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The Political Implications of Dual Delegation above and below the nation- state

By

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Introduction

Over the last fifty years, administrative politics has undergone a radical transformation. Unlike the preceding era of state-building, which was identified by the establishment and consolidation of a centralized administrative apparatus, the post-war period has been marked by extensive delegation. A variety of agencies, commissions, organizations, courts and departments carry out essential governance tasks in issue areas ranging from telecommunications to the environment. And this wave of delegation has occurred at both the domestic and the international levels.

There has been considerable attention paid in political science literature initially in American and comparative and increasingly in International Relations sub-fields to this empirical trend (Huber and Shipan 2003; Pollack 2003). These efforts, focusing on their respective level of analysis, have asked three fundamental questions. First, why do elected principals delegate authority to agents to implement and enforce law? Second, how does delegation affect the ability of principals to control the actions of agents? Third, how effective are delegated agents in improving the quality of regulation. For the purposes of this essay, I am explicitly interested in the second of these questions. In addressing the control debate, two strands of literature have emerged. One emphasizes the role that formal institutions play in shaping the principal-agent relationship (McCubbins, Noll et al. 1987; Epstein and O'Halloran 1994). The second, examines how agents may deploy political authority to entrepreneurially shape the political process (Fliegstein and Drita 1996; Carpenter 2001).

In this essay, I rely on the insights of these research programs to analyze an important and often overlooked pattern in delegation – the dual delegation of authority to

agents above and below the nation-state. As national economies integrate at the same time that technological complexity progresses, decision-makers confront at home and abroad the difficulty of devising specific policy responses to the challenges of international interdependence. At both the domestic and international levels, agents have been created or redeployed to confront these challenges.

This process of dual delegation, I contend, has important implications for questions concerning bureaucratic control and autonomy distinct from those isolated by national or international investigations. While the existing literature in International Relations examines the relationship between national governments and international organizations and comparative politics research focuses on domestic elected officials and internal non-majoritarian institutions, this paper examines the effect of both processes on international affairs. The dynamic environment created by the delegation of authority to sub-national and international institutions shapes the ability of national principals to monitor and enforce agent behavior at the same time that it shifts the resources available to agents to act in an entrepreneurial fashion. Critical, then, in this move is the rejection of the notion of the unitary state as an actor in international politics and the acceptance that sub-national units may play an important role in the evolving international system (Slaughter 2004).

The following essay is a preliminary exploration of the effect that dual delegation has on the role of agents in international politics. It will proceed in four parts. The next section briefly details the delegation of authority in the national and international arenas. This will be followed by a summary of the two dominant strands of literature concerned with bureaucratic control. Section three will then offer a series of propositions that

attempt to promote discussion over the effects of dual delegation and sketch out a preliminary research agenda. The final section concludes with some unresolved questions and underscores the theoretical foundations of the project.

Delegating At Home and Abroad

Scholars concerned with non-majoritarian institutions found the 20th century rich with empirical and theoretical questions. At both the domestic and the international levels, elected officials have delegated rule-making and rule-enforcing authority to a host of appointed organizations (Abbott and Snidal 1988; Majone 1996). Legislators overwhelmed by the complexity of specific policy issues delegated tasks to agents, who could provide expert knowledge and fill information gaps. Additionally, elected officials used delegation to commit their governments over the long-term to a particular policy strategy. By buffering an issue from electoral politics, delegation reduced the likelihood that regulation would shift with the whim of each change in government (Majone 2001; Thatcher and Sweet 2002). In addition to the broad theoretical justification for delegation a series of empirical challenges arose at the national and international levels such as domestic and international market liberalization that facilitated the expansion of delegated authority.

Delegation at Home

While delegation has been an important component of the modern nation-state since its inception, the 20th century has seen a radical expansion of the governance tasks handled by delegated agencies. Following Thatcher, the primary motivations for delegation over the last one hundred years fall in two groupings: market-

making/enforcing and social protection (Thatcher 2002). One set of regulatory agencies, at the national level, has been constructed to set and enforce the terms of market competition. Popularized by new deal institutions including the Securities and Exchange Commission (SEC) and the Federal Trade Commission (FTC), governments have established agents that supervise, monitor, and enforce the rules and regulations of a sector. In the 1980s, European nations following the US example have established a host of agencies to oversee liberalization and privatization efforts. In sectors ranging from telecommunications to utilities, independent regulatory agencies have been created (Thatcher 1999; Heritier 2002). The result of deregulation strategies, then, has often been the reregulation of economic sectors supervised by delegated agents (Vogel 1996).

At the same time that governments have relied on delegation to handle problems associated with market-making, a number of agencies were created across the industrialized world to deal with issues concerning social protection. Consumer safety, worker health, environmental protection, civil rights, and information privacy are just some of the issues that have migrated into the responsibility of delegated agents. Most authors attribute this rise to the rights revolution which transpired across the industrial world in the 1960s and 1970s. Social movements pushed for increased transparency and the protection of individual rights (Epp 1998). Legislators responded by establishing independent authorities that could deal with the specific policy problems associated with an issue area (Kagan 2001).

As a result of this push to regulate markets and social protection, the industrial world has been over-run by new institutions. These institutions, in turn, have considerable responsibility for the implementation of regulatory tasks.

Delegation Abroad

At the same time that governments have created authority to manage domestic policy problems, similar efforts have transpired at the international level. Nations have collectively agreed to cede sovereignty to international organizations. As nations realize their mutual dependence, the justification for formal cooperation and international delegation increases. This has occurred in issue areas ranging from the allocation of satellite slots to the regulation of international shipping with organizations emerging such as the International Telecommunications Union or the International Maritime Organization (Keohane 1984; Martin and Simmons 1998).

The case of market integration proves particularly illustrative. Both international trade liberalization as well as regional integration efforts have encouraged delegation. As international exchange increases and barriers to trade fall, there is great potential for friction. As explicit trade restrictions such as tariffs and quotas are removed, non-tariff and technical barriers to trade are exposed. The need arises for third party dispute settlement mechanisms and monitoring devices to prevent shirking. As a result, national government have delegated authority to institutions in organizations such as the World Trade Organization, the North American Free Trade Agreement, or the European Union which are supposed to provide the credible commitments and information necessary to assure continued cooperation (Pollack 2003; Barton, Goldstein et al. Forthcoming).

While existing research has primarily investigated these two empirical trends in isolation, that is the delegation of authority by national governments to sub-national units or the delegation of authority by national governments to international organizations, this

paper examines the multiple levels simultaneously. The next section reviews the analytic tools available to dissect the political implications of dual delegation above and below the nation-state.

Learning from Bureaucratic Control and Autonomy Literature

In order to gain analytic purchase on the effect of dual delegation for international affairs, I turn to two literatures popular with scholars of national and international politics. I label these research efforts bureaucratic control and bureaucratic autonomy. Both start from a similar belief that as agents are created they develop independent preferences from their principals. Whether as competency maximizers (Pollack 2003) that want to expand their authority or as part of a bureaucratic culture (Barnett and Finnemore 2004), agents seek to assert these preferences in the policy-making process. Agents will do this even when their preferences may conflict with the preferences of their principals. The bureaucratic control literature focuses on the formal rules that principal's employ to control agents. The bureaucratic autonomy literature, by contrast, examines the resources available to agents to achieve their preferences. I explore each literature before turning to their implication for the phenomenon of dual delegation in the international arena.

Bureaucratic Control

First popularized in the American sub-field, the bureaucratic control literature has more recently turned to questions of delegation in the European and International contexts (McCubbins, Noll et al. 1987; Pollack 1997; Pollack 2003). This strain of literature recognizes the fundamental control dilemma that elected officials face when

they delegate authority. As mentioned earlier, principals turn to delegation to solve information problems or to establish credible commitments. As principals cede authority to agents, however, concerns arise that agents will shirk their responsibilities and follow their own preferences. Rogue agencies run loose on the policy scene, unaccountable to their creators (Weingast and Moran 1983; Kiewiet and McCubbins 1991).

The control literature, therefore, focuses on the institutions (primarily formal) that monitor and enforce agent compliance. In order to minimize the deviation of agent behavior, principals construct institutions that inform them of agent activity. Principals can directly audit agent activity through committee reviews. This however is quite costly so principals often mobilize interest groups to fulfill the surveillance functions. Sunshine laws that require agents to reveal their actions expose agent behavior to the scrutiny of interest groups who may then report shirking to elected principals (McCubbins and Schwartz 1984; Epstein and O'Halloran 1994). Similarly, sanctions may be used to control agency behavior. The primary methods of sanction come from direct veto, scrutiny, budget controls, and leadership appointments. If principals are alerted to behavior deviations, they may subject an agent to intense committee supervision and shaming. If behavior is not affected, principals can constrict budget allocations or change agent leadership (Weingast and Moran 1983).

Principal control relies on their ability to know when agents are shirking and then punish such action. This ability, in turn, rests on a set of formal institutional rules. The literature suggests that principal control varies as these institutional constraints vary (Gilardi 2002; Pollack 2003; Shipan 2004).

The ability of agents to undertake discretionary action is then a function of the formal institutional environment. While this literature is well suited to identify the institutional conditions under which discretionary action is possible, it does not have a clear means of explaining variation in discretion given a set of conditions. Put another way, given the same formal institutional control mechanisms why are some agents better able to assert their autonomy than others.

Bureaucratic Autonomy

Coming at the question from a different angle, research on bureaucratic autonomy examines the resources available to agents to assert their preferences. Attempting to address the limits of the control literature, work on autonomy explains variation in discretionary action. In this literature, however, bureaucrats are not only in a cat and mouse implementation game with their principals, but they may also use their authority to change the rules by which they play. In both discretionary action and changing the rules of the game, bureaucrats are political actors capable of building coalitions which support their policy agenda (Carpenter 2001; Barnett and Finnemore 2004). Agents have the ability to alter principal preferences through persuasion and coercion. They may reframe a debate or raise the costs associated with inaction. Agents act as political entrepreneurs who disturb and at times command the policy process (Fliegstein 2001). This does not mean that agents always replace principals in formal decision-making institutions. Rather, agents have a set of resources, which they may deploy to affect policy outcomes.

The two most important of these resources are reputation and network affiliations. Through years of effective service, agents may obtain the reputation of providing both technically appropriate and normatively good solutions to pressing policy problems.

Their technical knowledge of an issue area provides them with an expert authority. Interest groups, the public, and even elected officials come to rely on the opinions of agents and respect the information advantage they have in a policy field (Haas 1992; Brint 1994). Similarly, the concrete responsibilities of an agent often enhance reputation through moral authority. Organizations responsible for assisting refugees or protecting the environment may benefit from the way in which the public perceives their efforts (Barnett and Finnemore 2004). Agents can use their reputation to persuade principals about appropriate policy action. They have the power to frame issues and offer solutions. At the same time, they can mobilize public opinion for their agenda, condemning policy options that they find inappropriate.

In addition to their reputation, agents have relationships with constituencies, interest groups, and other political players which they may mobilize on behalf of their preferences. Many agents directly serve a specific interest group. These interest groups can form a powerful lobby that the agent may incite into action. The literature on social protection has identified a number of cases where policy action creates a client group that in turn defends program administrators from attack by elected principals (Pierson 1993). Agents also often develop important relationships with elected officials as well as other agents. These relationships prove vital as agents attempt to build coalitions in support of their agenda (Evans 1994). The greater number of networks in which they are embedded the greater their number of potential allies. Therefore, agents that have diverse network affiliations are well positioned to rally support behind their position and in turn raise the costs associated with inaction (Carpenter 2001).

The literatures on bureaucratic control and autonomy offer valuable insight into the ability of delegated agents to assert their preferences and shape political outcomes. Research on the formal institutions that define the relationship between principals and agents has identified a series of constraints agents face as they engage the policy process. Principals may circumscribe the functional tasks assigned to agents, set up monitoring mechanisms to assure compliance, and construct sanctions to punish independent behavior. Agents are better positioned to assert their preferences as they face fewer formal monitoring institutions to audit their behavior and enjoy greater institutional independence in the form, for example, of budgetary independence or long-term tenure. Research on autonomy, by contrast, has focused on the resources available to agents to work within and overcome such constraints. Bureaucrats deploy technical authority and political allies to exert discretionary power and expand their maneuverability even to the point of reconstructing the foundations of their mandate. Agents become political entrepreneurs capable of reframing principal preferences. The two literatures then offer a set of complementary tools with which to begin to analyze the process of dual delegation occurring below and above the nation-state.

The Dynamics of Dual Delegation

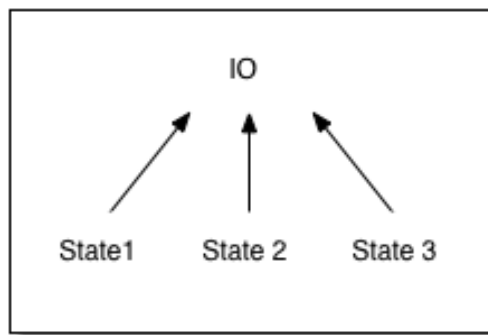
Elected officials and delegated agents increasingly find themselves in a world of what I term dual delegation. Authority has been dispersed to sub-national and international organizations. As authority is divided and shared across the various levels of governance, questions of bureaucratic autonomy and control arise. Using insights from

existing literature to gain analytic purchase, the following section attempts an initial investigation of how dual delegation affects these relationships. Specifically, I propose a set of distinct yet overlapping research areas that deserve closer scrutiny: the disaggregated state, administrative daisy-chains, horizontal network brokerage, and leapfrogged alliances. In each, existing conceptions of control are strained as agent principal relations confront dual delegation.

Disaggregating the State

Much International Relations literature, and that which has examined questions of international delegation, implicitly or explicitly assume that there is a unitary state (Krasner 1983; Keohane 1984; Pollack 2003). National governments delegate authority to international agents, which then may shirk their commitments and promote their own agenda. National governments therefore devise institutional constraints that shape agent behavior. The tug of war for control occurs between states and international organizations as simply depicted in figure 1.

Figure 1: International Delegation with Unitary States

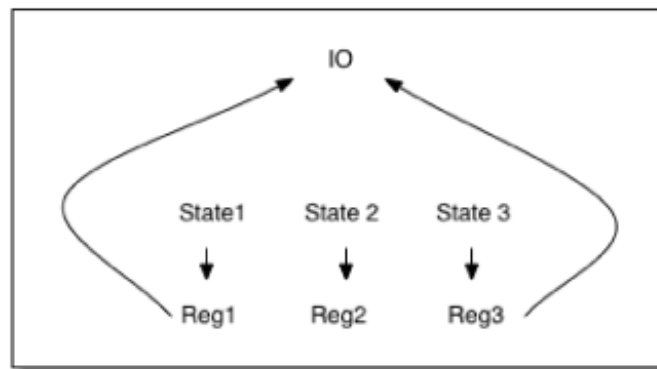


Literature on transgovernmental relations, however, has stressed the importance of disaggregating the state in international affairs. States are comprised of many actors in

addition to the elected executive and the legislature. Regulators, judges, civil servant bureaucrats all may play critical roles in international affairs (Slaughter 2004). And as the delegation literature focusing on the domestic level has recognized, these domestic agents will attempt to assert their preferences just as those at the international level do (Wood 1988; Kiewiet and McCubbins 1991).

This notion of the disaggregated state then complicates principal control in international affairs. National elected officials rarely directly monitor international agent activity. Rather they rely on domestically delegated agents as depicted in Figure 2.

Figure 2: The Disaggregated State in Dual Delegation



This view of the dual delegation process may then shed light on the process of control in international relations. Take for example the debate over the comitology process in Europe. Comitology is an oversight mechanism integrated into the EU policy-making process whereby member state representatives advise the Commission on implementation procedures. These committees may be empowered with varying levels of influence from advisory to regulatory. While the empirical research demonstrates that the Commission's first preference would be to have advisory comitology committees with less oversight power (Dogon 1997; Pollack 2002), there is also considerable

evidence that these committees do not simply oppose Commission activism. In fact, comitology committees often act in a consensual manner (Wessels 1998) and in some issue areas work closely with the Commission to construct politically viable policy proposals (Joerges and Neyer 1997). Ballmann, Epstein, and O'Halloran employ a game theoretical model to demonstrate that such committees may in fact reduce member state control by adding a middle layer of oversight (Ballmann, Epstein et al. 2002). In order to evaluate the actual effect of comitology committees, it is vital to know the character of their membership and the memberships' respective preferences. In cases where comitology committees are composed of relatively autonomous domestic agents facing fewer formal institutional constraints their control function is likely to be more tenuous. Committees, by contrast, including directly elected national officials should more clearly reflect the preferences of member state principals. In dissecting the state, a theoretical explanation for variation in comitology committee action emerges which also conforms to the expectations of the bureaucratic control literature.

More generally, domestic agents, involved in their own control relationship with domestic principals, develop their own preferences vis-à-vis international agents. National agents may selectively ignore (or even support) IO activity that conflicts with national principal preferences. Far from a simple story about state/international organization control, dual delegation increases the parties participating in the process. And as a result, control mechanisms may weaken and new ties may emerge that alter the power of players active in setting international political bargains. The issue of weakening controls will be explored further in the next section while the importance of network ties will be developed in the sections that follow.

Administrative Daisy-Chains

While national governments have delegated increasingly levels of responsibility to international organizations, these international organizations rarely have been provided with the resources to autonomously manage the tasks they face. The Commission of the European Union employs 24,000 staff compared to the 200,000 that run the Swedish central government. The World Trade Organization staff of 450 is equivalent to the personnel of one municipal hospital. Not only do staff constraints confront IO operations, but those employed in Brussels or Geneva often lack the direct links to national interest groups and governments officials. If this policy disconnect is left unaddressed, IO initiatives risk rejection by domestic actors. Furthermore, IOs lack the financial resources to independently monitor implementation and compliance. The budgets of the WTO, for example, is roughly \$83 million. These organizations, then, are fiscally constrained from seeking out regulatory infractions. And even when they do uncover moments of non-compliance, they often lack the policy instruments necessary to devise a politically palatable corrective. In short, international organizations face a capacity gap, lacking the in-house resources necessary to identify problem areas, define response strategies, and coordinate enforcement.¹

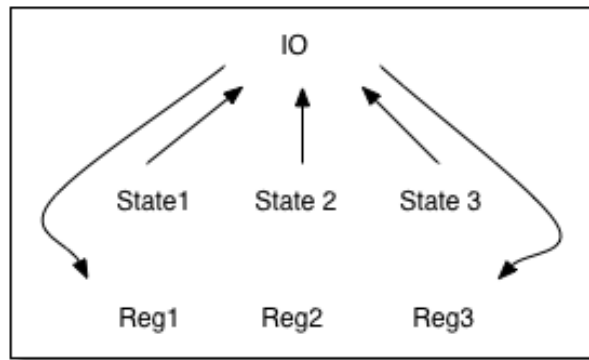
Luckily for many IO managers, a host of specialists exist at the national level who have been trained in regulatory affairs. The staff of national agencies has a wealth of knowledge and this domestic regulatory expertise can supplement information gathering at the international level. Local regulators have extensive contacts with public officials

¹ For a discussion of the resource constraints put on international organization such as the EU and the role of national experts see Demmke, C., E. Eberharter, et al. (1996). *The History of Comitology. Shaping European Law and Policy: The Role of Committees and Comitology in the Political Process.* R. Pedler and G. Schaefer. Maastricht, European Institute of Public Administration: 61-82.

and industry interests groups, providing needed access to social partner input. National agencies, then, serve as a conduit for third-party information concerning international initiatives. Often these national regulators, in turn, act as the agents of harmonization and enforcement, implementing agreements reached at the international level (Raustiala 2002).

As a result of the capacity gap, an administrative daisy-chain may emerge whereby national governments delegate a task to international organizations that then turn around and de facto delegate responsibility to sub-national actors as depicted in figure 3.

Figure 3: Daisy-chains in Dual Delegation



Following the original work on transgovernmental actors (Keohane and Nye 1974), informal ties are created among sub-national and supranational agents as the two work together to resolve regulatory dilemmas. In some cases, informal international commissions and advisory agencies have been established to assist IO activity. The World Bank or the IMF may contract out work to a set of domestic agents. In other cases, enforcement is carried out by a network of national regulators with direct links to international agencies. In either case, national regulators act simultaneously as arbiters of national and international law.

This pattern of daisy-chain delegation is most familiar to students of the European Union (Dehousse 1997). Member states have resisted the creation of super-regulators at the supranational level and so national agents are left to monitor and enforce EU initiatives. In most policy fields such as food safety where a EU agency has been created, the agency has little direct regulatory power. Rather, the agency serves as a coordination mechanisms for national regulators working on the issue (Majone 1997). Even in policy areas, such as competition policy, where regulatory power has been delegated to a EU agent – the competition directorate – EU authorities have come to rely on national administrators. In a 2003 regulation, the Commission decided to devolve increasing levels of authority to national competition agencies, who in concert with the EU Competition Directorate, monitor and enforce competition policy. As of May 2004, National Competition Agencies are primarily responsible for monitoring and enforcing EU competition law. A network of regulators has been constructed which is supervised and advised by the EU Competition Directorate, which in turn is responsible for monitoring National Competition Agency enforcement across the member states.² Even more extreme, is the creation in a range of sectors of transgovernmental networks that actively monitor and oversee EU wide policy. The Committee of European Securities Regulators (CESR), for example, which is comprised of national securities agencies with an independent international secretariat, has the authority to monitor the implementation of EU regulation and advise new EU regulation. In sectors from utilities to

² See Cellere, S. and G. Mezzapesa (2004). "From Burdensome Regulation to Self-Assessment." Jones Day.

telecommunications, such networks of national regulators have been constructed that oversee European legislative implementation.³

While the EU provides the most mature and researched instance of daisy-chained delegation, it is far from an isolated instance. Regional environment cooperative, for instance, has come to rely on national regulatory authorities. In North America, the signatures of the North American Free Trade Agreement created the Commission on Environmental Cooperation (CEC) to oversee pollution problems in the free trade area. As part of this process a standing North American Working Group on Environmental Enforcement and Compliance Cooperation was created. This working group comprises the national regulators of the three countries which meet regularly to exchange information on environmental concerns that affect the three nations. National expertise is shared across agencies as well as with the CEC which relies on national agencies for needed technical knowledge (Fulton and Sperling 1996; Raustiala 2002).

This pattern of international decentralized administration has important implications for issues of control and autonomy. As enforcement responsibility is re-delegated from an international agency to a national agent, in practice multiple principals emerge.⁴ International agents become pseudo-principals as they further delegate authority and both domestic and international principals may find their monitoring and sanctioning abilities compromised. Monitoring systems developed by national principals to stay abreast of IO activity fail to oversee re-delegation activity. Member states have, for

³ In telecommunications the European Commission formalized the European Regulatory Group, in energy the Council for European Energy Regulators, in financial security the Committee of European Securities Regulators. See Geveke, A. (2003). "Improving Implementation by National Regulatory Authorities." *Eipascope*(3): 26-30.

⁴ For a discussion of the effect of multiple principals on control see McCubbins, M., R. Noll, et al. (1987). "A Theory of Political Control and Agency Discretion." *American Journal of Political Science* 33(3): 588-611.

example, very few mechanisms to deal with institutions such as CESR or the transgovernmental network of competition agencies that advise and enforce EU policy.

Because of the costs associated with direct monitoring, national principals often outsource surveillance to domestic interest groups (McCubbins and Schwartz 1987). These groups, however, are not equally organized at the international level. The failure of European business to organize itself at the European level is a glaring example of the variance in interest representation between the national and international levels (Wallace and Young 2001). Additionally, horizontal networks of national regulators do not face the same accountability and transparency requirements as individual national members (Slaughter 2000). So not only are interest groups potentially less well organized to monitor horizontal networks but they also lack the needed access to uncover divergent behavior.⁵ Domestic agents, then, may face fewer formal institutional constraints when they are active in the international domain than in their home jurisdiction.

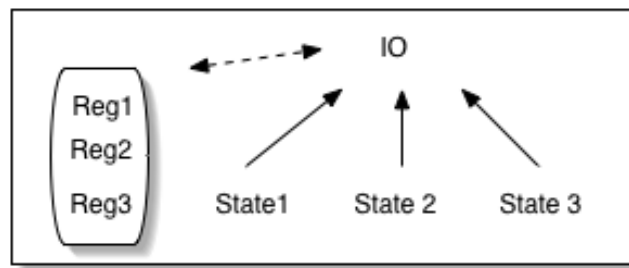
Horizontal Network Brokerage

Not only are formal institutional constraints affected, but new transgovernmental networks emerge. As authority for a particular issue area is delegated within countries, the respective national agents created in the delegation process form relationships with one another. While the Basel Committee of independent central bankers is probably the most well known, horizontal transgovernmental networks have been active in a wide range of sectors including telecommunications, aviation, and the environment (Bermann 1993; Fulton and Sperling 1996). Unanticipated by the original transgovernmental

⁵ The chorus of business firms decrying the comitology process in Europe whereby national experts monitor EU implementation issues offers a glaring example of the limits of fire alarms as a mechanisms of control over horizontal networks. See Wessels, W. (1998). "Comitology: fusion in action." Journal of European Public Policy 5(2): 209-34.

literature, these associations of national agents often set up and maintain their networks without direct help from either IOs or national governments. Research has established that such agglomerations of sub-national authorities may provide an important international governance alternative to traditional intergovernmental treaties or formal international organizations. Portrayed as faster, more efficient, and flexible, horizontal transgovernmental networks as depicted in figure 4 share information, establish best practices, harmonize standards, and enforce agreements (Slaughter 2000; Slaughter 2004).

Figure 4: Horizontal Brokers in Dual Delegation



In light of the bureaucratic autonomy literature, it is important to not only focus on the governance role that such networks provide but also examine how they may leverage their resources to affect the political process. Such horizontal networks may build coalitions that influence the behavior of international organizations and international outcomes (Newman 2005). Relying on their technical and moral expertise, national regulators, working together, have the ability to build an agenda for international action. Once the agenda is established, they have links to both national and international actors enhancing their ability to persuade those in decision-making posts and broker policy action.

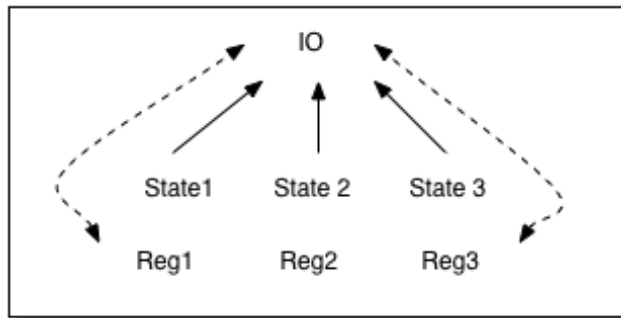
The network augments the ability of national agents to assert their preferences at the international level. The group has the ability to mobilize the stature of its collective expertise. A statement by the world's securities and exchange commissioners has unique authority distinct from that of its individual members. The collective enjoys a degree of fairness and equity above that of single great power agents at the same time that it draws on the individual reputations of its members. Additionally, the complementary resources of the members enhances the networks ability to shape outcomes. Some network participants may have limited budgets or few rule-making authority in their domestic environment but find their political resources enhanced by the statutory prowess of others within the network. Finally, each member of the network has its own distinct national allies that it can bring to bear on elected decision-makers and international organizations. At the hub of an international wheel with spokes extending out into domestic constituencies, horizontal transgovernmental networks potentially have a wide range of resources at their disposal (Padgett and Ansell 1993).

Transgovernmental brokering, then, not only poses a challenge to national principals but international organizations as well. While the original transgovernmental literature anticipated that these networks would be directly linked to international organizations, they are in fact often housed in independent private secretariats and far more independent from IO subordination. As a result, they may not only supplement IO authority with information and expertise as they do in the daisy-chain but may offer an alternative both in terms of governance and political voice.

Leapfrogged Alliances

The dual delegation process has an additional implication for network relationships in international affairs. As sub-national and international agents set out simultaneously to shape a policy domain, they often confront resistance or inertia at the national level. National governments naturally attempt to control agent behavior, limiting activities that expand agent competencies or diverge from principal preferences. Agents, by contrast, seek to expand their competency and forward their policy initiatives (Pollack 2003). Owing to their minimal formal legislative power, agents must rely on their reputation and network of alliances to achieve their preferences. A second form of transgovernmental coalition, leapfrogged alliances, occurs when sub-national and international actors form relationships with one another that they then leverage vis-à-vis national principals as depicted in figure 5.

Figure 5: Leapfrog Alliances in Dual Delegation



Agents then from multiple jurisdictional levels may conspire against their shared national principal to create the space for entrepreneurial policy-making.⁶ Similar to firms engaged in market making, in which future competitors cooperate to construct a marketplace in which they will at some later date compete, agents may cooperate to shape their political environment.

⁶ I thank David Bach for clarifying my thoughts on this.

The development of judicial authority at the regional level offers the most well documented example of such leapfrogged alliances at work. While many scholars of European integration bemoaned the sclerotic nature of European integration in the 1970s, a political transformation was already in progress (Weiler 1991). This transformation relied on a set of vertical alliances between the European Court of Justice and lower courts in member states of the European Community that radically expanded the authority of Community law. Through a series of decisions handed down over a thirty-year period, the European Court of Justice asserted that Community law superceded national law when the two conflicted. Establishing both direct effect and supremacy, the ECJ altered the balance of power between the European and member state levels. The ability of the ECJ to accomplish this feat rested in large part on the support of lower courts in the member states that saw an opportunity to expand their competence at the same time that European authority was augmented (Burley and Mattli 1993; Alter 1998). It was then the national governments and high courts of the member states which were sidestepped as this leapfrogged alliance recreated political authority within the Community.

Similar linkages have formed in a series of sectors between member state regulators and the Commission of the European Union. In fields as diverse as financial securities, telecommunications, and data privacy, EU directives have formalized these relationships between sub-national actors and EU agents. Agents from the two levels are then in constant contact with one another, well positioned to develop common policy initiatives and regulatory agendas. The Lamfalussy process, one of the most well documented of these vertical networks, has been active in the financial securities sector

since 2001. Realizing the complexity of the integration process in the sector, both national regulators and EU officials looked for means to coordinate activity. Sub-national regulators began meetings in 1997 as part of the Forum of European Securities Commission (FESCO). This horizontal network of national securities regulators attempted to smooth regulator frictions among member states. But as the integration of the financial services sector progressed, EU officials sought to bind sub-national activity directly into EU activities. As a result of a review chaired by Alexandre Lamfalussy, an agreement was reached to formalize sub-national coordination in CESR and link this process with EU initiatives. In 2003, the Lamfalussy process was extended and similar vertical networks were established in the banking and insurance sectors (Lotte 2005). Policy formulation and discussions then may proceed between national regulators and EU officials sidestepping national governments. This is not to say that these vertical networks can impose their agenda on national parliaments. But they are well positioned first to develop a detailed policy platform and second to build support for their position among their various constituencies. In short, leapfrogged alliances raise the costs to national governments of inaction.

Conclusion

This paper has attempted to offer a first cut at a phenomenon that has received little attention in the literature: Dual Delegation. That is the delegation of authority to agents above and below the level of the nation state. Applying research on delegation both national and international to this question, an initial effort has been made to construct analytic tools with which to understand the effect of dual delegation on

bureaucratic control and autonomy. I argue that dual delegation has important implications for the ability of principals to monitor and sanction agent behavior as well as the reputational and network resources available to agents. In an attempt to focus the discussion, I highlight four features of dual delegation: disaggregated state, daisy-chains, brokers, and leapfrogged alliances. This preliminary discussion suggests that dual delegation weakens the traditional formal mechanisms used by national elected officials to constrain domestic and international agents in global politics. At the same time, it has expanded the resources via policy networks available to national agents to forge coalitions of support behind their agenda. Interestingly, this initial investigation suggests that national agents may be the unexpected winners of the dual delegation process. While this paper in no way offers an exhaustive discussion of the effect of dual delegation on bureaucratic control, it underscores the need to take seriously its role in the changing landscape of international affairs.

Additional work is needed to test these relationships as well as tease out additional theoretical implications. Under what background conditions, for example, are horizontal or vertical networks more or less likely to change the policy debate? Uncertainty has often been identified as a critical prerequisite of political entrepreneurship. Does this hold in the case of dual delegation? How may uncertainty be specifically specified so as to offer more generalizable conditions of influence? Frequently, principals use formal institutional controls to limit agent behavior. Are there new control mechanisms available in a multilevel space?

An additional implicit area of concern is the role of timing in policy-making. How does the sequencing of delegation in the national and international spheres affect

control relationships? In the US, for example, the majority of independent regulatory agencies were established before the rapid globalization of the past twenty-five years. In Europe, by contrast, supranational delegation preceded rapid national delegation. As a result different legacy institutions exist in the two regions.

A primary goal of this essay is to expand the notion that transgovernmental actors may shape politics as well as provide governance solutions. While this is a clear theme running through the transgovernmental literature since its inception, the primary focus has been on the functional capacity of such networks to resolve governance dilemmas. Whether through information, harmonization, or enforcement, transgovernmental networks offer flexible and specialized instruments capable of managing a host of pressing international policy problems. The issues raised by dual delegation, however, underscore the role that transgovernmental networks can play as important political actors capable of shaping policy outcomes.

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