

# Is "Multi-Level Governance" a Victim of Conceptual Overstretch?

Written by Jacob Borg

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<https://www.e-ir.info/2012/08/27/is-multi-level-governance-a-victim-of-conceptual-overstretch/>

JACOB BORG, AUG 27 2012

Multi-level governance (MLG) is a relatively new concept in International Relations literature and has yet to find its equilibrium in the debate around European Union integration. Some authors regard MLG and other works built around the governance model as being at the 'pre-theoretical stage' (Jessop, 2010). Jordan (2001) views MLG as being a 'compelling description' of the decision making process once it departs from the sphere of intergovernmental wrangling. The seminal concept of MLG originates from several different schools of thought, with the basic premise being that European integration has taken power away from the exclusive domain of the state (Marks and Hooghe, 1996) and spliced it up amongst supranational and subnational actors.

The starting point for understanding multi-level governance is in the very concept of governance. Governance as applied to the EU refers to a political system which is "fractured, decentred, and often lacking in clear spatial... as well as functional... lines of authority" (Caporaso, 1996 in Jordan, 2001). Governance is a departure from the term 'government,' which implies centralised control by a sovereign state. Governance is an all encompassing idea applying to all actors that in some way play a part in the guidance, control or management of society (Kooiman, 1993 in Jordan, 2001).

Hooghe and Marks (2001) divided governance as applied to MLG into two different categories, namely Type 1 and Type 2. Type 1 governance is based on the idea of federalism, where power is shared between a limited number of governments operating at different levels (Hooghe and Marks, 2001). Type 2 governance is more akin to the EU system where "each citizen...is served not by 'the' government, but by a variety of different public service industries." This would explain why multi-level governance is often viewed as a natural follow on from federalism that encompasses previously overlooked sub-strata over governance (Stein and Turkewisch, 2008).

Given that MLG is built on the very broad conception of 'governance,' it is easier to understand how Multi-level governance can easily fall prey to conceptual overstretch. The term governance has been "a victim of its own success" (Creitaru, 2008). It has been used to explain a wide array of relations from the national to the supranational and global, which has turned it into a very flexible concept. This is further compounded by the fact that MLG is approached from many different angles in the academic debate, making it susceptible to confirmation bias which is further compounded by MLG's flimsy empirical base. As Piattoni (2009) puts it, MLG runs the risk of becoming "an umbrella under which many disparate phenomena are subsumed." The ultimate consequence of this is that MLG will essentially turn into an extremely vague concept with no concrete meaning.

In the most basic sense MLG argues that sovereign states are no longer the sole actors when it comes to participating in EU policy making. Marks and Hooghe (1996) see European integration as a "polity creating process" that is influenced and shared at the "subnational, national and supranational levels." Therefore the starting point of MLG is essentially that member state governments are not the only pivotal actors when it comes to the integration process. Although this might seem to be in direct contradiction to the state centric liberal intergovernmentalist view, MLG does not try to dispute the fact that states are "the most important pieces of the European puzzle" (Marks and Hooghe, 1996). Marks' and Hooghe's goal was to theorise the "unravelling of the state" and the breaking down of the traditionally hierarchical government structure (Marks and Hooghe, 2003 in

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Piattoni, 2009).

With that said, MLG is also indebted to neofunctionalism, especially in its assessment that certain powers are slipping away from the member states to supranational institutions. This means that MLG is inexorably linked with neofunctionalism, despite attempts to distance the two (George, 2004 in Bache and Flinders, 2004). This broad approach taken by MLG is yet another reason why it is easily opened up to accusations of conceptual overstretch. Piattoni(2009) asserts that MLG has morphed into a "catch all phrase" which tries to disentangle three distinct levels, namely "political mobilisation," "policy making arrangements" and "state structure." The problem here is that multi-level governance can comfortably describe any number of "complex and multifaceted political process(es)" (Stein and Turkewitsch, 2008). This is problematic as the malleability of MLG is another reason why it is often falls victim to accusations of conceptual overstretch.

It is necessary to assess whether MLG can comfortably "travel" as opposed to "stretch" (Bache and Flinders, 2004, in Stubbs, 2005) and distort when comparing different forms of governance. According to Sartori (1970) conceptual straining is used to extend the coverage of a theory. Whilst testing a theory across different mediums is a valid exercise, the resultant loss in precision risks making the whole study superfluous (Sartori, 1970). The original proponents of multi-level governance namely Marks and Hooghe (1996) offer a three pronged test for the validity of MLG. The first is that the intergovernmental European Council and Council of Ministers share "decisional authority" with the Commission and other supranational institutions. The second is that no one state can dominate collective executive decisions, and the third being that subnational actors utilise the European arena to influence and exert pressure on state executives.

This 'test' does little to advance our understanding of how multi-level governance actually functions and holds little explanatory or predictive power, leading to accusations that MLG is overly descriptive (Stein and Turkewitsch, 2008). Jordan (2001) feels that multi-level governance adds little to the integration debate as it lacks a "causal motor or a set of testable hypotheses." Although sufficient studies exist on EU interactions at the supranational and national level, the real contribution of MLG is supposed to be its analysis of how subnational actors fit into the governance hierarchy. MLG moves away from the view that member states enjoy a gatekeeper role over domestic issue. Instead, subnational actors are said to operate across the spectrum in both the national and supranational sphere (Marks and Hooghe, 1996). According to Marks and Hooghe this results in the creation of "transnational links between domestic and European actors."

The fact that subnational actors such as regional governments, NGO's and sectoral business interests are active at a European level, and particularly in Brussels, is hard to refute. This is probably testable empirically by looking at the sheer number of subnational actors now active at EU level. The very fact that subsidiarity is a general principle of Union law demonstrates that there is space in the governance structure for subnational actors. Therefore, in the most basic sense, MLG does manage to prove that "mobilisation" does not only occur at the national and supranational level, but also at subnational level (Piattoni, 2009). What is much harder to discern (and one of the flaws of MLG) is the efficacy and depth of these interactions in terms of influence on policy by the subnational actors.

Even though subnational actors are able to operate independently of the states that they were traditionally 'nested' in, this does not automatically mean that they can shape policy at EU level. As Jordan (2001) puts it, "mobilisation and influence are not necessarily synonymous." Marks and Hooghe first empirically driven proof of concept centred around the implementation of the EU's structural funds (Marks, 1992, Hooghe 1996, in Jordan, 2001). They observed that subnational local authorities were taking on a much more proactive role in "communicating directly" with the Commission, as well as establishing a presence in Brussels and linkages with "pan-European lobbying groups."

One example of this can be found by looking to Italy. Italian regions were expressly denied the possibility of setting up a regional office in Brussels as this was seen as detracting from the Italian government's sole prerogative of conducting "foreign relations" (Piattoni, 2009b). Nonetheless regional actors managed to circumnavigate their government's directive by collaborating with Italian NGOs that already had an established presence in the Belgian Capital. This would certainly lend credence to the MLG thesis that subnational actors are no longer anchored to their

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national state and governments have lost their role as gatekeepers. At this point it is worth mentioning that MLG treats both subnational authorities and other "special purpose jurisdictions" such as NGOs on an equal footing (Piattoni, 2009). The main focus of MLG is on the empowerment of subnational actors in general, although the bulk of empirical research takes place on subnational authorities.

The problem with relying on the structural funds example as empirical evidence for multi-level governance is simple, according to Jordan (2001). The 1988 reform of the structural funds was actually meant to increase participation by and coordination with subnational authorities at the implementation stage (Benz and Ebelein, 1999 in Jordan, 2001). This would appear to imply that Marks and Hooghes made the error of confusing cause and effect, wrongly attributing the reason why subnational authorities mobilised at EU level. Such an error fits in with Sartori's (1970) definition of conceptual stretching. By attributing and extending multi-level governance to the EU's structural funds programme the concept increased its extensional coverage, but this occurred to the detriment of its "connotative precision."

The EU certainly opens up opportunities for subnational actors that did not exist when they were confined within national borders. Piattoni (2009) terms this as "paradiplomacy," a form of foreign diplomacy that involves "cross border agreements," "cultural exchanges," and "twinning exchanges." These all seem like largely symbolic rather than substantive measures on the part of the subnational actors, and once again add little to MLG or to gauging the influence that such groups exert at European level. These descriptions would seem to be largely "supra-empirical" (Sartori, 1970) and lacking in precision. Marks and Hooghes (2001, in George, 2004) attempt to lay down the reasoning behind this increased mobilisation by subnational authorities. This may be an effort to further flesh out multi-level governance and move away from the accusations that the concept is overly descriptive.

MLG appears to emerge out of necessity due to member states surrendering power to supranational authorities. This results in a shift in the balance of resources between different layers of government, (George, 2004) meaning that subnational authorities end up somewhat sidelined from the decision making process. Therefore their increased activism at the EU level is a response to this paradigm shift. Marks and Hooghes (2001, in George, 2004) built on their earlier literature by expanding on the types of activism that regional authorities undertake at EU level. They believe that the increased activism is fleshed out by forming "direct links with Commission officials," campaigning for "direct representation in the Council of Ministers," participating in the Committee of the Regions and demanding "recognition of subsidiarity in EU treaties and legislation.

The extent of regional activism at EU level is far from being ubiquitous making it very hard to build a standard MLG model. Some governments such as Britain, France and Malta operate using a highly centralised system. For example in Malta all EU matters are coordinated around the central core which is the EU secretariat. Given the lack of distinctive regions as understood in larger member states, Maltese subnational authority activism at the EU level is all but non-existent. Some larger member states like Germany tend to have a more fragmented system when it comes to dealing with the EU. Also regions in federal member states, especially ones with a coalition government may be much more politically polarised. This will spur regional authorities into pursuing relations at EU level thus bypassing a potentially politically hostile ministry.

Empirical studies have taken place on the two opposing systems of the United Kingdom and Germany. The purpose of these studies was to analyse the effect on the gatekeeper role that EU regional policy had on the UK and state aid policy had on Germany (George, 2004). The UK study indicated that subnational authorities managed to liaise directly with the Commission after the British central government failed to pass on the full benefits of the European regional funds to the subnational authorities (George, 2004). Marks (1993, in George, 2004) viewed this as a clear cut case of subnational authorities moving beyond the state, thus demonstrating a form of multi-level governance whereby the subnational actor managed to impose its own preferences to the detriment of the central government.

From the Commission's perspective this dispute served as a "test case" to gauge whether it was able to rely on subnational authorities in order to ensure proper implementation of EU policies, thus once again moving beyond member state governments' gatekeeper role ( McAleavy, 1993 in Piattoni, 2009). This is an interesting perspective as a lot of the MLG literature focuses on the bottom up aspect of MLG from subnational authorities point of view, and

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their ability to bypass national governments rather than the top down approach stemming from the Commission. Using the Commission as a fulcrum for empirically testing MLG might reap better results, rather than focussing on heterogeneous subnational actors. This could be done by systemically testing individual EU policies on a selected and varied pool of member states, and assessing the Commission's ability to bypass centralised governments and deal directly with subnational actors.

The Commission's role as an interlocutor between member states, subnational authorities and other interest groups is well documented in the literature (Piattoni, 2009). Piattoni also states that the Commission has technocratic legitimacy as it is the hub of "numerous highly specialised policy networks." By dealing with a know quantity the error of resorting to conceptual overstretch might be dampened. Thielemann (1999, in George 2010) studied the relationship between a German Länder and the Commission in the field of the EU's state aid policy. As opposed to the limited empirical work that has already taken place on MLG, Thielemann's study actually finds that the Länd of Saxony has a detrimental relationship with the Commission.

Given the Commission's exclusive competence in competition law and state aid, the German federal government was powerless to defend the Länd (George, 2010, therefore negating its gatekeeper role. This would appear to suggest that multi-level governance has overstretched the concept that subnational authorities always benefit from the process. Clearly the extent of MLG's explanatory power is policy specific. Coupled with the tendency to overstate the importance of subnational actors in the process, multi-level governance also tends to overlook the fact that central governments still play an important part in the "implementation and outcome stage of policy-making (Stein and Turkewitsch, 2008). Bache (1998, in Stein and Turkewitsch, 2008) terms this as "flexible gate-keeping."

As discussed multi-level governance has its roots in both neofunctionalism and federalism. Marks and Hooghe further muddied the water by drawing a distinction between two types of MLG, Type 1 and Type 2. The fact that MLG appears to be built upon a base of obfuscation makes empirical testing very complicated. This is mainly due to the issue of insufficiently precise information availability that would allow for meaningful comparisons to be made (Sartori, 1970). Piattoni (2009) rightly states that the 'destructive' part of the MLG argument which lays out what MLG is *not*, is much more effective than the 'constructive' part which should say what MLG *is*. The failure to construct a concrete theory as opposed to a descriptive narrative is what has opened MLG up to conceptual stretching, as other authors try to fill in the many gaps of multi-level governance.

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*Date written: May 2012*