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FORUM

Global governance and legitimacy

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My topic is the legitimacy of global governance institutions. I will try in this comment to propose some general standards for the legitimacy of these institutions, and to apply these standards to the United Nations (UN) Security Council and the World Trade Organization (WTO). As such my approach lies at the ‘legitimacy’ end of the spectrum between ‘legitimacy and legitimization’ outlined in the Introduction.

To say that an institution is legitimate can have a normative or a sociological interpretation. Normatively it is to assert that the institution has *the right to rule*. Ruling in this broad sense does not require that the rules be backed by coercion, much less that the rule-maker claims a rightful monopoly on coercion within a jurisdiction, so it does not presuppose the state. An institution is sociologically legitimate when it is widely *believed* to have the right to rule.²

This commentary is principally concerned with the normative dimensions of institutional legitimacy: under what conditions should global governance institutions be considered legitimate? Since we study world politics because it matters, we should have a framework in our head for evaluating what we study. That is, we need normative as well as positive theory.

INSTITUTIONAL LEGITIMACY: A NORMATIVE THEORY

As the Introduction suggests democracy is an important and appropriate standard from which to begin the discussion of legitimate global governance. The normative standpoint with which I begin is liberal democratic theory, interpreted in a consequentialist way. Three fundamental principles of democracy are that individuals have inalienable human rights; that they ought to be free to make decisions for themselves when their actions do not improperly interfere with the lives of others; and that they should have an equal voice, insofar as they are competent, over how they are governed.

To express its will, a public, defined as a set of people who communicate self-consciously with each other as a self-governing group, must be able to act collectively. To protect individual rights and to assure that rulers are responsive to the public, liberal democratic theory requires constraints on those in power. At a minimum, institutions of governance should limit and constrain the potential for abuse of power, through a combination of checks and balances and accountability. Such accountability requires sufficient information to be publicly available that those subject to rule can make judgments about its quality. This accountability should, whenever feasible, include accountability to publics in freely contested elections under universal suffrage.

I base my criteria on the principles of liberal democracy because I believe in liberal democracy as the best form of governance that human beings have yet developed – despite its flaws. I recognize that discussions of legitimacy are highly politicized, as discussed in the editors' Introduction, but develop a distinct argument about analytically valuable uses of the term. When I say that I interpret liberal democratic theory in a consequentialist way, I mean that the ultimate justification of liberal democracy is that it can be expected to provide better opportunities for individuals to lead autonomous lives in which they can fulfill their inherent capacities. If following liberal democratic norms *worsened* human opportunities for such meaningful lives, it would not necessarily be justified to do so.

It almost goes without saying that liberal democratic theory does not match well with the actual practices of global governance. There is no coherent global public engaged in discussions over issues, little shared sense of fate, and no common political culture of democracy, much less one that people regard as global in scope. As a result, although the *standards* we use for assessing the legitimacy of global governance practices should be derived from democratic theory, the *threshold* of acceptability that it is appropriate to use should be lower than it would be in a well-ordered domestic society. With a high threshold, no feasible institutions would be legitimate. Since no global institutions would meet a high threshold of liberal democracy, the concept of legitimacy would provide us with little leverage for distinguishing among governance institutions.

Recognizing the inappropriateness of imposing a high threshold of conformity to democratic principles to institutions of global governance has three additional implications. First, legitimacy should not be confused with justice. Justice is an ideal standard, whereas legitimacy expresses a threshold value, in a non-ideal world, for the conditions under which an institution has the right to rule. Furthermore, there are procedural elements of legitimacy, involving such values as transparency and accountability, which are somewhat different from the value of justice. In that sense, the suggestion in the Introduction that legitimacy can be seen to carry a 'trojan

horse' quality, while important in political or strategic terms, should not be taken as an open invitation for conceptual inflation. To mistake legitimacy for justice is to make the best the enemy of the good.

The second implication of the inherently flawed nature of global governance, from a democratic standpoint, is that legitimacy is a matter of degree. In evaluating the legitimacy of an institution, we do not merely assess whether it is legitimate, but how far above or below the threshold of legitimacy it falls. Institutions can be highly legitimate – so that it would be difficult on coherent normative grounds to question them – or they can barely exceed a threshold standard.

The third implication of the burdens under which global governance labors is that an institution need not score highly on all of the six criteria I will enunciate to be legitimate. Few if any global institutions will score well on all the criteria. In the end, judgments about the legitimacy of global governance institutions depend on a balancing test, to make a net assessment on the basis of a mixed set of indicators.

SIX SPECIFIC CRITERIA

I will now present six specific criteria for legitimacy, all of which follow from the liberal democratic principles that I have just summarized.

The first of these criteria is *minimal moral acceptability*. Governance institutions, like institutions generally, should not persist in committing serious injustices, in particular, they should not violate basic human rights. If they do we should not take their rules as binding or otherwise support them. This criterion follows from the emphasis in democratic theory on rights. Differences of emphasis aside, it is interesting to note that this is a criterion common to all the contributions to this Forum. Although there is disagreement among basic interest theorists of human rights as to exactly what the list of human rights includes, there is agreement that the list includes the rights to physical security, to liberty, and the right to subsistence.

The second criterion is *inclusiveness*. To have a claim to make rules on a global basis, institutions need to be open to all peoples who are willing to participate in attaining the goals established by the institution. Inclusiveness is also a fundamental democratic principle. The constraints of world politics, however – in particular, the inequality of power among states – means that in world politics inclusiveness does not imply equality of voice. That would be unrealistic.³ But peoples should not be arbitrarily excluded from participation in discussions about global governance.

My third criterion of legitimacy is *epistemic quality*. "Epistemic quality," as I use the term, has two dimensions: institutional integrity and transparency. Both dimensions are directly and inherently related to democratic theory, since the ability of the ruled to control the rulers depends on their access to information about the rulers' behavior. Institutional integrity

refers to the relationship between an institution's performance and the truth. Institutions lack integrity in the first instance if they are based on beliefs that are palpably false. Institutions based on racism, for example, are *ipso facto* illegitimate because beliefs about racial superiority are demonstrably incorrect. Institutions that systematically distort information so that it is the opposite of the truth – as in Stalinist Russia – are also *ipso facto* illegitimate. Institutions also lack integrity if they exhibit patterns of egregious disparity between their actual performance and their self-proclaimed activities or major goals. An institution is presumptively illegitimate if its practices or procedures predictably thwart the credible pursuit of the very goals in terms of which it justifies its existence.

To provide any assurance of epistemic quality, institutions need to be, to a reasonable extent, transparent, so that their actions can be understood by outsiders. For transparency to be effective, information about how the institution operates must be accessible at reasonable cost. This is not to say that the effects of transparency will always be benign. Indeed, under some circumstances transparency can have malign effects. As David Stasavage points out, “open-door bargaining . . . encourages representatives to posture by adopting overly aggressive bargaining positions that increase the risks of breakdown in negotiations” (Stasavage, 2004: 695). Indeed, as the Introduction suggests, transparency is a quality that opens political fora but does not define their content or values: it is a route into the politics of global governance, not a complete blueprint. My claim is not that outcomes are necessarily better the more transparent institutions are. Rather, it is that the dispersal of information among a plurality of external epistemic actors provides some counterbalance to informational asymmetries favoring insiders. There should be a very strong but rebuttable presumption of transparency, because the ills of too much transparency can be corrected by deeper, more sophisticated public discussion. On the contrary, there can be no democratic response to secret government action.

My fourth standard is *accountability*, which is crucial to democratic theory because it provides for the ruled to have power over rulers. Accountability includes three elements: (1) standards that those who are held accountable are expected to meet; (2) information available to accountability-holders, who can then apply the standards in question to the performance of those who are held to account; and (3) the ability of these accountability-holders to impose sanctions: to attach costs to the failure to meet the standards. The need for information about whether the institution is meeting the standards devised by those to whom it is accountable makes substantial transparency essential.

Almost all institutions are accountable to someone – if only to the criminal gang or the “Godfather” behind the scenes. So accountability as such is not sufficient (see also Cerutti). It must be the right sort of accountability – accountability that helps institutions meet the minimal moral acceptability

and comparative benefit conditions. Furthermore, there must be provisions for revising existing standards of accountability.

My fifth standard for the legitimacy of global governance institutions is that they be compatible with democratic governance within countries, and preferably that they enhance democracy. Compatibility requires that multilateral institutions not impose a “straightjacket,” golden or otherwise, on the ability of democratic publics to decide to follow unorthodox policies or maintain idiosyncratic institutions.⁴ Multilateral institutions can enhance democracy in three ways. First, they can make it more difficult for special interests to operate, for example by enacting public regulatory rules on a global basis. Second, they can help to protect minority and individual rights, as is sought by human rights institutions. Third, they can foster collective deliberation by making discussions less parochial than when they take place only within countries (Keohane, Macedo and Moravcsik, 2009). Just as multilateral institutions can perform these valuable functions, they can also do the opposite: promote special interests, violate the rights of minorities, or diminish the quality of collective deliberation. They can also degrade self-determination by undermining the ability of publics to act or by replacing the rule of law with arbitrary political action. Insofar as they have serious perverse effects, multilateral institutions should be regarded as illegitimate.

Finally, multilateral institutions must pass the test of *comparative benefit*. That is, they must produce results that are better than those that alternative feasible institutional arrangements, or their absence, could create. Benefits can be substantive, such as security, welfare, or ecological quality. They can also be procedural, such as the ability to work with people from diverse societies, to solve problems cooperatively rather than coercively, and to create opportunities to learn new ways of thought. What counts as a “benefit”? I cannot improve on the formulation of Amartya Sen, who argues that a social choice process yields benefits when its substantive and procedural outcomes enhance people’s abilities to develop their inherent capabilities.⁵ The legitimacy of an institution is called into question if there is an institutional alternative, providing greater benefits, that is feasible, accessible without excessive transition costs, and meets the minimal moral acceptability criterion. If an institution steadfastly remains instrumentally suboptimal when it could take steps to become significantly more efficient or effective, this could impugn its legitimacy.

In applying these standards of legitimacy, it is crucial to evaluate institutions according to dynamic rather than static criteria. Being forced to make static judgments – is an institution legitimate or not? – can lead to a Hobson’s choice between simply accepting institutions that are in many respects unjust, or rejecting institutions that are better than the feasible alternatives. We should therefore take into account not only how well institutions score on a set of standards, but also the direction of

institutional change. Institutions that are getting worse are more questionable, in legitimacy terms, than similar institutions that are getting better. Comparatively, it is possible that what seems to be a superior institution in a static sense will occupy only a local maximum, without the ability to improve; while what appears to be an inferior institution will have the capacity for improvement. Under such conditions, the institution with the capacity to improve might well be more legitimate, from a long-term perspective, even if at the moment it is somewhat inferior.⁶

APPLYING THE STANDARDS

Setting out a set of normative standards for the legitimacy of governance institutions is the easy part of the task. The difficult part is applying them to particular situations, in context. To provide a sense of how I would apply these standards, let me focus on the UN Security Council and the WTO.

The Legitimacy of the Security Council

The UN derives its principal legitimacy from its inclusiveness: membership is essentially open to all states. Non-permanent members of the Security Council are elected by the membership, which seems fair. However, the allocation of permanent memberships is an artifact of the end of World War II, bearing little relationship to principles of importance of contemporary world politics, support for the institution, or representativeness (for instance, see the contribution by Furio Cerutti to this forum). Former UN Secretary General Kofi Annan made a great effort to reform the Security Council in 2004–05, aided by a thoughtful report from his High-Level Panel, but these reforms were stymied in every significant respect. What they demonstrated was the prevalence of constitutional deadlock at the UN. Lack of inclusiveness is built into the Security Council structure by the veto, whose wielders have little incentive to allow others into their club. Competition among would-be permanent members also plays an important role.

How does the Security Council measure up on the other criteria? On epistemic grounds, it is also flawed. Public meetings of the Security Council are theatrical, not deliberative: all real negotiations take place in the back rooms before the official meeting has been convened. Permanent members of the Security Council can exercise arbitrary power with the veto – the antithesis of accountability. When their representatives present evidence for their policies, as US Secretary of State Colin Powell did in his famous presentation on Iraqi weapons of mass destruction of February 2003, they are not required to answer questions from well-informed investigators. Hypocrisy in speeches is so common as almost to be unworthy of notice.

With respect to epistemic quality and accountability, the Security Council deserves a failing grade.

The story gets a little better with respect to enhancing democracy, especially recently. Democracy was not a founding principle of the UN. It could not be in 1945, in view of the need to secure Soviet membership; and through most of the UN's history, democracies have comprised only a minority of members. In the 1990s, however, the UN began to seek to promote democracy in its peacekeeping operations. Its efforts to do so have become well-institutionalized, although they are constrained by the membership on the Security Council of Russia and China.

The Security Council has a more consistent record on human rights. UN opposition to outside aggression, as in Korea and Kuwait, indirectly supports human rights, and effective peacekeeping operations do so directly. However, in the face of human rights abuses, sometimes the Security Council has failed even to try, as in Rwanda in 1994. Often when it has tried, it has only partially succeeded, or even made things worse, as it arguably did in Bosnia between 1992 and 1995. But it has committed no massive violations of human rights, so in this respect, its net effect seems to have been positive.

Overall, the Security Council's legitimacy seems at best marginal until we come to the crucial criterion of comparative benefit. What would the world be like without some such body in which the countries in the world with the greatest military capabilities can reach joint decisions to control threats to the peace? Clearly any answer to such a question must be largely speculative, since it involves a counterfactual.⁷ But the Iraq fiasco of 2003, when the United States and Great Britain defied the Security Council and invaded Iraq without UN authorization, should not be allowed to obscure a number of successes. Without the Security Council, it is hard to imagine such an effective response to Saddam Hussein's invasion of Kuwait in 1990. Even the halting steps taken to resolve the wars in the former Yugoslavia would have been much more difficult. Efforts to prevent Iran from obtaining nuclear weapons would be more likely than they are to lead to unilateral military action by the United States. Darfur would be an even more intractable human rights problem than it is.

My view is that the Security Council narrowly passes the threshold of legitimacy, but it is legitimate only by default. It has many flaws. However, the world would be more conflict-ridden and subject to extreme crisis if it did not exist. A crucial question in making an assessment is whether the Security Council contains the seeds of its own improvement. Its key members need to make its practices more accountable and more transparent insofar as this is compatible with effectiveness, to be willing to work to improve its inclusiveness through structural reform, and to make material sacrifices to protect human rights. They should be criticized

severely when they fail to do so. The contingent legitimacy of the Security Council depends on a sense that its future will be better than its past.⁸

The Legitimacy of the World Trade Organization

The WTO came into being coercively. The rich countries essentially abrogated the GATT and offered to allow other countries to join the new WTO only on condition that they would accept the Single Undertaking, which required them to adopt new rules on services and issues related to, but not directly involving, trade in goods. The WTO includes most of the countries in the world, but only on condition that they follow rules that the dominant members mandated. On the criterion of inclusiveness, therefore, the WTO is flawed.

The WTO does not affect human rights as directly as institutions that use force or that have protection of human rights as their mandate. Some of its rules, such as those governing intellectual property, are morally problematic when they affect such issues as delivery of generic drugs to poor people. Insofar as these rules reduce the availability of life-saving medicines, they could even impinge on human rights. However, standard rules for world trade in manufactured goods have greatly enhanced the ability of poor countries to invest in export industries, and have therefore contributed to raising millions of people out of poverty – with positive effects on their abilities to meet needs of subsistence and to develop their capabilities.

With respect to democracy, the WTO story is mixed. Some of its rules, especially those having to do with intellectual property, are unduly constraining, and it can be argued, as Dani Rodrik (2007) has, that the WTO in some respects overemphasizes trade and free markets at the expense of growth, hampering the ability of developing countries to maintain or develop institutions consistent with the political constraints that they face. On the other hand, some WTO rules that limit options for wealthy countries, such as its requirement that scientific justifications be provided for restraints on imports of genetically modified foods, seem quite defensible. The WTO does not override national or EU law in such cases: it only requires that the state banning the product pay a fine for doing so. This seems to be a reasonable solution, since it makes the society that resists the imports pay the costs of its preference, rather than imposing it as an externality on others.

Furthermore, in many countries, including the United States, the WTO enhances democracy, since its rules limit the ability of special interests to gain advantages at the expense of the public as a whole. Effective democratic governance requires devices to make it difficult for lobbyists seeking special advantage to siphon off economic rents; the WTO is one of the most

effective such devices in existence, since its rules cannot be changed unilaterally by any single state. Hence it can properly be seen in many countries, including the United States, as a democracy-enhancing institution (Keohane, Macedo and Moravcsik, 2007).

The WTO does very well on epistemic virtues and on accountability. Most of its important actions during the past 13 years have been taken by its dispute settlement procedure and particularly by the Appellate Body, which makes final decisions on issues brought before it. The Appellate Body issues public rulings and has sought to construct a consistent body of law. Thanks to concerns about reciprocity and reputation, it makes even powerful states accountable. Since its decisions are public, they can be – and have been – subjected to public criticism. The Appellate Body has filled in gaps in world trade law, keeping the rules relevant to contemporary situations while the legislative body of the WTO has been deadlocked. Wealthy, powerful states, including the United States and entities such as the European Union, have a remarkable record of compliance with WTO rulings, which enhances the legitimacy of the organization by making voluntary compliance more acceptable for other states.

Finally, the WTO scores well on the criterion of comparative benefit. Both experience and theory suggest that in the absence of strong rules, trade conflicts will be endemic, especially with large numbers of self-interested states in the system. Concessions to one partner in a bilateral relationship generate resentments and conflict in relation to other partners, while trade wars between two partners distort trade patterns more generally. To imagine a world without the WTO or its equivalent is surely to imagine one that would be both poorer and more conflict-ridden.

In my view, the WTO exceeds the threshold of legitimacy by a relatively comfortable margin, despite its coercive origins and some of its biased rules. Its reliance on quasi-judicial decision-making to resolve serious political-economic conflicts is a huge advance in multilateral cooperation, and promises more improvements in the future. The WTO has helped to maintain liberal trade, which is manifestly beneficial on the whole.

CONCLUSION

Multilateral institutions are often misunderstood, and unfairly criticized by people who are not fully aware of the constraints under which they operate or the limitations of alternative arrangements and practices. Yet to defend valuable institutions we need a coherent basis for making legitimacy judgments – which will also enable us to criticize flawed institutions.

This is why I think it is important to articulate standards of institutional legitimacy that are consistent with consequentialist democratic principles and that are not as strict as abstract standards of justice. We urgently need

a shared evaluative perspective that is critical in spirit, yet not so demanding as to make coordinated, normatively-based support for governance institutions under difficult conditions unlikely. My hope is that the standards I propose in this short comment could constitute a first step toward meeting this need.

NOTES

- 1 This comment draws freely on Buchanan and Keohane (2006), in which further references to works of normative theory can be found. I am indebted to Professor Buchanan for many of these ideas, although of course he bears no responsibility for my use of them here. I also appreciate some very perceptive critical comments on an earlier draft, sent to me by Professor Antonio Jorge Ramalho of the University of Brazilia.
- 2 Using this categorization, the paper by Steven Bernstein in this volume is concerned with sociological legitimacy, since he seeks to understand “how particular requirements [for legitimacy] came to be viewed as justifications” (p. 19). His is a critical version of sociological theory. In contrast, the paper by Daniel Mügge, like my shorter contribution here, pursues the normative project of seeking to assess the legitimacy of international institutions – and ultimately, in his words, to conduct “legitimacy audits” (Mügge, this volume).
- 3 See the argument by Scholte in this forum for a more ambitious interpretation of how inclusiveness might play out in global governance. See the intervention by Kishore Mahbbubani for an emphasis on greater inclusion of non-Western peoples.
- 4 See the discussion in Rodrik (2007: 201–202) of Friedman (1999), who coined the “golden straightjacket” phrase.
- 5 Sen, 1999. I believe that following John Rawls (1971), by examining what publics would prefer behind a “veil of ignorance,” would yield a similar conclusion.
- 6 I have in the past sought to use Fritz Scharpf’s categories of input and output legitimacy (Scharpf, 1999), but they never seemed to be entirely distinguishable from one another. Mügge in this volume provides an interesting analysis indicating how difficult it is to make this distinction in practice.
- 7 There might be useful opportunities here for using agent-based simulations to explore worlds with and without the Security Council.
- 8 For a discussion of what I call the “contingent legitimacy of the Security Council” see Keohane, 2006.

NOTES ON CONTRIBUTOR

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REFERENCES

- Buchanan, A. and Keohane, R. O. (2006) 'The legitimacy of global governance institutions', *Ethics and International Affairs*, 20(4): 405–37.
- Friedman, T. (1999) *The Lexus and the Olive Tree: Understanding Globalization*, New York: Farrar, Straus, and Giroux.
- Keohane, R. O. (2006) 'The contingent legitimacy of multilateralism', in E. Newman, R. Thakur and J. Tirman (eds), *Multilateralism Under Challenge? Power, International Order and Structural Change*, Tokyo: United Nations University Press: 56–76.
- Keohane, R. O., Macedo, S. J. and Moravcsik, A. (2009) *Democracy-enhancing multilateralism*, *International Organization*, 63 (1): 1–32.
- Rawls, J. (1971) *A Theory of Justice*, Cambridge: Harvard University Press.
- Rodrik, D. (2007) *One Economics, Many Recipes: Globalization, Institutions, and Economic Growth*, Princeton, NJ: Princeton University Press.
- Scharpf, F. (1999) *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.
- Sen, A. K. (1999) *Development as Freedom*, New York: Knopf.
- Stasavage, D. (2004) 'Open-door or closed door? Transparency in domestic and international bargaining', *International Organization*, 58(4): 667–704.