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FORUM

Towards greater legitimacy in global governance

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NEEDED: LEGITIMATE GLOBAL GOVERNANCE

A more global world, such as has emerged in recent history, requires larger and more effective global governance, that is, rules and accompanying regulatory processes that apply to jurisdictions and constituencies of a planetary scale. Like any other domain of social life (whether a locality, a country or a region), global spaces need governance arrangements to bring order, sustainability and possibilities of deliberated and directed change. True, much regulation of global issues can and does transpire through regional, national and local institutions. Moreover, global governance need not – and for reasons of cultural diversity and democracy arguably should not – take the form of a planetary sovereign. That said, effective regulation of global affairs does require a significant element of global apparatuses. Without adequate transplanetary regimes, positive potentials of contemporary globalization can go unrealized and negative prospects can go unchecked.

The stakes in building global governance are very high. For instance, effective global regulation of finance could harness immense stocks of capital to the betterment of humanity in general and of disadvantaged circles in particular. On the other hand, ineffective global financial regulation would, as happens at present, yield chronic instability and grossly inequitable distributions of benefits. Similarly, effective global governance of migration could maximize cultural and economic gains for sending and receiving locales alike. However, deficient transplanetary regimes in this issue-area would, as currently, heighten insecurities for all parties. In addition, effective global governance could bolster disarmament, disease control and ecological integrity; yet flawed transplanetary regulation in these matters would, as now, preside over militarization, epidemics and environmental degradation.

The construction of larger and more effective global governance can be facilitated to the extent that the regimes enjoy legitimacy. As the Introduction to this collection suggests, by a standard political–sociological definition, legitimacy prevails when authority has the consent of those who are subject to it. A given regime is legitimate when people who fall under it consciously and willingly accord the governors involved an authority to govern and when those people assign themselves a duty to comply with the rules in question. Governance arrangements tend to survive more easily and to operate more smoothly when they have the endorsement of the publics whom they regulate. With weak legitimacy, regimes usually sustain themselves through force (as in many colonial administrations) or collapse (as in the League of Nations).

Legitimacy is generally weak in contemporary global governance (Zürn, 2005; Buchanan and Keohane, 2006). Large proportions of constituents do not view planetary-scale regimes (e.g. for communications, conflict resolution, human rights, money and trade) as having rightful and binding authority. In consequence, many global rules and regulatory procedures can be breached with little or no punishment. Weak underpinnings of legitimacy also encourage global governance by stealth (as in the case of much transgovernmental collaboration on migration control) and coercion (as in the case of many multilaterally promoted macroeconomic reforms). In many other instances insufficient legitimacy means that global governance simply does not happen at all, as large lacunae in transplanetary ecological regulations illustrate (albeit that Bernstein in this issue suggests that a contingent form of legitimacy is emerging amongst certain sectors of global governance).

Enhancing legitimacy in global governance is therefore a key means to build the expanded and more effective transplanetary regulation that is crucial if people are to survive and thrive in the more globalized social relations of the twenty-first century. How can such greater legitimacy be achieved? The following commentary suggests that the task has complementary conceptual, substantive and political aspects. The conceptual challenge is to rethink notions of global governance and its constituents along non-statist lines. The substantive challenge is to expand the bases of legitimacy in global governance beyond a focus on technical performance alone to encompass also legality, democracy, morality and charismatic leadership. The political challenge is to construct legitimacy in ways that successfully negotiate problems of contending policy priorities, cultural diversity and hegemony. The rest of this essay elaborates on these three sets of challenges in turn.

CONCEPTUAL CHALLENGES

Legitimacy is a relationship between the governed and their governors. When nurturing legitimacy in global governance it is therefore crucial to

identify who is regulating and who is regulated. Who are the authorities that need legitimacy in global governance as currently constructed? Who are the constituents that would accord legitimacy to those authorities?

Much thinking on legitimacy in global governance answers these questions in an overly narrow fashion. On statist lines, conventional conceptions (a) equate global governance with intergovernmental organizations and (b) limit the subjects of transplanetary regulation to national governments. While this traditional formula is attractive in its familiarity and simplicity, it covers only part of a far more complex situation that has developed in recent decades regarding both the sites and the subjects of global regulation.

In relation to the sites of global governance, regimes with a planetary scope today take several other institutional forms in addition to traditional intergovernmental agencies and associated international law. For example, much global regulation now occurs through informal trans-governmental networks (such as the Group of Eight, G8) and associated global administrative law (Slaughter, 2004; Kingsbury and Krisch, 2006). Other contemporary transplanetary regulation assembles regional governance bodies (e.g. the Asia-Europe Meeting, ASEM) and substate authorities (e.g. United Cities and Local Governments, UCLG) (Hänggi, 2005; Fry, 2006). Still more global governance transpires through private mechanisms (such as fair trade schemes and the International Accounting Standards Board, IASB) and public-private hybrids (such as the Internet Corporation for Assigned Names and Numbers, ICANN) (Hall and Biersteker, 2003; Bull and McNeill, 2007). Hence the global governance that wants legitimacy today encompasses multiple multilateralisms. To be sure, as the essay by Robert Keohane in this forum eloquently underlines, it remains highly important to enhance legitimacy in respect of old-style 'international organizations' such as the United Nations (UN) and the World Trade Organization (WTO). However, some of the greatest shortfalls in legitimacy lie amongst the new multilateralisms. As the cosmopolitan democrats discussed in the Introduction suggest, a conception of global governance that limits its scope to intergovernmental institutions misses large parts of the problem of legitimacy in contemporary world politics.

In respect of the subjects of global governance, too, statist notions provide an inadequate frame for enhancing legitimacy in contemporary transplanetary regulation. The old multilateralism knew only one type of constituent in global governance, namely, the member states of intergovernmental organizations. For traditional international relations theories, then, 'the governed' who would lend legitimacy to global regimes are nation states, and nation states alone. Yet the parties to new multilateralisms include a number of players besides national governments, including suprastate institutions, substate agencies, firms and civil society

organizations. For example, the Board of the Global Fund to Fight AIDS, Tuberculosis and Malaria (created in 2002) includes representatives of multilateral and bilateral donors, recipient governments, the private sector, northern and southern NGOs, and people affected by the diseases. Most intergovernmental institutions, too, now pursue direct relations with other global and regional agencies, provincial and municipal bodies, parliamentarians, the corporate sector, the mass media and citizen groups. It is far from enough for today's global governance organizations to obtain their legitimacy from nation states alone. To take just one example, all too many structural reform packages negotiated with multilateral agencies have failed when these policies had the agreement of the national ministry concerned but lacked endorsement from other affected circles.

Legitimacy in global governance is further complicated inasmuch as the multiple constituents do not form a single coherent global demo. The affected publics are highly diverse in their cultural, ecological, economic and political contexts and outlooks. The global polity – insofar as one can speak of such a collective – encompasses large variation across age, caste, class, (dis)ability, faith, gender, nationality, race, region and sexuality. Considerable diversity of this kind reigns within individual countries as well, of course, but it is all the more pronounced on a global scale. Fostering legitimacy in transplanetary governance therefore tends to be less about forging consensus around a unifying global interest and more about accommodating plural interests within global spaces. In this regard the essay by Lena Rethel in this collection presents an interesting take on the cultural politics of Islamic finance, which attempts to mediate between an 'Islamic identity' on the one hand, and technocratic financial knowledge on the other.

Even the most superficial empirical examination readily reveals that both the governors and the governed in contemporary global regulation are multifaceted and diverse. The agents of global governance clearly have a much wider scope than intergovernmental organizations. The constituents of global governance clearly have a much wider scope than nation states. Nevertheless, much thinking on the problem of legitimacy in global governance continues to be framed in largely statist terms. Such dissonance between theory and practice severely limits the contributions that academics can bring to building greater legitimacy in transplanetary regulation. Indeed, obsolete conceptions can positively hamper the task by distracting attentions from where they today need to lie.

SUBSTANTIVE CHALLENGES

In addition to altered notions of the sites and subjects of global governance, the promotion of greater legitimacy in transplanetary regulation also requires a broadened approach to the substantive foundations upon

which such legitimacy can be built. To date, mainstream perspectives have tended to adopt a technocratic approach, whereby a global governance arrangement would acquire legitimacy on the basis of efficient delivery of material objectives such as welfare, security and sustainability. (This kind of approach is powerfully interrogated and politicized in Daniel Mügge's contribution to this volume). Yet for legitimacy to be deeper and more solid it must also have other grounds besides technical performance, including legality, democracy, morality and charismatic leadership. If global governance is to acquire fuller legitimacy, then these five principal sources need to be nurtured in tandem.

This diagnosis does not deny the importance of technical performance as a means to obtain constituents' support for a given global governance arrangement. On the contrary, publics are more likely to recognize the authority of, say, the United Nations Children's Fund (UNICEF) to the extent that the agency helps to reduce infant mortality and increase school access for girls. Similarly, ICLEI-Local Governments for Sustainability and other global environmental regimes would tend to enhance its legitimacy by delivering ecological improvements to urban spaces (see also Bernstein in the volume). In the sphere of private global governance the World Trade Fair Organization (WTFO) generally attracts support from constituents to the degree that it generates decent incomes for producers in the global south and quality goods for consumers in the global north. Among hybrid constructions of global governance ICANN derives considerable authority from its contributions to a technically functional internet.

Until the late twentieth century the legitimacy of global governance derived almost exclusively from material delivery (with some secondary attention to the rule of international law). However, as theorists, policy-makers and wider publics are increasingly recognizing, technical performance alone is not enough to secure legitimacy. To take an obvious example, global criminal networks do not obtain legitimacy from an efficient application of their version of private global governance. Triad societies and the Cosa Nostra are neither legal nor (in most eyes) moral. In addition, many stakeholders have not treated the G8 as legitimate, regardless of the material benefits that might flow from its initiatives to stabilize financial markets, combat climate change, broaden digital access and so on. The G8 has had extremely poor democratic credentials for global authority, a weakness which the shift to a G20 seeks to rectify, if only partly. Meanwhile, the Group of Thirty may assemble some of the world's greatest expertise in economic and financial policy analysis, but few constituents would accord this institution a right to rule. In addition to lacking constitutional or democratic grounds the G30 has little in the way of charismatic leadership. As these examples illustrate, global governance processes need to acquire legitimacy through a combination of several grounds:

technocratic efficiency by itself does not generally generate sufficient support from affected publics to sustain the regimes.

In terms of legality, many of the newer forms of global governance have weak legitimacy owing to their informal character. The importance of constitutionality and the rule of law in global politics can easily be underestimated. Yet, as worldwide outrage at the circumvention of the UN in the 2003 invasion of Iraq suggests, intergovernmental organizations enjoy considerable authority thanks to their foundations in international law. This legal standing gives constituents assurances that the governance procedures in question are more or less open, explicitly defined, regularized and subject to public oversight of some kind. In contrast, transgovernmental networks of civil servants readily arouse disquiet for having no constitutional basis and creating rules through largely invisible and informal decision-taking processes. Similarly, much private global governance (e.g. corporate social responsibility schemes and IASB norms, not to mention paramilitary activities) provokes unease to the extent that it largely evades the rule of law. Proponents of transgovernmental and private global regulation often applaud informality as a strength which reduces the bureaucratic inertia that can afflict the workings of more formal mechanisms (Martin, 2007). However, such 'flexibility' can also encourage abuses of power and shortfalls of accountability. In these respects legitimacy in global governance would be better served by a legalization of transgovernmental and private mechanisms, if necessary sacrificing some efficiency in the process.

Alongside conformity with legal norms, another source of legitimacy that wants greater attention in contemporary global governance is democracy. Conventional political theory has generally presumed that 'rule by the people' is only relevant to the legitimacy of nation states. On this account democracy has no direct applicability to regulation beyond the state. However, substantial publics (most pointedly in alterglobalization movements) now challenge the legitimacy of global regimes for their lack of democracy, arguing that the right to rule in transplanetary arrangements is at least in part conditional upon adequate participation and control by all affected constituents (nonstate as well as state). Little agreement exists on how democratic global governance would be best achieved in practice. Some designs prescribe a transposition of the institutions of liberal democracy from the national to the global sphere, that is, with the creation of global parliaments and the like (Falk and Strauss, 2001). Other perspectives suggest that global regulation involves a different mode of governance to the modern state and hence requires new and alternative ways to effect 'rule by and for the people' (Scholte, 2008). Yet, however one approaches the problem of collective self-determination in global governance, it is clear that increased legitimacy in transplanetary regulation demands some shift in relative emphasis from technocracy to democracy.

Further enhancement of legitimacy in respect of global governance can be nurtured on moral grounds. Constituents tend to rally to the support of a regime when they perceive it to pursue right causes. Thus, for example, many members of global publics have shown greater enthusiasm for fair trade schemes – with their explicit orientation to distributive justice – than the technocratic WTO, with its predominant focus on efficiency gains. Similarly, the UN bolstered its legitimacy by galvanizing opposition to apartheid in South Africa and by promoting decolonization more generally. The Organization of the Islamic Conference (OIC) appeals to morality grounded in a religious vision as well as injustices of the Palestine question. Elsewhere the multi-stakeholder Kimberley Process owes its legitimacy largely to the morally right cause of suppressing trade in so-called ‘conflict diamonds’, while the hybrid Global Fund attracts support for its just purpose of alleviating human suffering in epidemics. Even the G8 has attracted some legitimacy for its largely morally driven steps to cancel many external debts of low-income countries. Across the multiple multilateralisms, global governance would attract greater legitimacy with greater emphasis on the morally good ends of encouraging cultural vibrancy, advancing democracy, enhancing ecological integrity, promoting equal opportunity, furthering individual liberty, fostering human decency, nurturing peace, and eradicating material deprivation. State leaders generally appeal to core values of a good society to generate significant support for their rule. Global governors could do well to follow suit and be more ready than in the past to invoke moral rationales for their authority.

Disinclinations in global governance to tap moral energies are related in part to widespread failures to promote charismatic leadership in transplanetary agencies and programmes. The capacity to inspire and mobilize followers has not usually figured in the job description of executive heads of global regulatory bodies. As a result, relevant publics usually cannot even name these normally rather faceless officials, let alone identify the politics that they espouse. Indeed, these directors are normally characterized as ‘managers’ rather than ‘leaders’. Anonymous technocrats without a clear and appealing vision cannot assemble the public support and staff commitment that are generally required to achieve major institutional growth and significant policy breakthroughs. In an implicit recognition of this problem, several global governance agencies have in recent years tapped into celebrity diplomacy, apparently hoping that the likes of Bono and Angelina Jolie might inject some of the charisma that the official institutional heads lack (Cooper, 2007). Yet these excursions into popular culture are a poor substitute for genuine political leadership at the helm itself. The occasional Dag Hammarskjöld offers a glimpse of the energies that can be released when global governance is not made a charisma-free zone.

In sum, then, global governance needs to build its legitimacy on multifaceted grounds. This task is larger than, as some reformers (including

the cosmopolitans considered in the introduction) intimate, merely supplementing technocracy with a few trimmings of greater democracy. To be sure, steps such as reconfiguring the UN Security Council, expanding the G8 to a G20, deepening civil society involvement in ASEM, and increasing transparency in the Wolfsberg Group can be welcome initiatives. However, such marginal changes will not suffice to generate the major increases in legitimacy that are required to upgrade global regulation to the size and effectiveness that contemporary planetary challenges demand. The 'Trojan horse' of legitimate global governance alluded to in the Introduction requires considerably greater levels of ambition than it has so far demonstrated. Not only does global governance need more ambitious democratization, but that process would well be coupled with comprehensive legalization, a greater emphasis on moral grounding, and the promotion of charismatic leadership.

POLITICAL CHALLENGES

Needless to say, executing the prescription set out above is complicated. How can one achieve *broader bases* of legitimacy, accorded by a *wider array* of publics, to an *expanded spectrum* of global institutions? Each of these three enlargements of the problematic of legitimate global governance is difficult enough in itself. Pursuing all three moves simultaneously requires large stores of political ingenuity and determination. In particular, any strategy to build greater legitimacy in transplanetary regulation must address political challenges of negotiating contending priorities, accommodating cultural diversity and resisting hegemony.

Regarding competing priorities, the five sources of legitimacy identified above can be in tension with one another. Of course efficiency, legality, democracy, morality and charisma can be complementary and mutually reinforcing in global regulation. Specifically, it is not the case – as technocrats are prone to argue – that other sources of legitimacy compromise efficient delivery of material objectives. On the contrary, legal regularization, democratic engagement, moral inspiration and charismatic leadership can raise technical performance in global governance. Yet there are also situations where, for example, democracy can fuel violence and ecological harm; or where charismatic appeals can cloud moral judgements; or where legal procedures can slow policy processes. In such circumstances policy circles must confront and negotiate trade-offs, some of which can be politically volatile.

These negotiations can be all the more delicate in conditions of far-reaching cultural diversity – such as contemporary global politics. The life-worlds that parties bring to the global table can be hugely varying and in some aspects also incommensurable. For one thing different faiths, nationalities, etc. may assign different relative priorities to charismatic

leadership, democracy, legality, morality and technical performance. In addition, different groups in global politics may hold different – even seemingly irreconcilable – notions of what constitutes ‘charisma’, ‘democracy’, ‘law’, ‘justice’ and ‘efficiency’. In the past global governance agencies have generally sidestepped issues of cultural diversity and, for the most part, have projected western modernity as the universal frame for all. However unconscious and/or well intended, this cultural imperialism has alienated much of humanity from global regulatory arrangements as these regimes have developed to date. Indeed, this is the strong message of Kishore Mahbubani’s contribution to this issue.

Hence building greater legitimacy in future transplanetary regulation will require far greater attention to constructive intercultural communication and negotiation than has marked global politics in the past. Core principles for an alternative ‘ethics of pluriversality’ in global governance could include openness towards, recognition of, respect for, voice to, concern about and reciprocity with strangers. Legitimate global governance – built around combinations of global democracy, global efficiency, global law, global leadership and global morality – cannot emerge from western designs writ large and imposed, but require carefully nurtured interculturality.

At the same time as overcoming cultural imperialism, deeper legitimacy in global governance would also transcend hegemony more generally. Multiple forms of arbitrary structural power have pervaded transplanetary regulatory arrangements to date. Thus, alongside the domination of western modernity over other cultures in global governance, the global north has dominated over the global south, cities have dominated over hinterlands, professional classes have dominated over the less schooled, men have dominated over women, whites have dominated over people of colour, the able-bodied have dominated over disabled persons, straights have dominated over alternative sexualities, and middle-aged adults have dominated over youth, the elderly and (as noted in Furio Cerutti’s contribution to this forum) generations as yet unborn. In this sense global governance operates at several levels: it involves deeper structural ‘rules’ as well as more immediately visible institutional rules. Indeed, the regulatory social structures and the regulatory actors are co-constitutive: each simultaneously produces and is produced by the other.

In line with the spectrum between legitimacy and legitimization outlined in the Introduction, legitimacy in global governance can be either hegemonic and accept these social hierarchies or counter-hegemonic and resist them. Under conditions of hegemonic consent, publics underwrite arbitrary inequalities and associated injustices in transplanetary regulation. People may be unaware of these structurally imposed hierarchies of life chances, or believe them to be natural, or think them unavoidable, or (in the case of some privileged circles) treat them as good

luck to be exploited. In some situations of hegemonic legitimacy, subordinated circles may even be ideologically coopted to think that a regime operates in their interest when it actually reproduces their subordination. For example, a global governance agency may 'consult the poor' to manufacture and manage consent for a predetermined policy that in practice favours elites.

In contrast, legitimacy can have counter-hegemonic qualities when subjects accord global governance arrangements authority on the basis of their resistance to arbitrary inequalities. In this vein, the United Nations has attracted some support from counter-hegemonic quarters for its (modest) actions to promote human rights of children, the disabled, indigenous peoples, racially oppressed groups and women. Yet even these limited initiatives have prompted considerable opposition to the UN from actors who occupy structurally powerful positions. This experience suggests that larger counter-hegemonic moves in global governance could only succeed through intense political struggle. Yet arguably deeper legitimacy will not be achieved in transplanetary regulation until regimes comprehensively operate to create equivalent opportunities for all to carve out their destinies in a more global world.

NOTES ON CONTRIBUTOR

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