

**The Challenged Legitimacy of International Organisations:
A Conceptual Framework for Empirical Research**

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Introduction

Legitimacy has become a significant issue in International Relations and international political practice in the past years (Steffek 2003: 249-250; Koenig-Archibugi 2004: 125, Clark 2005: 1-5, 242). Legitimacy is not a new subject in IR, it has occasionally been addressed in theoretical reasoning by IR and international law scholars (explicitly by Claude 1966, Kaiser 1971, Franck 1988 and Franck 1990), but the current debate on legitimacy in international relations seems to be of a new quality in a twofold way. On the one hand, the quantity of articles addressing the issue of legitimacy has increased in an unprecedented way (Bernstein 2004: 1) or as Steffek (2004: 485) puts it: "Currently there is hardly an essay on international or global governance that does not at least mention the issue of legitimacy". On the other hand, and this is the more interesting notion, there seems to be agreement between IR scholars on the state of current international affairs. Despite ontological and epistemological differences in the literature on legitimacy in international relations, the analysis of most IR theorists point at first sight in the same direction: international relations and its institutions are facing a crisis of legitimacy at the beginnings of the century (see for influential examples Keohane/Nye 2001, Clark 2003, Bernstein 2004). Even though there are some critical voices (for example Moravcsik 2004), the notion of a declining legitimacy in international relations seems to have become common knowledge in this debate.

Although the analysis that the conditions of legitimacy of decision making beyond the state have changed is widely accepted by IR scholars, the question which conclusions can be drawn from these "pathologies" (Coicaud 2001a: 523-524) of international affairs remains contested. Contemporary IR offers mainly two approaches to the problem of legitimacy in international affairs, which present different interpretations of the above mentioned problems and accordingly identify different solutions for it.

In accordance with normative theories of democracy theorists of an *interdependence-oriented globalism* emphasise the importance of appropriate procedural settings to increase legitimacy of international affairs through integration of a transnational society in global politics. Accordingly, they put forward procedural requirements that international decision making has to fulfil to be legitimate. These requirements include for example the inclusion of non states actors in decision making, the necessity of a fair political discourse or the possibility to hold decision-makers on a global level accountable. In this perspective, the problems of legitimacy in international politics are mainly procedural.

English school theorists, on the other hand, see legitimacy beyond the state guaranteed through a consensus between all actors involved in international affairs. From their point of view, legitimacy beyond the state is not dependent on domestic notion of legitimacy such as democracy. The international sphere can produce its own standards of legitimacy and its own informal as well as formal institutional settings in order to control accordance with these

standards. The changing conditions in the international system might have caused a delegitimation of classical multilateralism as a mode of decision making. But the rise of non state actors does not stringently lead to an adoption of democratic standards in the international affairs. The consensus on legitimacy remains to be established between the “old” statist and the “new” private actors (Clark 2003: 94-95). How far this consensus corresponds to the democratic claims of academics and practitioners in international relation is to be shown by further analysis of this emerging global order. As in this interpretation legitimacy is stripped off any normative content beyond a societal consensus, English School Theory approaches to legitimacy present the opposite notion of legitimacy as it is presented by approaches focused on procedures.

In this paper I address analytically the differences in approaching legitimacy in international relations. As the debate on legitimacy in international relations is mainly concerned with the legitimacy of international institution, I turn the focus of this theoretical overview on the legitimacy of international organisations. In the first section I locate the elusive concept of legitimacy within international relations within these approaches and ask the question how this location shapes the perspective on the importance of international organisations for legitimacy in international relations. The second section deals with the question what implication the different perspectives on legitimacy have on the relevant questions and research agendas of the two abovementioned strands. In the conclusion I address the questions if and how the approaches, in terms of their own perspective on international relations, can profit from each other in their occupation with the subject of legitimacy. The paper concludes with the insight that a consolidation of the two approaches to legitimacy could be helpful to further understanding of the changes international relations have undergone in recent years. But fulfilling this task is dependent on further theoretical and empirical research.

Locating legitimacy in international relations

The main difference between interdependence oriented approaches to legitimacy and its English School counterparts lies in the location of legitimacy in international relations. As legitimacy is an abstract and elusive political concept, I try to answer this question by determination of the function of legitimacy within each theoretical conception and by its manifestations in international affairs. This procedure should shed light on the perception of legitimacy within these two strands of the legitimacy debate. In order to understand the location and the crucial function of legitimacy the two approaches I first redraw their line of argument.

Interdependence-oriented globalism: the democratic deficit and legitimacy in global politics

The argument of interdependence-oriented theoretical approaches to legitimacy in international relations has its starting point in the link between the various processes that are summarized under the concept of globalization or “de-nationalisation” as Zürn (1998) puts it and the specific function of the nation state as a “container” of democracy (Marks 2001: 50). Territoriality and sovereignty, as two of the states defining elements of nation states, are considered to be essential conditions for the proper working of democracy. The “people”, the idea of the “citizen”, a popular consent as the fundament of every democracy, the “public sphere” and the idea of political accountability are all based on the idea of a nation state, that can be distinguished from every other political community. An idea of democracy beyond a self-contained and clearly demarcated political unit does not exist in political theory (Marks 2001: 50).

This close connection between democracy and the nation state has been changed by globalization, in such a way that it is no more possible for states to govern societies democratically in the sense that the state can serve as a guarantor for political self-determination. Literature on the “transformist thesis of globalisation” identifies at least three ways in which globalization has changed this connection between state and democracy. The transnationalisation of society has caused a decline in the problem-solving capacity of the state, as its political authority is bound to its territoriality (Zürn 1998: 17-18) and a growth of so called “intermes-tic” affairs (Held et al. 1999: 7). Transnationalisation of society therefore causes a necessity for more international cooperation and a shift of political authority from state to international affairs. A further effect of globalization is described in the rise of “new” actors in international affairs, such as international economic actors and non-profit organisations of a global scale (Keohane/Donahue 2000: 22-24). In this view, politics transcend the domestic sphere and endangers one of the central conditions of democracy, as it is closely related to the idea of an distinguishable community. As connections between national problem-solving and democratic governance looses up, institutions of international cooperation come to the fore as substitutes for democratic governance (Zürn 1998: 232-233) and the integration of a transnational society in governance (Keohane/Donahue 2000: 36).

Institutions of international cooperation on the other hand are not democratically organized. Most of them rely on the logic of the “club model of international relations” as it was described by Keohane and Nye (Keohane/Nye 2001). The interdependence-oriented theoretical approaches therefore see the only way of reconstituting democracy in a democratic reform of international organisation.

As democracy is only a vaguely defined concept (Greven 1995) and underlies various ideological and conceptual interpretations (Waschkuhn 1998), the attempts to analyse democracy beyond the state differ on consideration about the central procedural requirements that

define “democratic quality”. Three accounts to democracy beyond the state can be distinguished in contemporary normative IR theory¹. Their premises originate indifferent normative theories of democracy and the accounts henceforth put forward different ideas about what democracy means and how its institutions should be shaped. The aim of liberal theories of international democracy is to ensure common rights and political responsibilities in a globalized world, in which states are not able to provide them anymore. Consequently, they emphasize the control of political decision-making through procedures, that ensure the accountability of decision-makers to the concerned communities, as the central element of democracy beyond the state (Held et al. 1999: 48). Liberal-internationalist approaches are therefore essentially output-oriented and deal with principal – agent problems (Risse 2004: 7).

Radical republican theories of global democracy, in contrast, refer to ideas of direct democracy in their claim for a new democratic system which is set functionally apart from state governance. They search for alternative possibilities of direct participation of a wider public in global political decision-making. Radical republicanism concentrates on the input-dimension of the political process and the question how this dimension could materialise in a democratic way in global decision-making (Held et al. 1999: 447-449).

Theories of deliberative global democracy emphasise the importance of a fair and open discourse as the central procedural demand for political decision-making. Deliberative theories point out, that a democratic decision is taken only, if the opinion- and will- formation-process follows some basic rules such as universality, rationality and reciprocity. Deliberative theories consider the throughput-dimension as the central dimension of the political processes and the discourse as the fundamental element within it (Dingwerth 2003: 20-22).

These ideas of global democracy are attempts to cope with political challenges of globalization. The question these accounts are trying to give an answer to is how globalization can be procedurally “civilized” (Held et al. 1999: 444) and how the “problems of legitimacy”, caused by the changing conditions of statehood, can be solved on an international scale. Therefore, they concentrate on globalization and legitimacy beyond the state from a mainly normative perspective.

In respect of legitimacy a twofold conclusion can be drawn. First, the often referred “democratic deficit” is only in second order a deficit of international organisations. It originates in the declining problem-solving capacity of the state as the main guarantor of democracy or in Zürn's words (1998:238; my translation): “International institutions do not create the democratic deficit, they are a (although insufficient) reaction on it.” Interdependence-oriented global-

¹ I exclude theories of cosmopolitan democracy from my considerations because they can be seen, for the purpose of this paper, as a combination of the ideas presented here. For elaborate discussions of the normative accounts on democracy beyond the state see Held et al 1999: 444-452.

ism emphasises the insufficiency of international organisations to provide a necessary substitute for democratic procedures beyond the state in their attempts to find ways to realize a democratic international institutions. This is central to the argument of interdependence-oriented globalism since it justifies its focus on democratic forms of governance.

Second, it becomes evident, why interdependence-oriented approaches locate legitimacy in international organisations and more specific in their procedures. If democracy is understood as the only way to legitimately exercise authority and if “undemocratic” international decision-making procedures gain more authority through globalization it seems convincing that international affairs under the conditions of globalization lack legitimacy. In this respect *the meaning of legitimacy in interdependence-oriented approaches is the ability of international organisations to compensate the democratic deficits in politics which arise through international cooperation*. Legitimacy is understood as the ability of political institutions to diffuse power in international affairs fairly. The resistance against international politics, most prominently expressed in the protests against the WTO or the G8-Summits, are in this view mainly an empirical manifestation of this inability to substitute democratic governance. This democratic deficit, so the argument of the interdependence-oriented approaches to legitimacy beyond the state, is the cause of the “legitimacy problems” in international affairs.

English school theory: legitimacy as consensus

Interdependence-oriented approaches to legitimacy beyond the state are merely concerned with the effects that globalization has on the ability of states to accomplish legitimacy. For consensual approaches to legitimacy beyond the state, on the other hand, the domestic abilities of states are considered to be of no or only little importance. English school theory of international relation assumes international political practice to be influenced by a set of historically evolved norms which constitute, through their normative binding power, an international society (Bull 1977: xi-xii). The key features of the concept of international society are the so called primary institutions (Buzan 2004:161-162). Primary institutions are historically evolved political practices, which are characterised by its durability in and fundamentality for international affairs. They are constitutive of actors of the relations between them (Buzan 2004: 167). Primary institutions are therefore the most fundamental rules of the international society from which all other norms, rules and (secondary) institutions such as international organisations, regimes, agreements and bilateral activities between states derive (Buzan 2004: 187). In this framework, legitimacy is understood as the fundamental belief of members of international society to be, at least to some extent, bound to its rules (Clark 2005: 21, 23-24) because they derive from core principles that define the society at its heart. Legitimacy in English school theory is therefore signified by the most fundamental rules on which international political practices rely. Since these rules are not autonomous from the members

of international society (Clark 2005: 25), but influenced by specific power relations, legitimacy is to be understood as a political activity and not as a purely norm-based idea of political rightfulness (Barker 2001: 28).

The conceptualisation of legitimacy as a political activity raises the question, what substantive meaning legitimacy in contemporary international society has. Clark (2005: 159-167) identifies two core principles of legitimacy in international society. The first of these principles refers to the definition of standards of the legitimate state and is therefore concerned with the question of who is recognised of rightful membership in international society. Contemporary international society is described as rather exclusive in terms of membership. Rightful membership is reserved to democratic states. Good governance seems to have become the central criterion to be accepted as a full member of international society and to enjoy the full rights of participation in it (Clark 2005: 186)². The second principle specifies the norms which identify the actions of states within international society as rightful and for that reason deals with the legitimation of state practice in international society in consensual decision-making (Clark 2005: 210) or adherence to underlying principles of international law (Franck 1988: 757). Consensus on shared norms, in this interpretation, plays a crucial role for legitimacy in international society, as it lies down the ultimate basis for judging any state activity as legitimate. As there are no normatively binding rules apart from the ones consensually agreed upon, consensus becomes the relevant measurement on which state practices is to be judged as legitimate (Clark 2005: 164-165). On the basis of this understanding of legitimacy in international affairs, the legitimacy of international organisations is not primary to be located in their institutional design. Rather, *the legitimacy of international organisations originates in the belief of international society to be normatively bound on the decisions taken in them*. State recognition and the ability to go beyond the limitations of each member state are in this interpretation not criteria of legitimacy, as Coicaud (2001b: 523) has identified them, but the result of formal institutionalisation of core principles of legitimacy and primary institutions in international society.

Up to this point, globalization and the raise of non-state actors have not played a role in the argument of English school approaches to legitimacy. This is mainly because English school theory assumes, that globalization has not significantly changed the conditions of international society and of legitimacy yet (Buzan 2004: 235; Clark 2003: 94-95). It is argued, that up to now, neither the principles of rightful membership nor those of rightful conduct in a global order³ have reached a consensually approved state. The question “who has rights to have right” (Clark 2003: 88) in a society of states and non-state actors has not been answered yet and international society remains the main source of legitimacy in international

² For further reasoning on why good governance has become a decisive factor in international society see Clark 2005: 180-183.

³ The term global order denotes an uprising political society which consists not exclusively of states but also on various non-state actors.

politics (Clark 2005:5-6). Concerning an emerging system of global governance, it can be said from the English school perspective that the democratisation of international organisations as an act of institutional design will not change the principles of legitimacy in international affairs. As society, consensus and legitimacy are mutually constitutive, only consensus on the core principles of legitimacy in a world or global society, that includes state as well as non-state actors, will determine this society as democratic or not.

Institutions or society? Source of legitimacy in global politics

Contemporary theories on legitimacy beyond the state present a puzzling picture. Both theoretical strands present seemingly contradicting ideas on what legitimacy in international affairs means and how it manifests itself in international political conduct and both of these approaches persuasively put forward central aspects of legitimacy in international affairs. The main differences between the two theoretical strands are summarised in table 1.

Table 1: Concepts of legitimacy of international organisations

	interdependence-oriented globalism	English school theory
legitimacy	necessary normative requirement to politics bound to procedural conditions	consensually agreed set of core principles as a fundamental propriety of international society
international organisations	Outcomes of multilateral negotiations	Derivates of primary rules/institutions
sources of legitimacy of IOs	Ability to rule over states self-interests	Adherence to primary institutions in international society
crucial problems in respect of legitimacy	Search for institutional settings that are able to overrule states self-interests	Changes in the core principles of international society
	Integration of transnational society in international decision-making	Emerging global order beyond state society

My conclusion from table 1 is, that the ontological differences between the two theoretical strands draw their attentions to different “sources of legitimacy” in global politics. Interdependence-oriented approaches point at the declining ability of the state to produce legitimacy as a domestic balance of the necessity to govern and the justification of political power (Coi-caud 2002: 10) through democratic governance. They refer to the necessity to substitute this declining state legitimacy by democratic modes of decision-making on an international level. Consensual approaches, influenced by the assumption of English school theory of international relation, on the other hand, state that conditions of legitimacy in international affairs are

not to be compared to those which originate in the domestic sphere and that these conditions can only be understood in a close examination of the societal conditions in international affairs. With regard to globalization, consensual approaches assume, that legitimacy will not solve the political problems of global governance, but that legitimacy will emerge as a result of the solution of these problems (Clark 2003: 95). The notion of legitimacy indicates therefore on a stable consensus between the actors engaged in international politics on how and by whom international politics should be conducted.

In the next section, I address the question what the implications of these differences could be for further empirical research on legitimacy in global politics.

Ontological implications on research in legitimacy

In relation to the theoretical occupation with legitimacy in global politics, only little systematic empirical research has been conducted up to now, that could shed light on condition of legitimacy in a globalized world⁴. In order to bridge this gap, I aim to put forward a conceptual framework for empirical research, which should enable to study the effects of democratic procedures in international decision-making but is simultaneously informed by the idea, that legitimacy in international affairs is conditioned by other factors than democracy. Therefore, I argue that, despite ontological, epistemological and conceptual differences, both approaches are concerned with similar questions and can therefore mutually support our knowledge on legitimacy beyond the state. In this section I turn my attention to the crucial questions within each theoretical strand and put forward some ideas how these questions empirically could be addressed. In the concluding section I try to show where both strands could advance a comprehensive understanding of the role of legitimacy of international organisations.

Democratic procedures as sources of legitimacy?

The central normative claim of interdependence-oriented approaches to legitimacy in international affairs is that democratic procedures draw a difference between legitimate and illegitimate international politics. They put forward the idea, that a perceived lack of legitimacy could be adjusted by constituting decision-making procedures derived from normative theories on democracy and therefore they state at least implicitly, that these procedures matter. But these approaches rely mainly on normative assumptions about how legitimacy is produced in politics. The empirical questions if and to what extent democratic procedures do matter in international politics has not been answered in a systematic way yet. Research showed how democratic decision-making is adapted to the conditions of international politics. But this research remains on the level of the question which procedures exist (for ex-

⁴ Research on global public policy networks present an exception to this statement; see for example Dingwerth 2003.

ample Dingwerth 2003, Keohane/Nye 2003). The effect of their existence on legitimacy beyond the state has not yet been examined.

Such a study aimed to examine if and how democratic decision-making procedures matter for the legitimacy of international politics presupposes an idea about how democratic procedures and legitimacy of decision-making can be observed empirically. The above presented normative approaches to international and global democracy and further research (Dingwerth 2003, Keohane/Nye 2003, Steffek 2003) have already conceptually clarified the idea of democratic procedures of decision-making in international politics. Concerning legitimacy, Hurd (1999: 387-389) argues persuasively, that "non-coercive compliance" to an international rule indicates legitimacy in international affairs. As both concepts have found some empirically observable constructs, the duty of a study in the relevance of democratic decision-making in international politics was to show if this two constructs are causally linked. A reasonable working hypothesis for a study in the effects of democratic decision-making procedures in international affairs could therefore be formulated as follows: *The more democratic an international decision-making process is (e.g. the more democratic procedures such as inclusion, fair discourse and accountability it contains), the more probable is compliance to the rules generated by this process, even in the absence of a possibility to coerce actors to comply with this rules.*

Insofar, a study conducted in this way is not dedicated to find the institutional settings for international politics in which as much as possible democratic claims could be fulfilled, but to the question, what impact democratic procedures have on legitimacy of international politics in existing institutional setting.

From an epistemological point of view, such a study would stand in a rationalist tradition as it is described by Hollis and Smith (1991: 45-67). Starting from an empirical problem in international affairs (resistance against international politics, lack of legitimacy), it explores possible causes for this problem (globalization and changing sovereignty of states) and additionally provides feasible solutions for the problem (democratic decision-making). The process of globalization and the interlinked changes of the sovereignty of the nation state are modelled as independent, explaining variables, the resistance against respectively the notion of a lack of legitimacy in international politics as the dependent. Decision-making procedures in international affairs are seen as intervening variables which are expected to have an impact on the lack of legitimacy in global decision making.

I see the main advantage of a systematic study which concentrates on the causal link between the implementation of democratic decision-making and the legitimacy of the decision taken in the loosening of the direct link between the implications of normative ideas of democracy beyond the state and legitimacy in international politics. In this way it would go fur-

ther than current research as it could explain if and which democratic procedures have an impact on legitimacy of international politics. On the other hand, a positivist approach does not help to establish further understanding on *why* democratic procedures emerged in international politics and therefore, why they could have an impact on international politics. But facing the initial aim of normative theories on democracy beyond the state - "civilising" globalization - this question seems to be of minor importance.

Core principles of legitimacy in an emerging global order

English school approaches are mostly concerned with the question what legitimacy does mean in the context of international society. They are attempts to understand, why a specific meaning of legitimacy has come to existence. The relevant questions consensual approaches ask in the context of an emerging global order is, what does legitimacy mean in a global order, how institutionalized this idea of legitimacy is and what conditions cause changes in perception of legitimacy. In this sense the abovementioned issue of why democracy has become a relevant subject of international politics lies in the focus of a study in international decision-making. As the consensus on rightful membership and rightful conduct is an expression of the power relations in this global order, the hermeneutic approach to international affairs is central to understand why and under what circumstance democratic procedures matter in international politics as a source of legitimacy and why certain actors such as transnational and especially economic actors or individuals are together with states accepted as legitimate participants in decision-making. In the historical perspective of English school theory such changes can only be understood in close examination of the relations of state/non-state actors beyond the state over a long time span. At the global level this seems to be impossible as the state society seems to be the only society which has existed long enough to draw some meaningful conclusions from the changes of societal conditions in it. In respect of international organisations one of the main questions lies in the relatively low legitimacy of international organisations (Coicaud 2001b: 523-524). English school theory should, from this point of view, be able to give understandings of why international organisations, even though they seem to be bound to primary institutions of international society, lack a deeply rooted institutionalisation in international affairs (Coicaud 2001b: 527-529).

This section has again underlined that there is a gap between interdependence-oriented and English school approaches to legitimacy in international affairs. In the concluding section I try to show, that this gap is not as distinct as it might seem from first sight. By putting the legitimacy of international organisations in the focus of my consideration I argue that the two strands could mutually profit from each other.

Conclusion

Interdependence-oriented and English school approaches to legitimacy in international affairs concentrate their considerations on different ontological categories: While the former is merely concerned with the legitimacy of an existing or emerging system of global authority, the latter focuses on the character of legitimacy in a global order or structure, that underlies this emerging system of authority (Clark 2003: 90-93). Taking this constellation as my starting point, I try to show two possible ways in which the two strands could inform each other and add to a comprehensive understanding of legitimacy in international relations.

The first question the confrontation of authority and order raises is how far these two concepts are independent from each other. It has not been examined yet, but it seems possible to me that the concept of core principles could serve as a connection between them. As is shown in table 1 the idea legitimacy in the interdependence-oriented sense is influenced by underlying normative values, which define the procedural requirements on which the legitimacy of international organisations is “measured”. The core principles of legitimacy could serve as such normative values (as they rely on a normative consensus) and therefore bring the examination of the structures of global authority closer to its underlying order. Taking the core principles as the bottom-line of legitimacy of international organisations could avoid the criticisms that democracy is a too narrow framework in order to locate legitimacy in international relations.

Second, it should be taken into account, that the core principles of legitimacy are a subject to constant change as conditions of the society they are established in are changing (Clark 2005: 29-30). If it could be shown, that democratic procedures in international relations can exert more non-coercive binding power than other modes of decision-making, the question rises how these institutional transformations in international relations are to be interpreted in respect to the core principles of legitimacy. Here the historical approach of English school theory could be helpful to understand how deeply rooted the changes in institutional design are.

But how could such an approach look like that profits from the insights of both theoretical strands presented here. One possibility was to shape the perception of legitimacy not along the democratic/consensual, the normative/empirical or the state-/non-state actors line, but along a conceptual line, which takes in to account a fundamental ambiguity of the concept of legitimacy. The concept of legitimacy of political authority is, as Coicaud (2002:10) shows, divided in two mutually interlocked but analytically distinct dimension. The first dimension concerns the rightfulness of political authority, the justification of the “right to govern”. The second dimension points at the recognition of this right by the governed. Shaping the perception of legitimacy along the justification/recognition line would allow to identify factors that contribute to the justification of political authority exercised by international organisations,

such as adherence to consensually agreed rules in international society, and others that contribute to their recognition, such as procedural setting. Dividing these factors and examining the relationships between them could help to get a clearer picture of the complex field of legitimacy in international relations.

It is evident, that the two theoretical strands presented in this paper can not be combined easily, because of ontological and epistemological differences. But facing the relatively weak legitimacy of certain international organisations in contemporary international relations the possibility of combining the perceptions of the two strands is at least worth considering, in order to understand why international organisations are in this situation.

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