisdictions, e.g., subnational units and municipalities implement policies other than intended by the federal government and different from one another, which might lead to different policy regimes between various regions within a country. Some scholars have pointed out that multi-level structures might be obstacles to policy implementation (Piattoni, 2010), because a high capacity to act for lower levels of government results in limitations of compliance with higher order regulations (Falkner & Treib, 2008). Other authors have emphasized the positive consequences of decentralization and argue that policy “customization” at lower levels of government increases the problem-solving capacity of public policies (Gollata & Newig, 2017; Thomann, 2015).

The above discussed items describe elements that are central elements for the policy process from a multi-level perspective. Figure 1 illustrates how these elements are linked along one sequence of the policy cycle. At this point, the development of a theory of the multi-level policy process is at the stage of an initial description. Nevertheless, the theoretical elements that this section put together pave the way for the development of a theory of the multi-level policy process.

5. Conclusion

This chapter has presented and discussed the concept of multi-level governance. In conclusion, I would like to emphasize two points. Firstly, students and researchers of EU public policy should keep in mind that multi-level governance is a versatile concept, which allows to analyze structures and processes of European public policy. Furthermore, it presents authors with starting points for normative analyses about the consequences of multi-level governance for the quality of policy outcomes and democratic governance. At the same time, authors should keep in mind that it is important to clarify the ways in which they use multi-level governance in their research. Secondly, multi-level governance needs to be developed further to become a fully-fledged theory that allows to use it as a coherent theoretical approach for the analysis of public policy in the EU and beyond. This chapter has provided authors with a starting point for how such a theory of the policy process at the EU level could look like. Future research should continue this line of conceptual development which can help to better understand the promises and pitfalls of public policies in multi-level contexts.

In addition, the insights discussed in this chapter can be used to embark into empirical research on the policy process. In fact, the limited conceptual coherence of multi-level governance as a theoretical lens policy process is also due to the lack of empirical research on the topic. Further theory-building should also be developed from empirical studies. Therefore, one of the lessons from this chapter is to call for a multi-level perspective on the analysis of the policy process regarding reforms of important policy problems, such as the implementation of the European Green Deal, public policies that aim at dealing with COVID-19 and that deal with post-COVID challenges as well as policy processes that respond to the growing digitalization of the economy and society as well as attempts to make useful digital technologies in public policies, for example through electronic health records. In using a multi-level approach for the analysis of the policy process, scholars could take a perspective that acknowledges more systematically that policy reforms often impact more than just one policy subsystem and account more thoroughly for importance of various jurisdictional levels in the policy process.

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