

# Restructuring Territoriality

*Europe and the United States Compared*

Edited by

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## Restructuring Authority and Territoriality

Christopher K. Ansell

This book represents the fruits of a collective inquiry begun in 1997 with the support of the Institute for European Studies and the Institute for Governmental Studies at the University of California, Berkeley, and the European University Institute in Florence. Our inquiry was initially prompted by John Gerard Ruggie's provocative analysis about the "unbundling of territoriality" (Ruggie 1993).<sup>1</sup> Beginning with an analysis of authority relations in medieval Europe, Ruggie argues that the "medieval system of rule was structured by a non-exclusive form of territoriality, in which authority was both personalized and parcelized within and across territorial formations." In contrast, the distinctive feature of the modern system of rule is that it "differentiated its subject collectivity into territorially defined, fixed, and mutually exclusive enclaves of legitimate domination." Ruggie argues that, as exemplified by the project of European integration, contemporary trends represent an "unbundling of territoriality." As the foundational principle of modern politics, territoriality is receding in favor of a nonterritorial, functional organization of political authority. While some have seen this development as a return to the medieval pattern of "overlapping authorities," Ruggie interprets these developments as a postmodern turn.

In many respects, Ruggie's argument is simply one of the more subtle and provocative examples of an emerging genre arguing that the modern state and the modern state system are being challenged, and perhaps eroded, by a variety of forces ranging from domestic privatization to economic and cultural globalization. The conventional argument runs roughly as follows. After steady expansion of the size and scope of states in the postwar era, a variety of social forces have sought to curtail and reverse this expansion. Waves of privatization of public services, deregulation of utilities and markets, and deconcentration or decentralization of service and authority to

<sup>1</sup> For other discussions of unbundling, see Elkins (1995), Kratochwil (1986), and Murphy (1996).

lower levels of government appear to have reversed the trend toward expansion of the state's role in the economy and the provision of social welfare. This "retreat of the state" has coincided with a trend toward the internationalization of markets and the development of new information technologies that appear to "shrink" space by allowing denser communication across national borders. As a result, control over territorial borders has decreased as the crossborder mobility of people, goods, information, capital, and social bads like crime, drugs, and pollution have increased. This "globalization" occurs at a time when the collapse of the Soviet Union (not to mention the earlier collapse of European colonialism) has left in its wake a series of weak "quasistates" or "semisovereign" states whose territorial borders only weakly coincide with societal interests and identities. When combined, these various factors have encouraged an internationalization of governance – an expansion in the scope and role of international organizations and the creation of new "transnational" societal interests and identities. In short, just as the internal and external authority of the state seems to be entering a phase of decline, the demands of interests and identities transcending the territorial state appear to be on the rise.

As a group, we neither endorse nor reject this description of the world. Instead, we see it more as a description of the current terms of debate about the nature of political change. At the center of this debate is often the claim that what is being challenged is state sovereignty (e.g., Boon-Thong and Shamsul Bahrin 1998; Camilleri and Falk 1992; Cusimano 2000; Elkins 1995; and Ohmae 1991). The critical issue, however, is not fundamentally about the various infringements to sovereignty perpetrated or suffered by this or that country. As Stephen Krasner points out, infringements to sovereignty are nothing particularly new – they have been a continuous and ever-present dynamic in modern states and the modern state system (Krasner 1999). Rather, sovereignty is interesting precisely to the extent that it acts as the constitutive principle in organizing the territoriality referred to by Ruggie – the "fixed and mutually exclusive enclaves of legitimate domination." Sovereignty is a powerful concept because it connects the organization of "domestic" authority to claims about the autonomy and authority of one territorial state vis-à-vis others. Conceptually, and in practice, it connects the organization of modern democracy with the organization of the international system.<sup>2</sup>

What is important and novel about the chapters in this book is that they are all concerned with challenges or changes to this basic constitutive

<sup>2</sup> Gianfranco Poggi argues that sovereignty is the claim that the state, within a delimited territory, makes its own rules autonomously; it is the "highest level *locus* of power." In the cases in which we are primarily interested, this power is legitimated democratically by the claim that this "highest level *locus* of power" ultimately resides with the "people" – the citizens of the territory. At the same time, "the state's sovereignty and its territoriality, jointly produce a most significant consequence: the political environment in which each state exists is by necessity one which it shares with a plurality of states similar in nature to itself" (Poggi 1990: 21–4).

feature of modern political order – and ultimately, to this nexus between the organization of domestic politics and international politics. Taking the “unbundling of territoriality” or “challenges to sovereignty” as our starting point, we asked ourselves what this portends for the basic organization of modern political order. As with most such projects, however, we found it necessary to spend much of our time grappling with the theoretical and empirical meaning of our basic analytical framework. Quite soon, we became uncomfortable with the “unbundling of territoriality” as a statement of what was happening in the world. The European Union (EU), for instance, might be better described as a “rebundling” of territorialities than an “unbundling.” While neofunctionalist scholars have long interpreted the EU as a space of “functional” organization, it also appears in much recent work as a space of multiple functional and territorial jurisdictions cast on a larger scale. Our group has also noted a trend toward the increasing prominence of subnational regions in national, European, and international affairs – a territorial rebundling that arguably results from the very factors seen as making territoriality increasingly irrelevant. Gradually, we have come to believe that asking how the relationship between territory and governance is changing is more useful than asking how it is coming unglued.

From the beginning, the concept of sovereignty also posed problems for our collective inquiry. Sovereignty has been called an “essentially contested concept” – a place where scholars fear to tread. In recent years, a number of scholars have sought to “deconstruct” the concept or to demonstrate the way in which it operates as a “social construction” (Bartelson 1993; Biersteker and Weber 1996; Shinoda 2000; Weber 1995). While provocative and important, these discussions have tended to make the analytical value of the concept more obscure to us. Perhaps of all the current discussions of sovereignty, we found Krasner’s distinction between four different types of sovereignty (international legal, Westphalian, domestic, and interdependence) as offering the most analytical clarity. He argues persuasively that it is useful to treat each of these types as independent on the grounds that they have different logics and may even contradict one another. Ultimately, however, we have adopted a somewhat different strategy. We have found it useful to focus on two common denominators in Krasner’s definitions (as well as in nearly all definitions of sovereignty of which we are aware). First, all four types of sovereignty commonly presume “territoriality” – that the state is a “discrete” (and for the most part, spatially contiguous) territorial unit demarcated by boundaries, and that the world is carved up politically into discrete, territorially demarcated political units. Second, all four types of sovereignty described by Krasner concern claims about public authority over territory.<sup>3</sup> As Cynthia Weber puts it, “Generally, sovereignty is taken to

<sup>3</sup> Following Janice Thompson, Krasner distinguishes between authority and control. International legal sovereignty concerns authority (mutual legal recognition), but not control; Westphalian sovereignty concerns both authority (the right to nonintervention in the exercise

mean the absolute authority a state holds over a territory and people as well as independence internationally and recognition by other sovereign states as a sovereign state” (Weber 1995: 1). As Christopher McMahon’s recent analysis of authority suggests, the state itself can be defined “simply as an entity that claims to have supreme authority in a given territory” (McMahon 1994: 40). As will be further explicated in this introduction, territoriality and authority are more fundamental terms than sovereignty and hence more useful in examining the basic constitutive features of modern political order.

At the core of the modern conception of state sovereignty is the ontology that a region of physical space – usually though not always contiguous – can be conceived of as a corporate personality (which includes the weak sense of an association).<sup>4</sup> As constructivist analyses of sovereignty have shown, this ontology was something that had to be conceived and constructed (Wendt 1992). It was not simply a fact of nature, though in many cases it has come to be conceived as such. As a corporate personality, the sovereign state was also a legal personality that could be assigned rights and duties, and more generally, authority. The legal character of this territorial corporation could vary greatly, as could the organization of offices that every corporate body must organize to execute these rights and duties. So too could the precise content and character of the rights and duties attributed to these offices.<sup>5</sup> The *unity* of this public authority, however, has generally been regarded as a hallmark of the so-called Westphalian states. As James A. Caporaso and Joseph Jupille succinctly put it in their contribution to this book, the creation of the Westphalian state required a movement “from parcellization to consolidation [of authority], from personalization to institutionalization [of authority], and from a nonspatial ontology to a territorial one.”<sup>6</sup>

of domestic authority) and control (effective autonomy from external intervention); domestic sovereignty refers to the institutional location and organization of authority within the state (popular sovereignty, parliamentary sovereignty, and so on); and interdependence sovereignty refers to control (capacity to control the flow of goods, services, people, capital, information, and so on across borders). While he claims that the last, interdependence sovereignty, does not concern authority, certainly the capacity to control is in part a capacity to exercise authority.

<sup>4</sup> Ontology is a claim about the existence of an entity that behaves like a subject. (No claim is being made here about the debate between methodological individualism and methodological holism. No methodological individualist denies, for instance, that people believe that there exist groups that can be conceived of as persons.)

<sup>5</sup> It was the consolidation and institutionalization of authority that allowed the state to become distinguished as being the center of public authority – as opposed to the private authority that has always been present in families, firms, churches, and many other forms of non-state organization. This boundary between public and private has always been contested, but there is now the sense that bundles of public authority are being broken off from the state and privatized.

<sup>6</sup> On the Westphalian state, see Caporaso (1996). The so-called Philadelphian system (of which the antebellum United States is the predominant example) respects the second and third of these criteria, but authority remained divided between state governments and a federal government (Deudney 1996).

One important reason for focusing on authority rather than sovereignty is that sovereignty is almost inextricably linked to territoriality.<sup>7</sup> It is therefore difficult to examine their covariation. Arguably, it is a better formulation of Ruggie's original problem to say that what has become "unbundled" is authority rather than territoriality. In some cases, authority is being unbundled within the territorial state – as when public authority is being privatized or deconcentrated – or new forms of authority are being created beyond the state. These new forms of authority may ultimately derive their authority from the territorial state or may be constituted along nonterritorial lines.<sup>8</sup> In still other cases, it is useful to think of authority as being "rebundled" – when discrete bundles of functional or territorial authority are joined together in new combinations (themselves territorial or functional). To examine whether and how authority is becoming unbundled and rebundled, we must first expand our analysis of authority.

While sovereignty may be claimed to be the ultimate, supreme, or final binding authority within a territory, it is necessary to recall that this never has meant complete, comprehensive, or unlimited authority over activities and behaviors taking place within a territory. Other authorities have always existed within and beyond the territorial state. It is true that these authorities may have been subject to the state's claim of being the highest authority, yet modern democratic states have never held unlimited authority over these "private" authorities. Nor do these private authorities necessarily derive their authority from the sovereign state.<sup>9</sup> The American Medical Association, the

<sup>7</sup> Sovereignty is both the *de jure* claim and the *de facto* exercise of authority over this territorial political association. Often, sovereignty is regarded as a form of authority that subordinates other authorities: It is a claim about "supreme authority" (McMahon 1994: 40) or "highest degree" of authority (Lasswell and Kaplan 1950) or the location of "final binding decision" (from Hans Morgenthau as quoted by Shinoda 2000, 104). The discussion of authority is valuable because, again, it points to a common denominator between domestic and international politics – domestic authority being contingent upon international authority, and vice versa.

<sup>8</sup> On the expansion of private legal authority, see Cutler, Haufler, and Porter (1999).

<sup>9</sup> If power is "the ability to get what one wants," then the ability to get people to do things by telling them to do these things is "directive power." Authority is the "right" to exercise directive power and differs from coercion in that subordinates comply with authority because they believe it appropriate to do so rather than because of fear of the consequences if they do not. "A right, then, is a claim that certain people ought to accept" (McMahon 1994: 43). Authority is "the right to tell others, within certain limits that will vary from cases to case, what to do" (McMahon 1994: 28). Or, as James Coleman puts it: "One actor has authority over another in some domain of action when the first holds the right to direct the action of the second in that domain" (Coleman 1990: 66). McMahon distinguishes between *de facto* and *de jure* (or legitimate) authority. *De facto* authority is acceptance, in practice, of the authority's right to direct, regardless of whether that right is regarded as morally just. A "legitimate" authority is obeyed because it is regarded as morally right or just. With *de facto* authority, the "right" to direct is regarded as a prerogative; with *de jure* authority, it is regarded as justified.

German Lutheran Church, British firms, and Italian parents have always been bearers of “private” (and sometimes quasipublic) authority.<sup>10</sup> While this authority has certainly come in conflict with the “public” authority of the state (and the boundaries between public and private authority have been continuously negotiated), these authority claims have for the most part either reinforced the territorial basis of public authority or else posed no challenge to it.

This last point ultimately helps to clarify what is distinctive about current changes in the state system. The principle of territoriality, as described by Ruggie, has meant that public authority has been demarcated by discrete boundaries of national territory. But so too has the articulation of societal interests and identities that both buttress and make demands upon this authority. Nationalism is the most important and salient example of the coincidence of societal identities and territorial authority (Berezin, in press). Yet this coincidence has always been imperfect. There have always been group identities and interests that fit uncomfortably within the boundaries of the territorial state (particularly religious and ethnic identities). The Catholic Church or the international labor movement are good examples. Yet to a large degree, the evolution of forms of interest intermediation in the last century has largely conformed with national territorial boundaries. For example, while labor movements have always had a strong inclination toward internationalism, they have been *predominantly* organized around and oriented toward national authority. It is true, of course, that interests and identities *within* national boundaries have been predominantly, though not exclusively, organized along functional rather than territorial lines. They have sought to represent certain statuses or classes of actors within the territorial state. But as Stefano Bartolini argues in his contribution to this book, this is precisely because the state itself has largely monopolized territorial forms of representation.

Thus, the consolidation of territoriality, the organization of public and private authority, and the articulation of societal interests and identities have for the most part been coincident over the last century. In a sense, they have “coevolved” together in a mutually reinforcing way that makes it difficult to consider the existence of one without the other. The individual contributions to this book, which we can now introduce, all explore the political

<sup>10</sup> To see how “interests and identities” can themselves be conceived in terms of bearers of authority of various sorts, we can follow McMahon’s distinction between three different subspecies of authority. E-authority is a form of nonsubordinating authority that preempts your beliefs about what is in your interest. (An example is the “epistemic community” frequently discussed in the international relations [IR] literature.) C-authority is a form of subordinating authority voluntarily accepted because it allows individuals to better realize their own interests through the achievement of cooperation. (International regimes may be a good example of this type of authority.) And P-authority is a form of subordination established by a promise, which in turn establishes an obligation (for example, treaties).

implications of a world in which the mutually reinforcing relations among territory, authority, and societal interests and identities can no longer be taken for granted.

#### THE CONTRIBUTION OF INDIVIDUAL CHAPTERS

In bringing these individual contributions together, this book suggests different theoretical logics for understanding the changing relationship between territory, authority, and societal interests and identities. While all the chapters of this book explore this new terrain, Chapters 2 and 3, by Bartolini and Sidney Tarrow respectively, explicitly seek to formulate broad theoretical models for understanding this evolving relationship. Though they share certain observations about the nature of political change, these authors' theoretical differences lead them to different conclusions about the scope and extent of this change. For these reasons, a comparison of their contributions is a very useful place to begin our discussion.

Drawing on Stein Rokkan's pioneering work on the territorial structuring of modern European states, Bartolini's chapter attempts to establish a baseline for understanding the contemporary changes wrought by economic internationalization and European integration. From this Rokkanian perspective, the territorial structuring of states was a difficult and uneven historical process in which the consolidation of the external borders of the state vis-à-vis other states was interdependent with the ability of a territorial "center" to hierarchically subordinate or subdue the territorial "periphery." The development of centralized administrative organization (the "modern bureaucratic state") allowed the center both to defend its territorial claims externally and control the periphery internally. The consequences for the subsequent evolution of political authority, interests, and identities were manifold. Drawing on Albert Hirschman's well-known "exit-voice" framework, Bartolini argues that successful state-building sharply reduced the options for "exit" and consequently created a demand for the internal structuring of "voice." The organization of interests and identities along functional and national lines was one critical consequence of the internal demands to exercise voice; democratic institutions and national citizenship were others.

In Bartolini's view, it is precisely the "coincidence of cultural, economic, and politico-administrative boundaries" achieved by this territorial structuring that economic internationalization and European integration now challenge. By increasing the "exit" options for cultural, economic, and political interests and identities, internationalization and European integration pose two fundamental challenges to the territorial dispensation achieved by modern state building. First, exit options challenge the state's domestic authority and its capacity to order domestic affairs authoritatively; second, and simultaneously, expanding exit options reduce the incentives to exercise voice in lieu of exit.

Bartolini suggests a number of important consequences that may follow from this state of affairs. One of the most important is the reemergence of the old “center–periphery” territorial cleavages and the increasing assertiveness of subnational identities and interests. The second – driven by the mobility of capital – is the appearance of a new form of “subnational” territorial competition to attract capital and to develop resources endogenously. Third, by fragmenting the sites of power and decision making, European integration challenges the functional organization of interests and identities premised on the territorial organization of nation-states. Thus, while subnational regionalization disorganizes functional interests and identities from below, European integration disorganizes them from above. The conclusion reached by Bartolini departs significantly from the expectations of neofunctionalist theory: We should expect the European political landscape to be increasingly dominated by a form of “stratarchic territorial representation” rather than national or continental functional representation.

Whereas Bartolini draws on Rokkan and Hirschman to conceptualize the current change in the relationship of territoriality, authority, and interests and identities, Tarrow approaches the issue from a quite different analytical perspective. To Bartolini’s marriage of Rokkan’s structural perspective with the individualist perspective of Hirschman, Tarrow proposes a different connubial arrangement: the combination of a dynamic “political exchange” model inspired by Alessandro Pizzorno with a relational approach to political contention in the tradition of Charles Tilly. In earlier work examining claims about the emerging transnational nature of contentious politics, Tarrow found examples of both transnational and supranational political mobilization (Imig and Tarrow 2001). However, he also found that evidence for this form of protest was limited and that national mobilization remained by far the dominant form of political contention. From Bartolini’s perspective, this limited “Europeanization” of protest makes sense because European integration and economic internationalization have accentuated a transition from functional to “stratarchal territorial representation.” But Tarrow suggests that a relational political exchange model offers a particular interpretation of the new forms of European subnational territorial mobilization pointed to by Bartolini. Subnational territories, he argues, are really behaving fundamentally like functional interests (“lobbies”) because the logic of political exchange in the EU converts territorial interests into sectoral interests.

The differences between Bartolini and Tarrow are subtle, but ultimately point to different ways of conceptualizing political change. For Bartolini, territorial boundaries are the critical structural feature of modern states; political change depends on the relative ease of exit from these territorial boundaries. For Tarrow, the boundary per se is less important than examining strategies of political exchange, and ease of exit is less important than

focusing on the relationships of actors within and across territorial boundaries. Ultimately, these conceptual differences lead to different judgments about whether the political change we are now witnessing is foundational or not. For Bartolini, current events may be seen as a “critical juncture” (to draw on Rokkanian language) in which one mode of interest intermediation is being disorganized and replaced with another. But for Tarrow, national and functional modes of interest intermediation are not being disorganized; rather, the process is one of layering new modes of authority and new opportunities for political coalition on top of existing ones. He sees increasing complexity as authority and coalition building become “composite” in nature, but no fundamental break with the status quo.

Several of the chapters in this book can be interpreted from the perspective of the conceptual frameworks developed by Bartolini and Tarrow. Maurizio Ferrera, for example, draws explicitly on the Rokkan/Hirschman framework to analyze the changing structure of welfare provision in Europe. He argues that the territorial bounding of the nation-state was a fundamental precondition for the making of modern welfare states. Territorial bounding and the institution of national citizenship were necessary ingredients for creating the “compulsory” social insurance programs that became the centerpiece of European welfare states. The free movement of European workers across national borders (exit) has deeply challenged the compulsory nature of these programs. Europeanization has certainly added a layer of administrative complexity to national programs and raised the legal conundrum of harmonizing different national welfare regimes. But most importantly, the expansion of legal authority at the European level has led to the erosion of national legal control over social insurance beneficiaries, creating “semisovereign” national welfare systems. While the precise mode of adaptation of national welfare systems to this external intrusion of European authority remains an open question, Ferrera suggests that one significant outcome may be a push toward the subnational regionalization of national welfare regimes.

Sergio Fabbrini’s contribution to the book critically examines the Rokkanian framework from the perspective of the American experience of state building. The main thrust of his argument is to show that the pattern of development of the American state is at variance with the pattern described by Rokkan for continental European states. In Fabbrini’s survey of American state building, the crucial difference is that the nation precedes the state in the United States, and democratization and nation building are synchronic in America (and diachronic in Europe). Consequently, the “center” never subordinated the “periphery,” and a modern bureaucratic state emerged only much later. By constitutional design, domestic authority in the United States has remained both vertically and horizontally fragmented. Thus, from a Rokkanian perspective on European state building, the United States

represents an interesting deviant case, though one with many parallels with the contemporary EU. I will return to this comparison between the EU and the United States later in this chapter.

Although published elsewhere, Jack Citrin and John Sides' (2003) contribution to our group project can be read as offering support for both Bartolini and Tarrow. They find that national loyalties remain the dominant political identities in Europe, though compatible with a European identity for a significant fraction of citizens. Their major conclusion, drawn from their assessment of Euro-barometer studies, is that "strong feelings of national identity persist" even as a "large segment of the public in all countries view themselves as simultaneously members of two communities: the nation-state and Europe." Their finding can be read as reinforcing Tarrow's argument about political contention: As with interest groups, national identities will continue to reinforce the importance of national territorial borders, even as the space for an alternative (European) identity offers a secondary venue for mobilization. But the way in which the construction of the EU evokes "strong feelings of national identity," as well as the way in which national identities are nested within a broader European identity, also imply that the "stratarchical territorial representation" that Bartolini suggests will supplant functional representation.

While other contributions to this book might be introduced in terms of how they relate to the perspectives advanced by Bartolini and Tarrow, we might then miss a broader theme that emerges in a number of the chapters. As developed in the first part of this introduction, one way to explore contemporary political change is to investigate the changing organization of authority. As some contributions to this book demonstrate, it is useful in some cases to analyze political change in terms of the "unbundling" of existing authority. "Unbundling" here means that modes of authority once packaged and organized together are becoming separated and organized as distinct bundles. However, our contributors also find cases where once-distinctive modes of authority are being brought together and joined in new ways – a process of "rebundling." And finally, some chapters describe the creation of new "bundles" of authority where they simply did not exist previously.

Chapter 4, by James Caporaso and Joseph Jupille, can be understood as a study of the changing organization and exercise of domestic political authority in the face of the development of new forms of extranational authority. Specifically, the authors examine changes in the meaning and exercise of British parliamentary sovereignty in the face of the expanding legal authority of the EU. They observe that "as the EU becomes progressively constitutionalized, it has injected its substance and procedures into the UK's constitutional order." In a country without a formal Bill of Rights, EU law creates "entrenched rights" that "the UK parliament cannot deny British citizens." The final or supreme authority of parliament on such matters is,

therefore, trumped by the higher authority of the European Court of Justice (ECJ). As Caporaso and Jupille note, however, the consequences go beyond a shift in the locus of final authority from the British parliament to the ECJ. The creation of formal European rights also leads to a reorganization of domestic authority relations, because interpretation of these rights creates a demand for domestic judicial review of parliamentary law. Their chapter reveals an interesting dynamic whereby the creation of new bundles of external authority leads to an internal unbundling of authority. Their findings are similar to those described by Ferrera for European welfare states: The emerging legal authority of the EU leads to both a diminution of national authority (“semisovereign welfare state,” “semisovereign parliament”) and potentially a domestic unbundling of authority (the creation of regional welfare regimes, the emergence of judicial review).

One of the main consequences of the unbundling and rebundling of authority is the problem of establishing rules of priority and jurisdiction between different bundles. Although not published in this book, Martin Shapiro’s contribution to our group project dealt with one of the major difficulties of creating European authority that can potentially trump national authority: the problem of delineating, legally and institutionally, the respective authority jurisdictions between the EU and its member states. Shapiro examined one very notable attempt to tidy up overlapping authority created by earlier rounds of European integration: the principle of subsidiarity. Subsidiarity, as Shapiro wrote in his paper, is a “way to make legal sense of two sovereigns sharing the same citizens and territory” (Shapiro 2000). Subsidiarity is a standard for deciding whether member states or the EU have prerogatives over particular issues. Introduced by the Maastricht Treaty, the principle of subsidiarity states that the EU shall have jurisdiction “only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States.” Drawing a comparison with American disputes over the boundaries between federal and state authority, however, Shapiro argues that the problem is nearly impossible to settle clearly, particularly in the context of a modern economy. Subsidiarity, he argues, will ultimately be no more successful than American claims of “dual sovereignty.” One of the further implications he draws from this comparison is that the precise boundaries between national and European authority can be established only through continuous political negotiation and not through conceptual fiat.

This theme of complex, overlapping authority appears in a number of the contributions. As already pointed out, Tarrow argues that Europe should be seen as a “composite polity.” The essence of his argument is that “ordinary people” confront “multiple and overlapping structures of opportunity.” His model argues that a variety of coalitions – both horizontal and vertical – will be possible for ordinary people in the context of this new political

opportunity structure. Some of these alliances may reinforce traditional “state-centric” structures. However, the possibility will exist for translocal coalitions and transnational contention.

In a comparison of immigration policy in the United States and the EU, Bruce Cain argues that the EU creates something that bears a family resemblance to James Madison’s “compound republic.” The layering on of European institutions creates countervailing forms of authority that, as Madison prescribed for the United States, mediate majoritarian tendencies. In the United States, this mediating role has been played by federalism and by the courts. In Europe, Cain argues, the functional equivalent is currently the system of intergovernmental negotiation, though in time EU courts may play this role more directly. One consequence of this new compound republic, Cain argues, may be the phenomenon of “venue shopping,” in which European interest groups may seek out the political arena most responsive to their needs and interests. Interestingly, this idea of venue shopping straddles Tarrow’s political exchange perspective and Bartolini’s exit perspective. Venue shopping suggests the sort of composite “political opportunity structures” described by Tarrow. But it also suggests the increasing prominence of exit over voice strategies highlighted by Bartolini’s perspective (that is, the ability to move from venue to venue).

How does the policy process work in compound or composite polities? In a comparison of air pollution policymaking in the United States and the EU, Alberta Sbragia develops a method for explaining divergent policy outcomes consistent with this perspective on venue shopping or composite or compound “political opportunity structures.” She argues that policy differences can be explained in terms of the number of institutional veto points, the majoritarian or supermajoritarian character of the institution, and the way the structures of legislative institutions shape possibilities for agreement and disagreement. She also argues that the policy outcomes mediated by these institutional structures depend on the organization of interests, which she conceives of as depending on the precise intersection between territorial and functional modes of interest representation. What is distinctive about the United States, Sbragia argues, is that functional interests are often mobilized and represented territorially, while territorial and functional representation is more disjunct in Europe. I will return to this important point later in this chapter.

My own contribution to the project (published elsewhere) can be understood as the administrative parallel of policy-making dynamics in a compound or composite polity (Ansell 2000). What types of administrative organization are possible when overlapping political authority is organized at several administrative levels? Examining regional economic development strategies in Europe, I describe the development of a “networked polity” – a functional organization of multiple public and private authorities that cuts across and links up different subnational regions and different levels of

territory (subnational, national, European). As developed in Chapter 11, these functional networks reflect the domestic unbundling of authority (decentralization), the creation of new layers of authority beyond the state (EU structural policy), and the contingent rebundling of multiple sources of authority for specific development projects. While venue shopping and veto points can be easily observed in this domain, it is worth pointing out how the logic here differs from that developed by Cain and Sbragia: The distinctive feature of these functional networks is that they link together multiple venues in a common organizational framework. In this sense, these functional networks reflect the relational rather than the exit perspective.

To discuss the relative salience of relational versus exit mechanisms more generally, we can draw inspiration from Shapiro's argument about the difficulty of tidying up overlapping authority (discussed previously). To the extent that the unbundling or layering of authority creates complex patterns of shared authority, we must expect relational mechanisms to exist – in the form of political alliances or functional networks – that attempt to create an emergent form of joint authority. But to the extent that unbundling or layering creates distinct arenas that see their respective authority claims in competitive, conflictual, or exclusive terms, exit mechanisms might be more likely to operate.

The contribution of Alec Stone Sweet to this book demonstrates yet another aspect of the reorganization of authority. So far, the chapters have talked about the unbundling of authority within the context of existing states or the creation of new forms of authority at a higher territorial scale. They have not challenged the principle of territoriality per se, although the scale of territoriality has in some cases been significantly altered (shifted to subnational units in the cases of Bartolini and Ferrera; shifted to the EU in the cases of Tarrow, Caporaso and Jupille, Cain, and Sbragia).<sup>11</sup> Stone Sweet's contribution demonstrates the possibility of a more complete separation of authority from territory. He describes the globalization of freedom of contract and arbitration, which is designed to replace national contract law and courts as the means of regulating international commerce between private firms. His analysis describes a new private law of commercial commerce, which he compares to the *Lex Mercatoria* that regulated transactions between traders and merchants in the absence of state regulation in medieval Europe. These new "islands of transnational governance" are important in

<sup>11</sup> The "constitutionalization" of the EU described by the Caporaso and Jupille chapter implies the creation of public authority on a larger territorial scale. Bundles of authority may have migrated from the nation-state to the EU, but the new organization of authority reinforces the principle of territoriality. To the extent that the EU is simply a set of discrete functional authorities, it does represent the unbundling of territoriality identified by neofunctionalists and Ruggie. But to the extent that the EU is constitutionalized, develops a body of authoritative and integrative law, and has "offices" that speak for the EU as a whole, it operates much more like a new territorial ontology – a corporate personality – on a higher scale.