

Article

A comparative capitalism perspective on the privatization of governance: Business power, nonbusiness resistance and state enforcement in Germany, 2000–2010

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Abstract

The privatization of governance including the institution of nonbinding corporate social responsibility (CSR) frameworks to govern the social and economic conduct of large corporations is a controversial global process, which unfolds between and within nations. Studies of transnational private governance suggest that CSR frameworks reflect bargains between business and nonbusiness actors, reached on the background of the unfeasibility of intergovernmental binding regulation. But what explains the rise of such multi-stakeholder initiatives on the national level—and particularly in European coordinated market economies—where public forms of governance are historically well-institutionalized and more feasible? Based on our power resource theory (PRT)-informed study of Germany's adoption of a national CSR framework, we argue that such settings motivate nonbusiness actors to resist, rather than engage in, business-driven processes of the privatization of governance. The struggle is decided by the state, which in Germany used its public power to enforce multi-stakeholder consensus around privatized forms. Our findings thus extend scholarly recognition of the role played by public authority in the privatization of governance. More generally, we promote a comparative capitalism perspective for the study of the politics of private governance.

Key words: private governance, CSR, coordinated market economies, power resources theory, Germany

JEL classification: sociology of economics, altruism, philanthropy

1. Introduction

An important aspect of the ‘privatization of governance’ (Cutler *et al.*, 1999), the recent global rise of CSR as a ‘mode of governance’ (Brammer *et al.*, 2012) represents a significant shift in how societies pursue control of the social and environmental conduct of business corporations. The state-centered and corporatist modes of ‘public governance’ (Mayer and Gereffi, 2010) that characterized the post-war era are increasingly supplemented or replaced by regulatory mechanisms divorced from public authority, interchangeably titled ‘multi-stakeholder initiatives’ (Utting, 2001), ‘private regulation institutions’ (Bartley, 2007) or ‘CSR frameworks’ (Lim and Tsutsui, 2012). Instead of public control, CSR frameworks apply ‘soft’, ‘market-driven’ pressure on firms in an attempt to stimulate voluntary adoption of CSR practices (Cashore, 2002; Steurer, 2010).¹

Considering that the privatization of governance in question entails transition to less-binding regulatory mechanisms, many have argued that private regulation is unreliable and subverts democratic decision-making (Lipschutz, 2004; Etzioni, 2009). Relatedly to these concerns, scholars have turned attention to the politics underlying the rise of private governance, that is, the struggles between business actors (e.g. corporations and business associations) and nonbusiness actors (particularly civil society organizations [CSOs] and labor unions) over the nature of corporate regulation, with additional players involved as facilitators and mediators, like intergovernmental organizations, governments or standard-setting organizations (Bartley, 2007; Abbott and Snidal, 2010; Abbott *et al.*, 2017). Primarily focusing on the transnational level, many studies of the politics of private governance suggest that given the typical unfeasibility of international public regulation, nonbusiness actors have been driven to bargain on softer, private forms of governance with business actors. The institutional outcomes of such bargaining represent ‘negotiated settlements’ (Bartley, 2007, 2018; Abbott and Snidal, 2009; Bair, 2017) or ‘moves and accommodations’ (Levy *et al.*, 2016) between the sides.

Here we are interested in the limits of this transnational model in capturing the rise of CSR-related private governance within national boundaries. Drawing from power resources theory (Korpi, 1985, 2006), we hypothesize that on the national level, where public governance is less constrained and may still be considered viable, nonbusiness actors such as CSOs and unions will be less prone to settle on private governance solutions. Particularly in national contexts in which the tradition of public governance is relatively well-developed and entrenched, such as in Europe’s coordinated market economics (Hall and Soskice, 2001), CSOs and unions can be expected to stand up for the pre-existing public governance institutions rather than search for less binding alternatives. The case of Germany—the major European coordinated market economy selected here for analysis—indeed highlights this theoretical problem. In Germany, as we show, nonbusiness actors refused to bargain over private governance precisely because their preference was to defend public governance. Nevertheless, while nonbusiness resistance to privatization was rather united and resolute, and while one might expect that Germany’s strong corporatist and statist traditions would factor to limit, if not to entirely block, the rise of private governance—reality was the reverse: in 2010, Germany adopted a strikingly voluntary CSR framework. Below we account for this surprising development in terms of the 2000–2010 policy-making conflict underlying the establishment of that framework.

Our analysis highlights the decisive role played by public authority in defeating the afore-mentioned nonbusiness resistance and securing an institutional outcome that, evaluated against the German tradition of economic governance, was surprisingly soft. Notably, research of the privatization of governance within European Union (EU) countries indicates that most European governments institute national CSR frameworks through public policy making (Martinuzzi *et al.*, 2011). This is a major difference compared to the role played by national governments in the rise of transnational private governance, which is to act ‘not through coercion but through leadership, legitimation and support’ (Bartley 2007, 2018; Abbott and Snidal, 2009, p. 5). However, existing research has largely refrained from elucidating the role of the European-typical statist approach *via-à-vis* the societal struggles around the introduction of private governance in a national setting (Fox *et al.*, 2002; Albareda *et al.*, 2007; Steurer, 2010, 2013; Knudsen *et al.*, 2015). We argue that through integration of private governance into public policymaking, governments enforce cross-sector (multi-stakeholder) legitimation to business-driven forms of private governance.

The implication of this study for the research on the privatization of governance is the need to establish a more systematic analytical differentiation between various settings in which this process unfolds, particularly, to develop a ‘comparative capitalism’ approach that recognizes the variety of national contexts differentially shaping privatization processes. Our own findings suggest that the spread of private governance on the national level, and particularly in capitalisms that are historically nonliberal and more coordinated, is likely to be more conflictive than on the transnational level, owing to the vestedness of nonbusiness actors in an extant developed tradition of public regulation. Second, contrary to the common notion associating the privatization of governance with the erosion of state power (e.g. Mayer and Phillips, 2017), we highlight the exercise of public power to enforce the process of privatization. Our findings, therefore, entail important implications for the study of public authority’s role in the rise of private governance.

2. The Transitional and National Politics of CSR as a Mode of Governance

‘Private regulation institutions’ (Bartley, 2007) or ‘CSR frameworks’ (Lim and Tsutsui, 2012) are mechanisms designed to improve the norms of corporate social and environmental conduct without relying on public authority for standard-setting and enforcement. CSR frameworks such as certification (e.g. the Forest Stewardship Council, ISO 14001) and CSR clubs (e.g. the Global Compact, Equator Principles) promulgate standards of responsible conduct to which their corporate members commit to adhere and, through labeling, encourage consumers, investors, employees, business partners and other stakeholders to prefer the framework’s members over nonmembers. Other CSR frameworks, such as social reporting frameworks (e.g. the Global Reporting Initiative) and CSR indices (e.g. FTSE4Good), aim to cultivate pro-CSR public pressure on firms through the dissemination of standardized performance evaluations.

While many CSR frameworks are business-driven, others have a ‘multi-stakeholder’ structure. Reflecting an intention to go beyond earlier self-regulatory initiatives unilaterally constituted by industry, these CSR frameworks are established by more diverse coalitions of societal actors, variously including CSOs, intergovernmental organizations, labor unions, experts and government representatives as well as corporations (e.g. Fransen and Kolk,

2007). As compared to self-regulatory initiatives, the cross-sector negotiation over the framework's standards and monitoring capacities entails a promise for more substantive and credible regulatory effects and enhances the public legitimacy of private governance. However, multi-stakeholder initiatives vary in their stringency. For example, while the United Nations' Global Compact includes almost no monitoring capacity and is often accused of 'bluewashing' (Berliner and Prakash, 2015), the Forest Stewardship Council exemplifies a highly participatory multi-stakeholder initiative, with members from different sectors having equal voting power to set and revise what have become relatively stringent standards (Overdevest, 2010).

Scholars explain the rise of transnational CSR frameworks in terms of political-institutional contestations and their resolve through 'embedded bargaining' (Bartley, 2007) or 'moves and accommodations' (Levy *et al.*, 2016; see also Fransén, 2011). It is premised that while economic globalization created new regulatory challenges, transnational binding regulation failed to keep pace due to intergovernmental disagreement and the dominance of neoliberal doctrines (Bartley, 2007, 2018; Mayer and Gereffi, 2010; Vogel, 2010). Realizing that public regulation is unfeasible, regulation-seeking nonbusiness actors are encouraged to consider less-binding private regulatory arrangements. On the other hand, activists' attacks pressure corporations to consider concessions. On this background, moderates from both sides are driven—sometimes with governments and other agents acting as facilitators—to co-establish multi-stakeholder regulatory collaborations (Bartley, 2007, 2018; Abbott and Snidal, 2009).

The institutional outcome of such processes is predicted to reflect a business–nonbusiness 'negotiated settlement':

The rise of transnational private regulation results from bargaining and negotiation within a complex institutional environment. Certification systems may not be an *optimal* solution for any set of actors, since firms typically prefer weaker commitments with minimal enforcement, while social movements prefer stronger, binding standards. Instead, certification may emerge piecemeal out of the strategies and counterstrategies of different actors. (Batley, 2007, p. 311)

The resulting institutions are likely to integrate proposals from CSOs but transform notions such as 'sustainability' from a blueprint for social change into 'a set of management processes aligned with corporate goals' (Levy, 1997; Levy *et al.*, 2016, p. 27). The outcome's degree of stringency is expected to reflect the business–nonbusiness power asymmetries characteristic of the focal issue arena. While multinational corporations are typically regarded as more powerful than international CSOs and unions, sometimes the latter gain leverage through well-informed, well-executed cooperation and exploitation of political opportunities (Egels-Zandén and Hyllman, 2006, p. 313). For example, in the case of the Bangladesh Accord on Fire and Building Safety, a broad coalition of labor unions and nongovernmental organizations mobilized the Rana Plaza disaster as a source of pressure, thanks to which the Accord became one of the few private governance frameworks that is legally binding for its members (e.g. Anner *et al.*, 2013; Reinecke and Donaghey, 2015).

Derived mainly from observations on transnational settings, this explanation may be less applicable to the study of the privatization of governance on the national level. Within national borders, the premise that public regulation of corporations is unfeasible is less adequate considering the presence of a sovereign state and—in some settings more than others—the pre-existence of public governance institutions. For the extreme example, in

coordinated capitalisms such as European coordinated market economies, the institutions of public governance are typically more developed, legitimate and resilient, and nonbusiness actors—especially labor unions—enjoy stronger positions of influence (Hall and Soskice, 2001; Streeck, 2009; Thelen, 2014). In such settings, nonbusiness actors are more likely to concentrate their activity in the arena of public governance than bargain with business on private solutions. Moreover, it is in the interest of these nonbusiness actors to resist business-driven private governance agendas for their preemptive potential vis-à-vis public governance. That is, instead of bargaining over the details of private governance, an alternative dynamic may emerge, whereas the very legitimization of the privatization of governance is the bone of contention.

Consistent with these theoretical expectations, existing national-level research suggests that the rise of CSR as a mode of governance is often driven by business rather than by cross-sector pursuits of private regulatory solutions. In the USA of the early post-war period, the notion that ‘business responsibility’ could substitute for the welfare state originated from large corporations seeking to fend-off the threat of economic collectivization (Kaplan, 2015), and in Margaret Thatcher’s UK business elites successfully lobbied the idea that urban development policy should be privatized (Kinderman, 2012; Kaplan and Kinderman 2017, 2019). In the Continental European context, too, studies of Spain (Archel *et al.*, 2011), the Scandinavian countries (Midttun *et al.*, 2012) and Austria (Höllerer, 2013) suggest that local corporations were the leading promoters of notions of CSR and private governance in these countries. In Germany, according to Kinderman (2008), the champions of CSR were corporations and business associations seeking liberalization of the German economy. If the privatization of governance in national settings is business-driven, then what explains the emergence of national-level multi-stakeholder CSR frameworks?

One possibility noted by existing literature is that bargaining dynamics exist also on the national level. For example, LeBaron and Rühmkorf (2019, p. 25) report that British anti-modern slavery CSOs resorted to engagement in private governance based on their reckoning that: ‘the days of government are over. It’s corporations who rule the world... and they’ve placed themselves right in the middle of efforts to eradicate slavery.’ While such retreat of public governance is less surprising in the liberal capitalism of Britain, Hiss (2009) argues similarly that the post-1990 decline of public governance in Germany sparked societal negotiations, whereby business and nonbusiness actors settled on CSR as a successor mode of governance. It should be noted that Hiss’s account contradicts the aforementioned one by Kinderman (2008) as well as our own findings presented below, which confirm Kinderman’s business-driven interpretation.

Another solution is implied in Archel *et al.*’s (2011) study of multi-stakeholder fora in Spain—a European mixed market economy (Hall and Soskice, 2003)—where a number of CSO representatives had initially opposed the ‘CSR discourse overwhelmingly characterized by voluntarism and business-as-usual’ promoted by a business–labor coalition. Later on in the process, these initial face-off dynamics dissolved, reportedly because the ‘heretics’ were coming to feel that their position was ‘immature’ and ‘unrealistic’. Here, instead of the imagery of two sides bargaining on a compromise solution, it is suggested that resistance was defeated through power dynamics. It remains unclear, however, what were the conditions under which the Spanish defenders of public governance were overpowered. Further exploration is required of the power of business to push for the institutionalization of its agenda and of the broader arena in which such power is formed and takes effect.

In this regard, we note that existing national-level studies typically focus on business and civil actors and less on the contribution of the state to the power dynamics underlying the rise of private governance. The neglect of the state is bothering particularly in the context of Europe where—in distinction to the strictly private nature of transnational private regulation (Locke, 2013; Bartley 2018)—CSR frameworks are ‘national’: state-sponsored and integrated in public policy. By 2012, 20 EU members (including Germany) had adopted or been developing national ‘CSR strategies’ and ‘action plans’ (Martinuzzi et al., 2011). These frameworks are state-sponsored and coordinated but also clearly related to transnational private regulation institutions in that they are designed to create favorable conditions for the voluntary, market-driven adoption of CSR by corporations.

The emergence of these ‘public policies for CSR’ (Knudsen et al., 2015) across continental European countries has received considerable scholarly attention but from a rather apolitical perspective (for an overview, see Dentchev et al., 2015). The literature typically classifies CSR policies in terms of legal, economic, information and partnering instruments or mandating, facilitating, partnering and endorsing government functions (Fox et al., 2002; Albareda et al., 2007; Steurer, 2010, 2013). In terms of motives, it is suggested that governments adopt CSR policies based on politically unproblematic functional rationality, normally in order to address social problems, increase public welfare or enhance the country’s international competitiveness (Moon, 2002, 2004; Tencati et al., 2004; Gond et al., 2011; Knudsen and Brown, 2015; Midttun et al., 2012). What is missing in this literature, in our opinion, is consideration of the role of state power in the societal controversy sparked by the state-sponsored introduction of the privatization of governance into a national setting.

In sum, we suggest that the politics around the rise of private governance on the national level, and within European nations in particular, requires further theorization. First, while the literature has recognized that on the national level the privatization of governance is often business-driven, the theorization of business power has remained under-developed. Second, discussion of the role of nonbusiness actors in these processes has tended to be too narrow, especially given the involvement of European governments in the privatization of governance. In general, we argue for the need in complementing the transnational perspective to private governance with a comparative capitalism perspective, which advances a more politically contextualized account of the emergence of private governance institutions. Next, we introduce our comparative capitalism framework for a contextualized analysis of the process through which a nation’s business effectively pushes for the privatization of governance against resistance, including the state’s role in the process. One of the core features of this approach is the focus on power.

3. A Comparative Capitalism and Power Resources Framework for the Study of National-level Privatization of Governance

As articulated by Jackson and Deeg (2008), comparative capitalism perspectives stress the institutional diversity of national capitalisms, whereas each nation—and to some extent clusters of nations (e.g. coordinated market economies)—historically generate their own ‘logic’ of economic action. It follows that institutional change in a nation’s capitalism (such as the privatization of governance) must be explained in terms of its relations of continuity and departure from the extant nation-specific institutional configuration and, inseparably, the historically and institutionally shaped interests, power relations and politics underlying

the transformation. There is an affinity, then, between the comparative capitalism perspective and historical institutionalist approaches such as a power resource theory (PRT) (Korpi, 1974, 1985, 1989, 2006), from which our framework draws.

PRT highlights the role of interclass struggles and, specifically, ‘the distribution of power resources between the parties’ (Korpi, 1985, p. 38) in shaping policy outcomes. PRT has traditionally been applied in the study of welfare state development (Esping-Andersen, 1985, 1990) and the influence of social (i.e. public) policies on economic inequality (Kristal, 2010; Volscho and Kelly, 2012; Jacobs and Dirlam, 2016). Here we adapt this perspective for the analysis of the institutionalization of privatized governance forms.

Traditional PRT premises that social policies are set and expanded insofar as the labor class and political left have the power to promote them against the resistance of the capitalist class and political right, which prefer ‘to situate distributive processes in the context of markets’ (Korpi, 2006, p. 173). When the privatization of governance is at stake, we suggest the actor’s positions are reshuffled: private governance institutions are set insofar as business actors—now on the offensive, seeking to relax the social embeddedness of markets—have the power to promote privatization against the resistance of nonbusiness actors, whose interests are vested in state regulation and social legislation. Our framework is set to explain how, given this expected conflict of interests, the struggle concludes in the institutionalization of multi-stakeholder private governance. In classic PRT, the capitalist resisters to social policies are driven to concede when they realize that the balance of powers turns against them, making a costly defeat likely (Korpi, 2006). Adopting this conception, we ask how a situation is created whereby nonbusiness resisters are driven to yield.

Given the existence of a sovereign state in national settings and, in Europe in particular, the heightened involvement of governments in both public and private economic governance (Gond *et al.*, 2011; Midttun *et al.*, 2012), our framework expects an attempt by business to engage the state in the privatization agenda which, in turn, alters the calculations of non-business actors. In the absence of state involvement, civil and labor actors are free to bargain with business on private governance arrangements (like in transnational settings, Bartley, 2007), but they may tend not to, particularly in settings where public governance has been well institutionalized. The situation changes, however, if private governance is promoted by the state, that is, integrated into public policy. Private governance then becomes a formal, state-sponsored arena of policymaking, which civil and labor actors hesitate to ignore considering their heavy dependency on state action, as well as their fear that existing public governance is at risk of erosion (e.g. Kinderman, 2008). Given this decisive power of the state to ‘structure the conditions and the situations in which action and decision-making take place’ (Korpi, 1985, p. 38), the state’s position is expected to be highly politicized—the focal point of the business–nonbusiness struggle over the national-level institution of private governance.

PRT posits that business’s potential to incorporate the state against institutional tradition and political resistance depends on the mobilization of available power resources. The notion of power resources alludes to the ‘structural’ dimension of business power (for an overview, see Culpepper, 2016). Business has structural power insofar as ‘pressure to protect business interests is generated automatically and apolitically’ stemming from the dependence of governments on the profitability of private investment (Hacker and Pierson, 2002, p. 281; see also Culpepper, 2016, p. 459). In the contemporary context of neoliberal globalization, governments often become yet more accommodative of business interests—that is, the

structural power of business is enhanced—given concerns about the country’s ability to compete in the global economy, concerns that tend to further augment on the background of economic crisis (Fourcade-Gourinchas and Babb, 2002; Cioffi and Höpner, 2006).

For structural power potentials to be realized—particularly in the face of resistance—power resources need to be mobilized through instrumental action and business agency (Culpepper and Reinke, 2014). Mobilization (or ‘instrumental power’, Hacker and Pierson, 2002) implies the employment of ‘mechanisms of influence’ (Dreiling and Darves, 2011; Walker and Rea, 2014)—particularly political agenda setting and lobbying (e.g. Hall and Dearnorff, 2006). Such instrumental efforts can leverage circumstantial contingencies, for example, if business signals the necessity in policy reform for economic competitiveness and employment retention in times of economic crisis and rising unemployment (Bernhagen and Bräuninger, 2005; Bell and Hindmoor, 2014). As a case in point, German and Swedish employers responded to situations of economic crisis by founding think-tanks and organizing public relations campaigns, which put pressure on existing institutions and promoted neoliberal reforms (Kinderman, 2016).

Our analysis examines, then, the conditions under which and ways whereby business—regardless of the business-led, adversarial nature of the process—harnesses the national government to create a situation in which multi-stakeholder consensus forms around private governance institutions. We will do so by looking at the case of Germany.

4. The Case of Germany

We selected the case of Germany because it is a quintessential coordinated market economy (Hall and Soskice, 2001), the category of national settings in which we expect to find more pronounced conflict around the privatization of governance. Second, the case of Germany well illustrates the radical break from traditional forms of governance entailed in the rise of private governance in coordinated market economies. This section describes the 2010 institution of a national CSR framework in light of its departure from ‘Rhenish Capitalism’: Germany’s traditional system of corporate regulation and economic governance.

Reaching its high point in the 1970s and 1980s, Rhenish Capitalism entailed extensive welfare-state provisions, a strong focus on worker rights and vigorous state intervention in the management of markets (Lehmbruch, 2001; Streeck, 2009; Jackson and Sorge, 2012). In the area of corporate social and environmental conduct, the typical way to define the boundaries within which corporations operate was through state mandates and corporatist arrangements, including many obligations that were considered discretionary in the USA and UK (Habisch and Wegner, 2005; Antal *et al.*, 2009; Hiss, 2009).

Regardless of Rhenish Capitalism’s emphasis on external control of the economy, that era also saw the emergence of the concept of ‘social responsibilities of business’ (*soziale Verantwortung des Unternehmens*), a norm that many corporations felt obliged to embrace in terms of their ‘moral duty’ as a complement to abiding by binding regulation. For instance, firms implemented environmental management systems or invested in worker health and safety measures that went beyond legal prescriptions. In contrast to the preemptive nature of post-war Anglo-Saxon CSR (Marens, 2012), this voluntary behavior was couched in the prevailing conception of German corporations as ‘quasi-public institutions’ (Ulrich, 1977) and was thus consistent with and complementary to public governance. As such, the

1970s' 'responsibility' of German business differed starkly from the notion of 'CSR' (in its English articulation), which would enter the German scene in the 2000s.

At the same time, Rhenish Capitalism was not entirely consensual. Indeed, in some instances, attempts were made by business to use corporate voluntarism to counter external controls. In the 1970s, businesses largely opposed the federal government's intention to extend corporate regulations and universalize the co-determination principle. The Confederation of German Employers Associations (BDA) responded to these developments by rejecting the 'foreign rule' of firms and demanding instead 'corporate autonomy', viz., greater economic freedom and managerial sovereignty ([Bundesvereinigung der Deutschen Arbeitgeberverbände, 1966](#), p. 16, 1971). Beyond simple resistance, business organizations proposed more 'voluntarism instead of state intervention' (e.g. [Bundesvereinigung der Deutschen Arbeitgeberverbände, 1968](#))—for example, in the face of plans to mandate social reporting by firms ([Praxis, 1977](#)) or to increase job security regulations ([Bundesverband der Deutschen Industrie, 1984, 1988](#)). Yet business's success in tempering the statist, pro-labor trend of the 1970s was modest. Business's demand to increase the reliance on voluntary arrangements gained little traction, not only in leftist and labor circles, but also among legal and economic experts ([Murswiek, 1988](#); [Di Fabio, 1997](#)). Thus, Rhenish Capitalism had gained momentum under the social-liberal coalitions of Social-Democratic Chancellors Willy Brandt (1969–1974) and Helmut Schmidt (1974–1982) and was largely sustained by the liberal-conservative coalition led by the Christian-Democratic Chancellor Helmut Kohl (1982–1998).

Since the Year 2000 or thereabouts, while some of the foundational tenets of Rhenish Capitalism such as co-determination have endured, German forms of economic governance have undergone a noticeable transition ([Beyer and Höpner, 2003](#); [Streeck, 2009](#); [Jackson and Sorge, 2012](#)). Among the aspects of change, the new policy trend now leaves 'decisions about an increasing number of societal [and environmental] issues to the responsibility of corporations and other claimants' ([Hiss, 2009](#), p. 438). While it is still too early—and not the aim of this article—to judge whether CSR indeed 'may be emerging as a substitute... to institutionalized forms of solidarity' ([Kinderman, 2008](#), p. 3), it has certainly become established as an alternative to the traditional modes of public governance.

The formal expression of the increasing institutionalization of the privatized mode is the National Action Plan on CSR (in short, 'CSR Action Plan'; hereafter CSRAP), instituted by the federal government in 2010. A derivative of the 2009 National CSR Forum—where government, business, civil and labor representatives convened to develop a 'common understanding of CSR in Germany' and outline a National CSR Strategy ([Nationales CSR-Forum, 2009](#); [Bundesministerium für Arbeit und Soziales, 2010](#))—the CSRAP stipulates a new national approach to corporate social and environmental regulation in Germany. Remarkably—notwithstanding the broad participation of nonbusiness actors in the National CSR Forum, the CSRAP and the policies that sprung from it entail a strikingly 'soft', market-centered approach to governance.

The CSRAP posits acceptance of the so-called 'modern governance' ([Bundesministerium für Arbeit und Soziales, 2010](#), p. 6), including three main departures from the tradition of Rhenish Capitalism. First, it stresses that the form of governance concerned refers to the realm of practice residing 'beyond what is legally required', as based on instruments that 'encourage', 'incentivize' and 'support' the 'adoption of social responsibility by corporations' ([Bundesministerium für Arbeit und Soziales, 2010](#), p. 2, 7, 12). At the same time, binding

regulation is mentioned rarely and if so, in terms of something that is ruled out (e.g. [Bundesministerium für Arbeit und Soziales, 2010](#), p. 1). Second, the CSRAP discourages means of intervention disruptive of free markets. Instead, it envisions ‘a framework that relies on the unfolding of market forces [while striving] to reconcile freedom of action with the assumption of responsibility’ ([Bundesministerium für Arbeit und Soziales, 2010](#), p. 7). Third, the CSRAP stipulates a new division of governance labor among government and other actors in society, whereas governance becomes a societal ‘joint responsibility’ rather than government’s task. The main role of government in this scheme is to ‘formulate objectives and to create a positive environment for CSR’ ([Bundesministerium für Arbeit und Soziales, 2010](#), p. 3).

Following its publication, the CSRAP inspired the establishment of a number of government-sponsored CSR frameworks and activities including, for example, the Siegelklarheit website (which informs consumers about CSR labels), expert fora and dialogues on CSR (e.g. the ‘alliance for sustainable procurement’), ‘practitioner days’ (to foster implementation of CSR by small- and medium-sized companies) and the annual CSR award (honoring outstanding corporate social and environmental performers). These initiatives apply a notably soft, market-driven approach to governance. In a similar vein, while many European countries have adopted mandatory reporting requirements on corporate environmental disclosures, Germany is among the countries ‘with the least constraining regulation on environmental disclosures’ ([Barbu *et al.*, 2014](#): 236). What explains, then, this extreme shift in the modes of governance in a country like Germany?

5. Data and Analysis

We focus our analysis on the politics around the institutionalization of private governance in Germany between 2000 and 2010. This time period marks an important trajectory in the rise of private governance in this country. As outlined above, the time period under investigation is the one during which the societal struggle over Germany’s acceptance of CSR as a mode of governance began and reached an important conclusion. Specifically, the term ‘CSR’ appeared in the German discourse around 2000 and from 2001 societal actors began to explicitly debate this idea in a policy context ([Figure 1](#)). In 2010, the institution of the CSRAP represented a historical milestone, with CSR becoming an official approach to governing corporate social and environmental conduct in Germany.

In order to reconstruct the political interactions underlying the focal process—including the identity of the actors involved, their positions vis-à-vis the policy process and temporal shifts thereof—we examined the activity of four sectors that actively participated in the process: business, the state, civil society and labor. [Table 1](#) lists the actors that were involved in the focal process as leading representatives of their sectors.

To get a handle on the positions of these actors throughout the process, we collected discussion papers, commentaries, and standpoints on the question of governing corporate social and environmental conduct issued by the focal actors between 2000 and 2010. In the period of interest, the private governance of corporate social and environmental conduct was primarily discussed under the header ‘CSR’, which we used as a search term. Our data collection effort resulted in a set of 93 documents in total (see also [Figure 1](#) and [Table 1](#)). In Germany, these three types of regularly published documents are the conventional media through which participants in policymaking communicate their standpoints. Considering

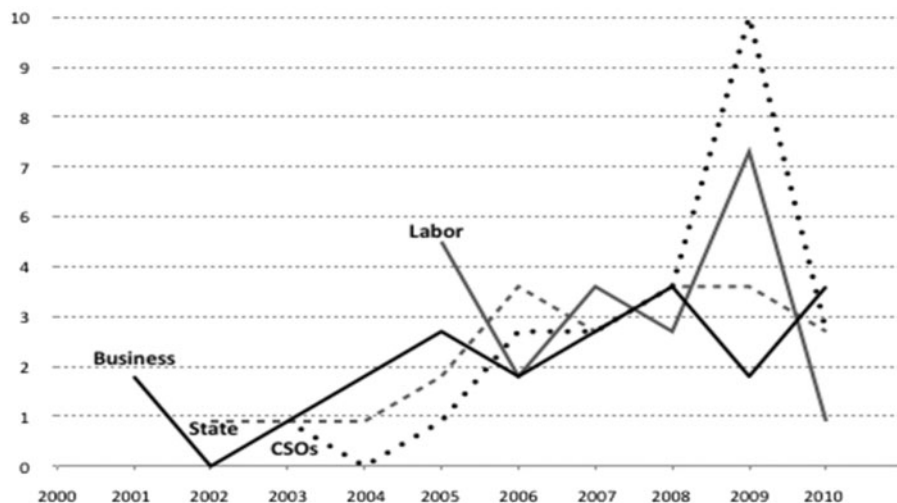


Figure 1. Production of CSR-related policy documents according to sector, 2001–2010.

Table 1. Main actors involved in the focal policymaking process, according to sector

Sector	Actors	No. of documents
Business	Confederation of German Employers Associations (BDA)	23
	Federation of German Industries (BDI)	
	Econsense	
State	Federal Ministry for the Environment (BMU)	23
	Federal Ministry for Labor and Social Affairs (BMAS)	
CSOs	CorA	25
	German Friends of the Earth (Bund für Umwelt und Naturschutz Deutschland, BUND)	
	WEED	
Labor	German Confederation of Trade Unions (DGB)	22

that, typically, such documents are thoroughly discussed and carefully crafted before being published they provide a reliable indicator of the actual positions taken by an actor, as evolving over time. Furthermore, as these documents often include commentary on the positions of other actors, they shed light on the interactions between actors—for example, opposition or agreement. In addition, we considered publications of the European Commission (EC) and the German National CSR Forum. Based on our reading of those policy documents, we went on to construct a narrative analysis of the focal policymaking process, presented next.

6. Findings

6.1 Business' Advocacy for CSR: Lobbying the Government

In Germany, the discussion around CSR-based private governance had two main contextual triggers. First, the economic crisis of the 1990s reinforced the position increasingly held by business elites that Rhenish Capitalism was not sustainable under conditions of economic globalization, and that Germany had to accept a more 'lean government' and more 'individual freedom and self-responsibility' (Bundesverband der Deutschen Industrie, 1998, p. 74; Cioffi and Höpner, 2006, p. 477). Second, following the coming to power of a red-green government in 1998—whose pre-election rhetoric had been extremely pro-labor and statist—business elites were concerned about Germany's adoption of an opposite, leftist blueprint for economic recovery (see also Kinderman, 2008, 2016; Paster, 2012). Against this background, business elites established several new agencies specifically tasked with the goal of promoting economic liberalization—for example, the New Social Market Economy Initiative (est. 1999) and the Initiative Freedom and Responsibility (est. 2000). As part of this effort to advance a neoliberal turn, in July 2000, the Federation of German Industries (BDI) established Econsense, a specialized agency tasked to promote CSR in Germany. By 2003, Econsense was joined by 22 corporate members (14 of which were DAX 30 companies).

Business's advocacy of CSR targeted the federal government through policy formation and lobbying. The policy blueprints set forth by Econsense (2001, 2003) and the peak business associations (e.g. Bundesverband der Deutschen Industrie and Bundesvereinigung der Deutschen Arbeitgeberverbände, 2001) suggested that Germany's approach to corporate regulation had to be transformed along three interrelated lines. First, while 'deregulation and flexibilization' were to be pursued 'wherever it is possible', corporations were to become the 'motor' of 'economically, socially, and ecologically sustainable development' (Econsense, 2003, pp. 3–4). Second, corporations could assume such responsibility for development only through 'self-initiative' and 'voluntary agreements and regulations' (Econsense, 2003, p. 24). Third, the way to engender voluntary corporate engagement in socially responsible action was through the application of market principles: 'Free competition in corporate responsibility is an important guarantor of sustainable development' (Econsense, 2003, p. 4). The three tenets of business's millennial CSR agenda were, then, to delegate social and environmental responsibility to corporations, substitute voluntary solutions for binding regulations and let market forces shape corporate engagement in CSR.

This agenda, according to Econsense-associated Siemens AG executives (Schiegl and Thurm, 2001, pp. 12–13), was promoted through a 'quick development of realistic proposals' and their assertive introduction into the political arena so as to "occupy themes". To take a proactive approach meant that 'rather than simply responding to finished ideas [...] high-level discussions with political decision makers [needed to be organized] in advance of concrete political policy proposals' (Schiegl and Thurm, 2001, p. 12). As reported by two of its administrators, Econsense organized public workshops, conferences and informal meetings in various cities in order to promote its agenda among political decision makers (Kopp and Koenen, 2007, p. 215).

The policy formation and lobbying effort was further reinforced through the peak business associations' aggressive dismissal of alternative governance approaches in concrete policy debates. In the debate over government's intention to legislate the Gender Equality Act

for the Private Sector, which culminated in 2000, the BDA attacked the prospective bill as 'a new example of excessive regulation by the federal government' and asserted that the issue should be addressed through voluntary measures on the part of employers rather than through legislation (Spiegel, November 25, 2000). In July 2001, the debate concluded with the implementation of a legally nonbinding agreement between government and the peak business association on the need to advance gender equality (Laskowski, 2001). Similarly, in 2002, BDA and BDI decided to exit talks being held under the auspices of the Federal Ministry of the Environment, over the constitution of principles to govern the environmental impact of German multinationals. The exit reflected the concern that the initiative, under the influence of environmentalists, could function as an intermediate step toward interstate-binding regulation, thereby violating 'the spirit of voluntary agreement' on which business representatives insisted (Bundesverband der Deutschen Industrie, July 31, 2002). In demonstrating their power to effectively refuse binding regulations, the business associations encouraged the adoption of private governance solutions.

If business could effectively dispute entrenched institutional beliefs, then it was thanks to its structural empowerment in the focal period. One source of power was the economic crisis, on the background of which blueprints for change were on demand, and those that were set forth by industry carried much weight. Second, global developments seemed to favor business's proposals. Business's promotional efforts regularly invoked the claim that the 'conditions of global competition' (e.g. Econsense, 2001, 2003) had rendered traditional forms of intervention dysfunctional for Germany's prospects of securing positive economic performance. Considering that the context of global competition and the pressure generated on individual nations to adapt were real, corporations' ideas about required revisions in the nature of economic governance gained credence. Finally, additional tailwind was provided by the isomorphic pressure from the EU which, since July 2001, formally encouraged European governments to develop CSR frameworks in their countries (European Commission, 2001, 2002).

6.2 Government's Embrace of the CSR Agenda

By 2002, the federal government provided its first recognition of CSR as a form of governance, including suggestions that public bodies had a role in promoting pro-CSR awareness, knowledge and dialogue (Bundesregierung, 2002, pt. 26, 29). From the outset government associated CSR with voluntarism; for example, the Ministry of the Economy stated that, considering the 'relatively large density of regulations in Germany... additional corporate commitment to social engagement [should] remain beyond legal obligations' (Bade, 2003, p. 9). Indeed, the red-green government's embrace of CSR came amid its turnaround away from its initial statist plans and toward comprehensive neoliberal policymaking (Cioffi and Höpner, 2006; Jackson and Sorge, 2012, p. 1156).

By 2004, government was adopting pro-CSR policies with the Ministry of the Environment's (BMU) taking the lead and launching 'CSR in Germany', a platform designed to assist firms in CSR implementation, communicate best practices and foster public dialogue. In addition, the BMU began issuing reports that discussed the implications of CSR's implementation in Germany (e.g. Loew *et al.*, 2004). In 2005, the BMU initiated an expert forum on 'The Business Case of Sustainability' Bundesministerium für Umwelt, 2005a) and began regular publication of recommendations and guidelines for CSR adoption by companies (Bundesministerium für Umwelt, 2005b, 2006, 2007).

The nature of government's engagement in CSR implied that it was accepting Econsense's original agenda without noticeable reservation. Government rhetoric emphasized the 'enabling' role of government and its delegation of responsibility for CSR implementation to business, labor and civil actors (e.g. [Bundesministerium für Umwelt , 2008](#)). CSR adoption was to be voluntary, whereas firms were free to decide whether to 'increase or decrease their engagement, according to their individual capacities' ([Bundesregierung, 2007](#), p. 16). Government publications also entertained the assumption that CSR adoption and market performance were compatible, thanks to CSR's positive effects on competitive advantage, reputation, innovation, employee motivation and productivity and more (e.g. [Bundesministerium für Umwelt, 2008, 2009](#)). Therewith, the government highlighted the role of stakeholders—mainly investors and consumers—in promoting and monitoring CSR implementation through their investment and purchasing decisions ([Bundesregierung, 2007](#), p. 4, 9). The federal government, thus, largely embraced the three tenets of business's original agenda: delegation of responsibility to the private sector (the government, in addition, wanted to see other stakeholders involved), avoidance of binding regulation and reliance on market incentives to drive action. We now turn to consider the rise—and then fall—of resistance to the privatization of governance in Germany.

6.3 Fierce Nonbusiness Resistance to CSR

Nonbusiness actors' first systematic commentary on CSR governance in Germany dated to 2003 was unequivocally skeptical. A report published by the CSO World Economy, Ecology and Development (WEED), *The Limits of Voluntarism: NGOs' and Unions' Action Possibilities and Experiences vis-à-vis the Application of Business Voluntary Self-Commitment* ([Kerkow et al., 2003](#)), argued that voluntary agreements, codes of conduct and multi-stakeholder initiatives entailed weak enforcement capacities and undermined the ability of civil society actors to input regulatory policies. It also criticized the BDI for its vigorous insistence, in policy debates, on voluntary solutions while refusing to any discussion of alternative views ([Kerkow et al., 2003](#), p. 9). The report's main recommendation was that CSOs and labor unions engage, not in negotiations around private governance solutions, but in an 'increased advocacy for binding corporate rules at the national and regional level' and 'a continuation of the international campaign for binding corporate rules' ([Kerkow et al., 2003](#), p. 30–31).²

Following the visible embrace of CSR by the federal government by 2004, which reinforced concerns that CSR was acting to substitute for public regulation, nonbusiness suspicion of the CSR agenda intensified and extended into the labor movement. According to researchers associated with the Hans Böckler labor union foundation, 'one reason for the hesitant position of unions [on CSR] is probably the concern that employers, under the guise of CSR, would advance the creeping dismantling of legally guaranteed rights of protection and participation' ([Hauser-Ditz and Wilke, 2005](#), p. 8). Similarly, Germany's umbrella union instructed to 'make sure that CSR does not offer a pretext for breaking down legally anchored employee rights!' [[Deutscher Gewerkschaftsbund \(DGB\), 2005a](#), p. 5] These concerns led to a January 2005 workshop cosponsored by the Hans Böckler Foundation and the German Confederation of Trade Unions (DGB) and dedicated to an articulation of an effective union response to the dangers of CSR.

In November 2005, another conference, *Binding Rules for Multinationals: Corporate Accountability*, brought unions and CSOs together in an attempt to formulate a joint anti-

CSR strategy. At the meeting, it was agreed that the agenda of voluntarism was working to amplify ‘power asymmetries in favor of business, and the close links between industry and government’ and therefore needed to be confronted through the formation of a civil–labor ‘strategic alliance’ (WEED, Terres des Hommes, Global Policy Forum, and DGB Bildungswerk, 2006, p. 53). The alliance’s goal was to pursue ‘a common [...] strategy for a discourse shift away from the “ideology of voluntarism” in CSR, and toward a new agenda with binding corporate accountability measures’ (Terres des Hommes, Global Policy Forum and DGB Bildungswerk, 2006, p. 58). In Germany, then, civil and labor actors proved highly critical about the institutional implications of the rise of CSR governance and aware of the need to join forces to counter this trend.

The organizational upshot of the ‘Binding Rules’ conference was the formation, in 2006, of the network Corporate Accountability: Network for Corporate Responsibility (CorA), whose explicit purpose was to resist the substitution of CSR for traditional governance. CorA’s founding members were multiple and varied, including leading human rights, development, consumer and environmental CSOs, church organizations and the DGB and several industry-level unions. CorA emerged as the leading oppositional voice in the debate on private governance. Its promotional tactics included policy formation, lobbying, networking and educational activities. By 2006, then, multi-stakeholder settlement on private governance in Germany could hardly be less likely.

6.4 State Enforce Settlement on CSR

While civil and labor opposition to the CSR agenda was initially fierce, by the late 2000s, it would somewhat weaken. Unions—regardless of their initial position—were pressured to reconsider their antagonism. First, thanks to management’s initiative, CSR was becoming a salient field of action within corporations. As a result, unions were feeling that they could not remain uninvolved in the CSR debate, which increasingly touched upon some of their main concerns, including the issue of working conditions (see e.g. Feuchte, 2008, p. 1). In addition, on the background of a decline in their membership and political influence, unions’ antagonism to CSR was mitigated by their identification of CSR as an arena that could help them restore some of their relevance: ‘participation in the CSR debate could increase [the unions’] image and practical value’ [Deutscher Gewerkschaftsbund (DGB), 2005b, p. 3]. Finally, it was doubtful that the civil–labor alliance would indeed be able to reverse the process advanced by a powerful business–government coalition: ‘as desirable as such goal is, as unrealistic it is’ (Seyboth, 2005, p. 5).

However, the decisive trigger of multi-stakeholder consensus formation around the privatization of governance was produced by another mechanism, which impinged on unions and CSOs, notwithstanding that the latter had been structurally freer than unions to maintain their resistance. The mechanism of concern was activated by the Federal Ministry of Labor and Social Affairs’ announcement of its plan to convene a National CSR Forum in 2009. The forum’s purpose was to negotiate, in a multi-stakeholder form, a ‘national definition’ and ‘national strategy’ of CSR. Designed by private specialists for multi-stakeholder dialogues commissioned by the ministry (Ifok and Pleon, 2008)—and in line with Econsense’s (2001, p. 1) early vision of ‘an open dialogue between business, government, academia, NGOs and society in order to improve mutual understanding, to advance solutions, and initiate collaborations’—the federal government invited all relevant societal stakeholders to participate in the talks. However, this was done under the stipulation that the nation’s

CSR strategy could not be realized through ‘a “top-down” implementation process that is primarily mandated by government’; rather, it had to ‘take the form of modern governance’ (Ifok and Pleon, 2008, p. 4).

So designed, the forum presented the opposition with an either/or dilemma: either cease resistance and become partner in the institution of a business-led mode of governance or be excluded from a government-sponsored process of societal decision-making with potentially important policy implications. Hence, by mobilizing its power to formalize, outline and schedule a key stage in the process of institutionalization, the government created a threat of sanctions—the sanction being exclusion and marginalization.

The announcement of the forum prompted a split in the camp of antagonists. The principal antagonist CorA refused participation in protest of the forum’s ‘prescribed premises’, primarily the forum’s commitment to a ‘basis of voluntarism’ (Corporate Accountability – Netzwerk für Unternehmensverantwortung, 2009, pp. 1–2). In an open letter to Chancellor Angela Merkel, CorA explained its refusal to participate in terms of its disbelief ‘that the renewed attempt to come to a common understanding on CSR can add anything new to the CSR debate, since you have set the basis for voluntariness from the outset’ (Corporate Accountability – Netzwerk für Unternehmensverantwortung, 2009, p. 2).

Other labor and civil actors—among them the umbrella union DGB and the leading CSOs German Watch and Transparency International Germany—succumbed to the pressure and opted for participation in the forum, thus granting the process its multi-stakeholder character.

Interestingly, post-2010 statements by the consenters, particularly the unions [e.g. [Deutscher Gewerkschaftsbund \(DGB\), 2012](#)], indicate that many of them have continued to voice their preference for binding regulations in numerous occasions. Rather than rejecting private governance, however, they now accept it as a preliminary step toward further regulatory advancements. Meanwhile, following the cross-sectoral constitution of the National CSR Forum, government and business representatives could portray the resulting CSR Action Plan as a ‘success’ in forming a ‘broad consensus’ around private governance of ‘all the actors involved’ ([Bundesministerium für Arbeit und, 2010](#), pp. 5, 11).

7. Conclusion

On the transnational level, the rise of CSR frameworks often reflects cross-sector negotiated settlements resulting from economic globalization’s constitution of cross-national spaces, which cannot be adequately regulated by ‘public (governmental) systems of economic governance built on the unit of the nation-state’ (Abbott and Snidal, 2009; Bartley, 2007; Mayer and Gereffi, 2010, p. 1; Levy *et al.*, 2016; Bair, 2017). At the same time, it is widely recognized that governance is undergoing similar privatization also on the national level (e.g. [Kinderman, 2012](#); [Höllerer, 2013](#)). Within nations, however, where public governance is generally more feasible, the motivation of nonbusiness actors to bargain on private governance solutions is less readily understandable, implying that further theorization of the political dynamics underlying national-level privatization is required. A case in point is the rise of public policies for CSR in Europe ([Knudsen *et al.*, 2015](#)), which were scarcely discussed in terms of the political contestations underlying their institution.

We sought to address this lack through a case study of the privatization of governance in Germany, a setting that in terms of the proliferation of public governance is the opposite

extreme of the transnational level. Interestingly, regardless of the expectation that in such more coordinated national contexts nonbusiness interests would figure more prominently into the process, including precipitation of more stringent regulatory outcomes, Germany ended up adopting a remarkably 'soft' CSR framework. Our exploration of this development suggests the need in a comparative capitalism perspective on the privatization of governance, which is distinct from the transnational perspective, and is sensitive to structural and historical differences among national capitalisms as well as how these shape actors' power positions and interests. This shift of perspectives facilitates, second, an extended view of the role played by governments in these processes.

7.1 Implications for a Comparative Capitalism Perspective on the Privatization of Governance

PRT premises that institutions of economic governance are advanced by parties that plan to gain from their distributive implications, while powerful parties on the other side of the equation are expected to resist (Volscho and Kelly, 2012). Our findings suggest the applicability of this outline for the study of the privatization of governance in national settings, in which solutions resting on public regulation require no intergovernmental agreement and are to different degrees historically entrenched. It follows that in national contexts—as compared to stateless transnational arenas—societal actors are more likely to perceive the privatization of governance in terms of a substitute for extant or potential arrangements of public governance. This context of perceived substitution breeds a configuration of interests, whereby actors seeking to dismantle public governance emerge as privatization's promoters. Other actors, those who feel they stand to lose power from substitution, will identify privatization as a threat to be fended-off rather than as something to engage in through bargaining (Bartley, 2007). We propose that such conflictive dynamics are more likely to take place on the national than on the transnational level, and in coordinated national settings more than in liberal ones.

Therefore, on the national level, and particularly in more coordinated capitalisms, privatization is expected to be business-led. This is confirmed by several previous studies in Europe (Archel *et al.*, 2011; Kinderman, 2012; Marens, 2012; Höllerer, 2013; Midttun *et al.*, 2012) as well as by the present one of Germany—where business actors were quite exclusively interested in, and pushing for, the institutionalization of private governance (see also Kinderman, 2008; for an alternative view, see Hiss, 2009). We observe that businesses, particularly multinational corporations, act as importers of notions of CSR and privatized governance into their headquarter nations as part of their advocacy for neoliberal turns in these countries (see also Fairbrother, 2014; Kaplan and Kinderman, 2017). From a comparative capitalism perspective, an important aspect is the organizational means used to facilitate such endeavors. In Germany, as we saw, multinational firms and business associations set up a specialized agency to concentrate the effort on promoting CSR as a national agenda of governance. Considering that by 2010 organizational equivalents of Econsense were established in 72 countries (Kinderman, 2015), this form of organization may be representative of a widespread cross-national pattern. Further exploration of these organizations could shed important comparative light on the rise of national-level private governance.

PRT predicts that the more the distribution of power resources among contrasting interests is unequal, the weaker side is less likely to engage in an open conflict (Korpi, 1974). The implication for a comparative capitalism approach is that the tendency of nonbusiness

actors to enter bargaining on private governance solutions would grow the more they lack the power to promote public governance alternatives. In more coordinated national contexts, where institutional tradition empowers nonbusiness actors to make relatively realistic claims on behalf of the expansion of public regulation, these actors are more likely to choose resistance over engagement. Our findings provide support for this hypothesis: German CSOs and labor unions in the early 2000s were still far from arriving at the reckoning that ‘the days of government are over’—as their British equivalents would reportedly acknowledge a decade later (LeBaron and Rühmkorf, 2019, p. 25). Accordingly, they reacted to the business-driven CSR agenda by forming a fairly united and well-organized civil–labor alliance to insist on ‘binding rules’ for corporations. While extant literature suggests that oppositional voices existed in other countries as well (Archel *et al.*, 2011; Gond *et al.*, 2011; Midttun *et al.*, 2012), there is much more to do in the way of achieving a comparative insight on the organization of opposition and its consequences.

In Germany, as we showed, the clash eventuated in the defeat of the nonbusiness resistance. Business was structurally and circumstantially empowered to impress its case upon government, first, by the context of increased global competition and, second, by that of a national economic crisis, which helped business to mobilize the claim that the national economy was inadequately adjusted to globalization. Business won also because its lobby organizations mobilized these power resources systematically and effectively. Is business always bound to win? While this is a question for future comparative research, our findings suggest that the position taken and the role played by the national government in the politics of privatization is probably critical for the results.

7.2 An Extended View of the Role of Government on the National Level

Mayer and Phillips (2017, p. 143) argue that research on the rise of private governance in global value chains overplays the assumption ‘that globalised market forces can overwhelm the ability of states to regulate’, and suggest that the privatization of governance is the consequence ‘not merely of the “absence” of public governance or the decline of state capacities’ but also ‘of a political and ideological project that states themselves were central in constructing’. While this claim rings true on the transnational level, our findings indicate that the political role played by the state is most acute in the context of national-level processes. This role clearly goes beyond the recognized roles of governments as retreating from the scene (LeBaron and Rühmkorf, 2019), stimulating and mediating between business and nonbusiness parties (Bartley 2007, 2018; Abbott and Snidal, 2009) or diversifying their governance capacities (Moon, 2002; Steurer, 2010).

In Germany, the government took a rather different—more authoritative and partisan—role. While business and civil-society actors were divided in their preference for regulatory solutions, it was the state that by taking charge of the societal debate over alternative modes of governance decided the trajectory of the privatization of governance. Indeed, the context of concern—where economic institutions had traditionally rested on public coordination—encouraged the centrality of the state in the process. Interestingly, our findings show that this centrality of the state includes involvement in overseeing and coordinating even those reforms that delegate functions to private actors. State coordination of the privatization of governance implies that both business and nonbusiness actors direct their lobbying efforts at government, trying to win over its support to their position rather than to negotiate with

each other. The state thus emerges as the focal point of the struggle over the national-level institution of private governance.

Finally, and most crucially, through the integration of private governance into public policy-making the government curtailed the resistance to the privatization of governance. The absorption in Europe of private regulation logics into formal public policymaking is normally interpreted in terms of a politically unproblematic diversification of the state's methods of governing, with an aim to facilitate and encourage corporate prosocial engagement (Fox *et al.*, 2002; Moon 2002; Steurer 2010, 2013; Gond *et al.*, 2011; Knudsen *et al.*, 2015). To be sure, our findings confirm that the formal and actual function of these initiatives is to spirit and inform subsequent corporate engagement in private governance. However, we also observed another effect of the European tendency to enforce 'national' outlines of private governance and CSR policies, including 'definitions', 'strategies' and 'action plans' (Martinuzzi *et al.*, 2011): they fix the parameters of the debate along the lines of business's agenda. These structures informally enforce nonbusiness consent to the privatization of governance through attaching to continued resistance the cost of exclusion from a formal, national public policymaking process. In Germany, this form of enforcement did not curtail resistance completely, but it drove a wedge between the more pragmatic and the more radical antagonists, with the former driven to support multi-stakeholder consensus—despite their continued skepticism—and the latter sidelined. Thus the (neoliberal) state supports the privatization of governance not only indirectly—through the avoidance of regulation, thereby limiting the scope of claims that are possible by nonbusiness actors (e.g. Shamir, 2004; Kinderman, 2012; LeBaron and Rühmkorf, 2019)—but also through direct promotion of private governance in terms of a public policy.

In sum, our findings suggest a more specified understanding of the privatization of governance within national borders—particularly in Europe—in terms of sharper business–non-business struggles and the crucial role of national governments in affecting the balance of powers in the scene, in such a way as to reshape the calculations of nonstate actors and decide the institutional outcomes of the process. While, as cited above, the national-level literature supports these predications to some extent, further research of the privatization of governance from a comparative capitalism perspective is required in order to examine the diversity of dynamics across European coordinated market economies, EU countries in general, and beyond [see e.g. Krichewsky's (2017) study of India]. This could contribute to a more nuanced, context-specific understanding of the cross-level global advance of the important process in question.

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