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DOI: 10.1017/S0260210503005904

Legitimacy in a global order

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'Principles of legitimacy are born, grow up, age, and die; sometimes they come into collision and clash. Their life cycles and their clashes are the invisible foundations of history'

G. Ferrero, *The Principles of Power*[1]

This is a study of legitimacy *in* a global order, not legitimacy *of* the global order. It explores the challenging issue of what legitimacy might mean within such a context, and on what basis that order could develop its own principles of legitimacy. Its purpose is to garner further insights into the nature of contemporary global governance, and resistance to it, inasmuch as the latter is widely deemed to be symptomatic of the legitimacy crisis at its heart. A multitude of writers, working from quite different perspectives, is in agreement that it is this lack of legitimacy that threatens the very fabric of the order.[2] Indeed, it is common to regard the emergence of concerns about the declining legitimacy of any system as itself indicative of some kind of failure within it: the concept tends to be associated with the 'politics of crisis'.[3] Accordingly, we are most likely to ask questions about the legitimacy of a system only when things appear to be going wrong. If this is so, legitimacy provides a vital key to understanding the tensions within the contemporary global order.

* This work has been completed during the author's tenure of a Major Research Fellowship from the Leverhulme Trust, and I wish to thank the Trust for its generous support. The article forms part of a larger project to be published as *Legitimacy in International Society* (Oxford University Press, forthcoming 2005). I am deeply grateful to my colleagues (Tim Dunne, Andrew Linklater and Nicholas Wheeler), and also to the Editors, for helpful comments on earlier drafts.

[1] G. Ferrero, *The Principles of Power: The Great Political Crises of History* (New York: Putnam's, 1942).

[2] Typical statements of the argument can be found in M. Bukovansky, *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture* (Princeton, NJ: Princeton University Press, 2002), p. 233; J. A. Camilleri, K. Malhotra and M. Tehranian, *Re-imagining the Future: Towards Democratic Governance: A Report of the Global Governance Reform Project* (Bundoora, Melbourne: Department of Politics, La Trobe University, 2000), p. xvii; K. Nicolaidis, 'Conclusion: The Federal Vision Beyond the Federal State', in K. Nicolaidis and R. Howse (eds.), *Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union* (Oxford: Oxford University Press, 2001), p. 477; V. Cable, *Globalization and Global Governance* (London: RIIA, Chatham House Paper, 1999); D. Held and A. McGrew, *Globalization/Anti-Globalization* (Cambridge: Polity, 2002); D. Held and A. McGrew (eds.), *Governing Globalization* (Cambridge: Polity, 2002); J. A. Nye and J. D. Donahue (eds.), *Governance in a Globalizing World* (Washington, DC: Brookings, 2000); R. Vayrynen (ed.), *Globalization and Global Governance* (Lanham, MD: Rowman and Littlefield, 1999). For one useful attempt to explore the concept of legitimacy in relation to global governance, see S. Bernstein, 'Legitimacy in Global Governance: Three Conceptions', Paper presented at American Political Science Association Conference, San Francisco, 2001.

[3] P. Kitromilides, 'Enlightenment and Legitimacy' in A. Moulakis (ed.), *Legitimacy/Legitimé* (Berlin: Walter de Gruyter, 1986), p. 61.

https://doi.org/10.1017/S0260210503005904 Published online by Cambridge University Press

Any framing of the topic in terms of the 'politics of governance' and the 'politics of resistance' demands precisely such an exploration. This article will examine the generic issues that arise in the analysis of political legitimacy. It will then investigate how these have manifested themselves, and been responded to, in the specific context of IR. Finally, it will survey the problems that seem to be particular to its application within the framework of a global order, and to the development of mechanisms of global governance within it. As will become readily apparent, different conceptions of legitimacy are to be found within each of these settings. Given this, what will be demonstrated is that we can at least make a beginning in mapping out the concept of legitimacy in a global order, but that the politics of governance and resistance is not the most helpful frame of reference for this task.

The brief reasons for this rebuttal are as follows. In some respects, the concept of governance is less problematic than that of resistance, but the two nonetheless enjoy an unstable relationship. Global governance, in the conventional formulation, is the complex set of interlocking institutions and norms, both formal and informal, governmental and non-governmental, that serve to make the rules for the global order.[4] What is telling about such standard accounts is that they emphasise that governance is about authority and rule making. As Held and McGrew have expressed it, 'at the analytical core of the global governance approach is a concern with understanding and explaining the political significance of global, regional and transnational authority structures'.[5] For Rosenau, it is characterised 'by an extensive disaggregation of authority'.[6] The significance of this emphasis on authority will be returned to shortly.

The concept of resistance covers an even wider spectrum of possibilities, and its relationship to governance varies accordingly. To the one end, it may be thought of as functionally equivalent to a 'loyal' opposition in its acceptance of the basic system, even when it might advocate alternative policies and strategies within it. At the other end, resistance amounts to rejectionism. Typically, radical anti-capitalist groups regard present forms of global governance as the new imperialism. Resistance then demands a liberation struggle to bring about 'an alternative system of global governance, privileging people over profits, and the local over the global'.[7]

What follows from this variability is that any attempt to present governance and resistance as a sharp dichotomy suffers from two key problems. First, it operates on the mistaken assumption that governance and resistance are wholly separable categories, when in fact they are overlapping and crosscutting. Secondly, they dwell exclusively upon the system of rule in the global order, and thereby neglect the equally important underlying issue of the nature of the political community that is essential to any meaningful engagement with legitimacy. The force of this latter point will be developed in the final section of the article.

[4] J. Rosenau, 'Governance in a New Global Order', in D. Held and A. McGrew (eds.), *The Global Transformations Reader*, 2nd edn. (Cambridge: Polity Press, 2003), p. 225; F. Halliday, 'Global Governance: Prospects and Problems', ibid., p. 489.
[5] 'Introduction' in Held and McGrew, *Governing Globalization*, p. 9.
[6] 'Governance', p. 228.
[7] Held and McGrew, *Globalization/Anti-Globalization*, p. 64.

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Accordingly, the starting point for this analysis is to dissent from an emerging, but increasingly facile, orthodoxy that holds this legitimacy deficit to be neatly captured in terms of the simple opposition between governance and resistance, as expressed for instance in Richard Falk's contrapuntal depiction of 'globalization-from-above' as distinct from 'globalization-from-below'.[8] Such a scheme reifies both in unhelpful ways, and does not begin to engage with the manifold dimensions of legitimacy that are at stake in those two domains. This would-be orthodoxy suggests an image in which illegitimate governance, implemented by states/IGOs/markets, is resisted by the combined forces of people/INGOs/civil society, and, as such, misses the rich and complex texture of both the governance, and the resistance, that is presently on display. Neither governance, nor resistance, is quite as monolithic as this classification would imply.

Typically, not all resistance demands the overthrow of state-centred governance. Indeed, much of the literature on the politics of resistance recurrently calls for the need to bring the state back in, not analytically, but politically, as a guarantor of existing social compacts against the depredations of the global economy. Even Richard Falk has diagnosed the principal danger to lie in the 'inability of the state to protect its own citizenry…in relation to the workings of the world economy'.[9] On the same premise, Barry Gills insists on the need for adequate social protection, and places the state amongst the countervailing forces that can act towards that end.[10] Similarly, Caroline Thomas, driven by concern about the nexus between social policy, development and human security, makes her own plea for an 'expansion of *meaningful state involvement* in global governance'.[11] Such positions stand in sharp contrast to the widely held view that it is in global civil society, acting *against* the state, that the rescue of global governance is to be found. Notably, champions of a human security perspective tend often to return to the theme that 'civil society has a critical role to play'.[12]

The sceptics, on the other hand, question the democratic credentials of civil society, and of the many INGOs established by it. In their critical appraisal, these bodies 'do not currently possess the requisite degree of legitimacy and accountability to be considered as democratic representatives in a globalized political community'.[13] Others have dismissed the notion that international civil society can be viewed as a 'global *demos*', since it is little more than 'a select and self-selecting mélange of individuals and organizations'.[14] On the contrary, on this assessment, if we want

[8] R. Falk, *Predatory Globalization: A Critique* (Cambridge: Polity Press, 1999), ch. 8.
[9] Falk, *Predatory Globalization*, pp. 144–5.
[10] B. K. Gills, 'Introduction: Globalization and the Politics of Resistance' in Gills (ed.), *Globalization and the Politics of Resistance* (Basingstoke: Palgrave, 2000), p. 8.
[11] C. Thomas, 'Global Governance and Human Security', in R. Wilkinson and S. Hughes (eds.), *Global Governance and Human Security* (London: Routledge, 2002), p. 125.
[12] F. O. Hampson et al., *Madness in the Multitude: Human Security and World Disorder* (Don Mills, Ontario: Oxford University Press, 2002), p. 7.
[13] A. Colas, *International Civil Society: Social Movements in World Politics* (Cambridge: Polity, 2002), p. 163. See also R. Devetak and R. Higgott, 'Justice Unbound? Globalization, States and the Transformation of the Social Bond', *International Affairs*, 75 (1999), p. 494.
[14] R. Howse, 'The Legitimacy of the World Trade Organization', in J. M. Coicaud and V. Heiskanen (eds.), *The Legitimacy of International Organizations* (Tokyo: United Nations University Press, 2001), p. 362.

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democratic global governance, we have no choice but to act through the state as it remains 'the sturdiest base on which to build a genuinely democratic polity'.[15] In these complex, and often fractious arguments, it is difficult to remember who is performing the governance, where the sources of resistance are to be found, and whose corner it is that we are supposed to be cheering.

Any neat separation is further obscured by the realisation that civil society is by no means wholly excluded from the system of global governance, but is instead selectively coopted into it. It is this very 'selectivity' that gives rise to its own set of problems. This creates a tension, for example, within those international organisations that increasingly consult 'stakeholders', thereby undercutting their links to states and governments 'on whose political will and formal consent they are based'.[16] Such tendencies are currently resisted by a number of states, especially from the South. What these states object to is yet another manifestation of Western soft power, exercised through the means of private agencies, or INGOs, within which Western civil society is considered disproportionately represented. These agencies may be seen to foster secular and rights-based agendas at variance with communal values that, so some would claim, only the local state can protect.[17] Indeed, in some portrayals, global civil society should be regarded not as part of the resistance movement (as much Western liberal folklore would have it), but instead as the shock troops of Empire, and hence as very much an integral part of the fabric of governance itself.[18] As succinctly put elsewhere, 'soldiers and humanitarians are troubleshooters for an international society structured to sustain inequality and denial of human needs'.[19]

There is equally – and however paradoxical it might seem – a politics of resistance that comes from states generically, and manifests itself, for example, in present attempts to reassert the state's security-based legitimacy in the face of transnational terrorism's attempts to undermine it. It is certainly the case that attacks like those of September 11th have had the consequence, whether or not the specific intent, of eroding the state's 'ability to protect its citizens from direct attack',[20] and thus of subverting the legitimacy it has traditionally derived from this function. However, it is also the case that 'the war against terrorism will place in the hands of state authorities all sorts of powers of surveillance and regulation',[21] many of which are likely to be welcomed by nervous grass-roots publics, especially in the West. In this context, whose is the 'legitimate' voice of resistance? And while the war against terrorism might most obviously be thought of as an expression of global governance,

[15] Colas, *International Civil Society*, p. 158.
[16] V. Heiskanen, 'Introduction', in Coicaud and Heiskanen (eds), *Legitimacy of International Organizations*, pp. 10–11.
[17] See, for example, R. O'Brien, A. M. Goetz, J. A. Scholte and M. Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge: Cambridge University Press, 2000), p. 219.
[18] M. Hardt and A. Negri, *Empire* (Cambridge, MA.: Harvard University Press, 2001), pp. 34–7.
[19] M. Pugh, 'Maintaining Peace and Security' in Held and McGrew (eds.), *Governing Globalization*, p. 228.
[20] A. K. Cronin, 'Rethinking Sovereignty: American Strategy in the Age of Terror', *Survival*, 44 (2002), p. 134.
[21] C. Brown, *Sovereignty, Rights and Justice: International Political Theory Today* (Cambridge: Polity, 2002), p. xiii.

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its putative 're-territorialisation' of security can just as readily be portrayed as an act of resistance to this particular face of globalisation. The state too, in this regard, is part of the anti-globalisation movement when it suits it to be so. Likewise, those who would resist state-centred governance have been faced also by a similar dilemma in recent years with the emergence of 'new wars' that have placed civilians very much in the firing line. 'The less armed conflicts are structured and state-governed', Eric Hobsbawm has lamented, 'the more dangerous they become for the civilian populations'.[22] Is it better for human security that such wars remain 'deregulated', or, if not, what kind of global governance is needed to control them? Is the cause of civil society advanced, or retarded, by a diminution of the state's role in this area of global governance? For these many reasons, there is no simple tug of war between governance and resistance, but instead a multifaceted interaction involving a complex array of actors. It is this that makes the insertion of legitimacy into the discussion so difficult, and gives the lie to any crude notion that global governance suffers from a single legitimacy deficit, caused by the solitary fault line that runs between the reified representatives of governance, on the one hand, and those of resistance, on the other. Instead, these deficits are as plural as the multiple dimensions of governance and resistance themselves. To develop this further, we need to begin with some basic understandings of the general concept of legitimacy, and of its importance to political life.

Legitimacy

Political scientists have found themselves unable to live either comfortably with, or wholly without, this concept.[23] Since Max Weber, it has been commonplace to make the distinction between normative theories of legitimacy that set out general criteria in terms of which the right to rule can be appraised, and empirical theories which take as their focus the belief systems of those subject to government.[24] Weber described a form of social action that 'may be oriented by the actors to a *belief* in the existence of a "legitimate order"'. [25] Elsewhere, he based the prestige of modern states on 'the belief, held by their members, in a specific consecration: the "legitimacy" of that social action which is ordered and regulated by them'.[26] In this version, rule is legitimate when its subjects believe it to be so. This Weberian approach leaves to political philosophy the task of developing exogenous schemes for adjudging the legitimacy of any political system, and concentrates instead on the

[22] E. Hobsbawm, *The New Century* (London: Little, Brown, 2000), p. 15.
[23] Useful overviews are available in D. Beetham, *The Legitimation of Power* (Basingstoke: Macmillan, 1991) and R. Barker, *Political Legitimacy and the State* (Oxford: Oxford University Press, 1990).
[24] For an interesting attempt to find a middle way between these, by restoring values to Weber's positivist approach, see J.-M. Coicaud, *Legitimacy and Politics: A Contribution to the Study of Political Right and Political Responsibility* (Cambridge: Cambridge University Press, 2002).
[25] M. Weber, *On Charisma and Institution Building*, ed. S. N. Eisenstadt (Chicago, IL: University of Chicago Press, 1968), p. 11.
[26] M. Weber, *Economy and Society: An Outline of Interpretive Sociology*, vol. 1 (Berkeley, CA: University of California Press, 1968), pp. 903–4.

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quality of the endogenous political relationship itself. The test for political legitimacy is then 'not the truth of the philosopher, but the belief of the people'.[27] When applied in IR, virtually all commentators begin by recognising some such distinction, and most end up by adopting a loosely-based Weberian approach.[28]

From such a starting point, it is generally concluded that the only practical way to study legitimacy is through the belief systems of the relevant actors. Legitimacy is thereby understood to refer 'not to some abstract conception of right but, rather, to the norms of a specific cultural system at a given time'.[29] Who then are the relevant actors? They are those participants in the system of rule, and it follows from this, as expressed by one international lawyer, that 'community' is the '*sine qua non* of the entire enterprise of defining legitimacy'.[30] Legitimacy, in this sense, and employing Franck's own analogy, is tantamount to acceptance of Greenwich Mean Longitude – a social fact that is meaningful only to members of the community who accept it and, in turn, a fact that testifies to the existence of that particular community.[31] It is quite beside the point for any non-member of the community to dissent from any such convention.

In short, for there to be legitimacy there needs to be a community/society, and the fact that legitimacy makes sense within it is clear evidence that such a community/society actually exists. However, this does not mean that Franck's community *precedes* the inception of its principles of legitimacy. Arguably, just as there can be no concept of legitimacy outside of community, it can equally be held that a community does not exist without its own sense of legitimacy: both give rise to each other in mutual formation. This becomes pertinent, as will be seen below, in connection with international society. For example, two students of international society have explicitly claimed that principles of legitimacy are part of the 'constitutional structure', or fundamental 'institutions', of international society.[32] In that instance, Franck's stipulation is clearly met, since legitimacy is nested within a particular society. Can the same be said of the global order?

First, however, we need to consider why any of this might matter. Why should the existence or otherwise of legitimacy be thought important? Initially, this will be considered within the context of IR, and its particular frames of reference.

[27] T. Schabert, 'Power, Legitimacy and Truth: Reflections on the Impossibility to Legitimise Legitimations of Political Order', in Moulakis (ed.), *Legitimacy*, p. 102.

[28] See, typically, A. I. Applebaum, 'Culture, Identity, and Legitimacy', in Nye and Donahue (eds.), *Governance*, pp. 324–5; T. M. Franck, *The Power of Legitimacy Among Nations* (Oxford: Oxford University Press, 1990), p. 19; A. Watson, *The Evolution of International Society* (London: Routledge, 1992), p. 17; I. Hurd, 'Legitimacy and Authority in International Politics', *International Organization*, 53 (1999), p. 381; Bukovansky, *Legitimacy,* p. 24; J. Habermas, *Legitimation Crisis* (London: Heinemann, 1976), pp. 95–6; C. Reus-Smit, *Moral Purpose of the State* (Princeton, NJ: Princeton University Press, 1999), p. 136; Barker, *Political Legitimacy*, p. 28; R. Grafstein, 'The Failure of Weber's Conception of Legitimacy', *Journal of Politics*, 43 (1981), p. 456. One of the few exceptions is J. Williams, *Legitimacy in International Relations and the Rise and Fall of Yugoslavia* (Basingstoke: Macmillan,1998).

[29] Bukovansky, *Legitimacy*, p. 24.

[30] Franck, *The Power of Legitimacy*, p. 204.

[31] Ibid., pp. 204–5.

[32] A. Watson, *Evolution*, pp. 202–8; J. Donnelly, 'Ancient Greece and IR Theory', Paper presented at BISA Conference, London, December 2002, p. 15.

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International legitimacy and the stability of international orders

A decade ago, Peter Wilson and the late John Vincent made a plea for 'the development of the notion of international legitimacy, a neglected idea in international relations thought'.[33] They would no doubt have been pleased at the high volume of legitimacy talk that is current these days. It is, of course, common to debate whether or not a particular policy or action is legitimate. For instance, as Chris Brown reminds us of the Gulf crisis in 1990–91, 'the United States and its coalition partners went to considerable pains to achieve council resolutions that legitimated their actions'.[34] Whether or not that war can be deemed legitimate is complex enough, but is a narrower issue than the legitimacy of the entire order of which it was a part. Equally, the public debate today about policy towards Iraq is suffused with questions about the legitimacy of undertaking war against that country. In turn, that basic question breaks down into a series of subsidiary engagements about legitimacy being embodied in a UN consensus, as expressed in duly authorising resolutions, or about the need to take action even if the UN is incapacitated, by appeal to more fundamental values embodied in the international order. It leads also to questioning of the legitimacy of Saddam Hussein's regime (and of the degree of licence to act against it that a verdict of illegitimacy might allow to the international community).

It remains, however, far from clear that all this talk is, as yet, underpinned by the kind of concept that could be usefully placed at the heart of theoretical discussions of international relations. We can begin with the conclusion, reached by English School theorists and others, that this legitimacy talk makes most sense within the specific framework of an international society. That is the pertinent community, and it is the belief system of its members that is crucial to the analysis of legitimacy. In a world of states, legitimacy is what states make of it. For this reason, Bobbitt is assuredly correct when he insists that 'only an international society could confer legitimacy' on the activities of the states system.[35] This is especially so when, as will be seen below, fundamental to the very concept of legitimacy is the stipulation of the right to membership within that society.[36]

There are essentially two kinds of claims that can be made for the importance of engagement with legitimacy by IR scholars. The first is a largely historical and theoretical one. It argues that the great historical turning points in the history of international society can be recounted as shifts in the prevailing conceptions of international legitimacy. In this way, we can undertake an archaeological excavation of international society by digging down through its successive layers of legitimacy principles. The second might appear to be a more immediately practical concern,

[33] R. J. Vincent and P. Wilson, 'Beyond Non-Intervention', in I. Forbes and M. Hoffman (eds.), *Political Theory, International Relations and the Ethics of Intervention* (Houndmills: Macmillan, 1993), p. 129. My thanks to Andrew Linklater for drawing my attention to this observation.

[34] Chris Brown, 'Moral Agency and International Society', *Ethics and International Affairs*, 15 (2001), p. 91.

[35] P. Bobbitt, *The Shield of Achilles: War, Peace and the Course of History* (London: Allen Lane, 2002), p. 121.

[36] D. Armstrong, *Revolution and World Order: The Revolutionary State in International Society* (Oxford: Oxford University Press, 1993), p. 36.

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and this is the posited causal relationship between the degree of international legitimacy and the very stability of the international order itself. These two projects, of course, may be related in interesting ways: upheavals in legitimacy may be symptomatic of deep-seated systemic change, and correlated with high levels of instability.

So important is the concept now accepted to be that, in one recent analysis, the very idea of 'systemic change' – itself the battleground of competing IR perspectives – has been *defined* 'as a transformation of the parameters of political legitimacy'.[37] Legitimacy thereby becomes the decisive yardstick for measuring change within international society. Moreover, in this regard, it is worth stressing also that legitimacy has the advantage of being an ecumenical concept. It has been deployed by realists and liberals alike, but is also an important term in the constructivist lexicon. In recent decades, the dominant discussions of stability have been cast in terms of system polarity, and whether or not multipolar, bipolar, or unipolar distributions have innate qualities generating stability.[38] This was not a debate on which constructivism could find any purchase. Legitimacy, however, offers a radically different framework within which the question can be addressed, and is congenial to a wider set of theoretical perspectives. This focus on legitimacy follows from the persuasion of many political scientists that 'enhanced order, stability, effectiveness – these are the typical advantages that accrue to a legitimate system of power'.[39] Weber himself had made the same claim in distinguishing between those systems based on expediency or custom, on the one hand, and which are less stable, and, on the other, those which are more so because they enjoy 'the prestige of being considered binding, or, as it may be expressed, of "legitimacy" '.[40] In the context of different international societies, Adam Watson, for example, concluded that legitimacy was one of the key factors 'determining the stability of a system at a given time'.[41] Other historians, such as Andreas Osiander and Paul Schroeder, as well as political scientists, have reached similar conclusions.[42]

Not least of the virtues of investigating stability *via* legitimacy is, therefore, that all the major schools of theory can engage in these terms: legitimacy is not a concept that belongs to any school in particular. It is central to the entire corpus of writing of a realist such as Henry Kissinger, as expressed in his *locus classicus*.[43] It

[37] Bukovansky, *Legitimacy*, p. 50.
[38] Karl W. Deutsch and J. David Singer, 'Multipolar Power Systems and International Stability', *World Politics*, 16 (1964), pp. 390–406; Kenneth N. Waltz, 'The Stability of a Bipolar World', *Daedalus*, 93 (1964), pp. 881–909; William C. Wohlforth, 'The Stability of a Unipolar World', *International Security*, 24 (1999), pp. 5–41.
[39] Beetham, *Legitimation of Power*, p. 33.
[40] Weber, *Economy and Society*, vol. 3, p. 31.
[41] Watson, *Evolution*, p. 315.
[42] '…the degree of stability of the international system will depend on … the degree of consensus present in the system'. A. Osiander, *The States System of Europe, 1640–1990: Peacemaking and the Condition of International Stability* (Oxford: Oxford University Press, 1994), p. 5; P. Schroeder writes of the new principles of legitimacy in the period 1815–48 as issuing in 'a more stable, peaceful era', *The Transformation of European Politics 1763–1848* (Oxford: Oxford University Press, 1994), p. 802; 'When legitimacy standards converge…the level of threat among states is reduced', H. R. Nau, 'Correspondence: Institutionalized Disagreements', *International Security*, 27 (2002), p. 180.
[43] Henry A. Kissinger, *A World Restored: The Politics of Conservatism in a Revolutionary Era* (London: Victor Gollancz, 1977 [1957]).

https://doi.org/10.1017/S0260210503005904 Published online by Cambridge University Press

runs through a wide spectrum of liberal writings, such as its current exponents like G. John Ikenberry,[44] but embracing also a diverse body of 'English School' rationalists, as exemplified by the earlier work of Martin Wight.[45] It also extends to constructivist analyses of the shifting norms that have become embedded in historical international orders, and of the implications of these norms for the degree of stability that was to prove attainable within them.[46]

How does the matter of its legitimacy have a bearing upon the stability of an international order? In principle, it is perfectly possible for an international order to be considered both illegitimate, and yet highly stable (if measured crudely by avoidance of central or great-power war), as many would claim to have been the case during the Cold War. Nonetheless, historians, and IR scholars, have traditionally drawn associations between peace settlements and the stability of the international orders that have followed upon them, on grounds that the more legitimate the settlement, the better the prospects for ensuing stability.[47] In this respect, Vienna wins most plaudits, whereas Versailles is the most excoriated, because it was either too harsh, or not harsh enough. Either way, it failed to give rise to a legitimate order.

The classical expression of this argument is to be found in Kissinger's discussion of the post-1815 period: 'An order whose structure is accepted by all major powers is "legitimate" '.[48] The emphasis here is upon the existence of consensus, inasmuch as the order is acceptable to the great powers (but to them alone). In this version, legitimacy is attached to the procedural conventions devised by the great powers, and is present whenever these are acceptable to all concerned. It is the absence of such agreement that creates tension and instability in the system *because* the order, as a result, is illegitimate. This is explicitly set out in his suggestion that, after 1815, 'the period of stability which ensued was the best proof that a "legitimate" order had been constructed, an order accepted by all the major powers'.[49]

More recently, Robert Jackson has written from within essentially the same tradition. 'The debate on humanitarian intervention', he attests, 'is not a debate between those who are concerned about human rights and those who are indifferent or callous about human suffering … It is a debate about the basic values of international society … In my view, the stability of international society, especially

[44] Most recently in G. John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars* (Princeton, NJ: Princeton University Press, 2001).

[45] There are two published pieces on this by Wight, under the same title but in substantially different versions. See Martin Wight, 'International Legitimacy', *International Relations*, 4 (1972), pp. 1–28; and in Hedley Bull (ed.), *Systems of States* (Leicester: Leicester University Press, 1977), pp. 153–173.

[46] The best examples of this are to be found in Reus-Smit, *The Moral Purpose*; Rodney B. Hall, *National Collective Identity: Social Constructs and International Systems* (New York: Columbia University Press, 1999); D. Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton, NJ: Princeton University Press, 2001); and Bukovansky, *Legitimacy*.

[47] Representative examples can be found in Osiander, *The States System*, p. 5; Kissinger, *A World Restored*, p. 1; Schroeder, *The Transformation*, p. 802; Kal J. Holsti, *Peace and War: Armed Conflicts and International Order* (Cambridge: Cambridge University Press, 1991), p. 341; Sharam Chubin, 'The South and the New World Order', in Brad Roberts (ed.), *Order and Disorder after the Cold War: A Washington Quarterly Reader* (Cambridge: MIT Press, 1995), p. 434.

[48] Kissinger, *A World Restored*, p. 145.

[49] Ibid., p. 5.

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the unity of the great powers, is more important, indeed far more important, than minority rights and humanitarian protection'.[50] He thereby makes the connection explicitly between stability and 'unity', and gives priority to that latter concern over other justice claims. In short, legitimacy is not to be understood as a statement about the 'fairness' or 'justice' of a particular order (which might be regarded as a solidarist benchmark), but only about the degree of consensus with which it is regarded by the principal states (Jackson's preferred pluralist paradigm). It is a matter of the pertinent 'beliefs' of the major powers concerned, and that is all there is to it.

G. John Ikenberry also shares some initial assumptions with this perspective, but develops from them a substantially different argument, resulting in a major reworking and application of the concept of legitimacy. For Ikenberry,[51] an order that is legitimate solely in the eyes of the great powers could not be stable. In its stead, he presents the idea of a highly institutionalised 'constitutional' order that is a compromise, and quasi contract, between the strong and the weak. Rather than impose its will, and pay the high costs of future coercion, the strong can pursue a strategy of restraint, whereby it makes concessions to the interests of the weak. The resulting order binds both victors and losers into a stable and consensual order. As has been pointed out by one reviewer, the essential characteristic of constitutional orders, so conceived, is that they 'are regarded as legitimate orders by *all* of its members'.[52] In that sense, the constituency has broadened out markedly from its initially narrow great-power confines, as found in Kissinger's version of the argument.

But for all their differences, this family of writers shares, at a fundamental level, an understanding of legitimacy as essentially about agreement and consensus in the international system, and additionally asserts this to be an important ingredient of stability. We can also take Osiander,[53] and his historical study of 'consensus principles' in peace settlements, as representative of the same broad approach. In a moment, we shall return to an assessment of this claim that legitimacy can *cause* stability, a notion shared by all these writers.

There is however an alternative, and distinct, tradition in thinking about international legitimacy. Martin Wight demonstrates this second strand: 'By international legitimacy I mean the collective judgment of international society about rightful membership of the family of nations'.[54] In this case, legitimacy takes on a different aspect. It is much more concerned with principles governing admission to, and recognition by, international society. This does not mean that there is no element of consensus in such a formulation. It remains residually concerned with the 'collective judgment' of international society (and thus with consensus by the back door). However, this consensus applies restrictively to the basis of international society, and the articulation of criteria for rightful membership of it. Ostensibly,

[50] Robert H. Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford: Oxford University Press, 2000), p. 291.
[51] Ikenberry, *After Victory*.
[52] Randall L. Schweller, 'The Problem of International Order Revisited: A Review Essay', *International Security*, 26 (2001), p. 166.
[53] Osiander, *The States System of Europe*.
[54] Wight, 'International Legitimacy' (1977), p. 153.

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then, there is a distinction to be made between legitimacy understood as a principle about how international society is *formed* (the Wightian tradition), and legitimacy understood as a principle about how that society *behaves* (the consensus tradition). This distinction may be considered similar to that found in Franck's reworking of Hart's notion of primary and secondary rules. For Franck, the substantial difference between these resides in the fact that 'a community accepts its ultimate secondary rules of recognition not consensually, but as an inherent concomitant of membership status'.[55] From this perspective, it might be thought that the secondary rules, such as those of recognition, are more basic or constitutive.

Even if distinguishable, historically the two have often operated in tandem. Wight was to allude to the 'dislike for the variety and complexity of international society, and a belief that improved rules of legitimacy would lead to a greater uniformity'.[56] Its chosen instrument for doing so has been through the 'rightful membership' route. At the most basic level, this has been limited to requirements to meet the formalities of statehood, but, as Armstrong points out, it has also developed into preferences for certain *types* of state.[57] The application of the 'standard of civilization', as a test for fit membership, was a clear instance of this in the nineteenth century, as of course have been more recent tests for good government, and adherence to rights norms, as the 'conditionality' for enjoyment of certain of international society's privileges. When engaged in this practice, international society is regarded as a powerful source of state 'socialization',[58] or has taken on what has been called elsewhere a 'constabulary role'.[59] The important thing to note, however, is that this preference for greater 'uniformity' has not been considered an end in itself, but should be viewed rather as a means to greater international consensus. The underlying belief has been the conventional liberal internationalist one that, the more alike in nature and value system, the more likely are states to discover a harmony of interests, and, in consequence, to live in greater tranquility and economic prosperity. States that are individually legitimate in the eyes of international society will collectively sustain legitimate patterns of behaviour.

Legitimacy, in this second sense of recognition, has thus been implemented in ways to further legitimacy in the first sense of international consensus. That there is an intimate connection between the two is nicely revealed in Wendt's discussion of the 'Lockean culture'. He reiterates the point above about the 'constabulary role' of international society in his claim that 'it has always been necessary also to conform to type identity criteria which define only certain *forms* of state as legitimate'. However, he goes beyond this to make the additional observation that the Lockean membership criteria are more stringent than the Hobbesian, and that the 'Lockean

[55] T. M. Franck, 'Legitimacy in the International System', *American Journal of International Law*, 82 (1988), p. 759. See also the related discussion in N. Onuf, *The Republican Legacy in International Thought* (Cambridge: Cambridge University Press, 1998), pp. 181–3.

[56] Wight, 'International Legitimacy' (1972), p. 27.

[57] Armstrong, *Revolution*, p. 36. See also I. Clark, ' "Another Double Movement": the Great Transformation after the Cold War?' *Review of International Studies,* 27 (2001), pp. 237–55.

[58] D. Armstrong, 'Globalization and the Social State', *Review of International Studies*, 24 (1998), pp. 461–78.

[59] Paul Keal, 'An "International Society"?' in G. Fry and C. O'Hagan (eds.), *Contending Images of World Politics* (Basingstoke: Macmillan, 2000), p. 69.

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culture pays for its relative tranquillity with a less open membership policy'.[60] The comment is astute, and reveals how the two forms of international legitimacy have acted in concert with each other. It should, however, also be stressed that the relationship is two-way, and not unidirectional. While international society expresses preferences for the particular type of state, the emergence of a preponderance of states with new characteristics will, equally, leave its imprint on the face of international society. States facing a domestic legitimacy crisis may be forced to reinvent themselves, and, in doing so, contribute, over the longer term, to the reinvention of international society. In Bobbitt's recent words, 'a change in the constitutional order of states will eventually recreate the nature of the society of states and *its* constitutional order'.[61]

Let us finally return to an assessment of the case that legitimacy is the source of international stability, and consider the analysis provided by Kissinger in this context. His contention was that an order enjoying legitimacy is distinct from one reliant upon power alone. Although he is clear that it is the very legitimacy of an order that is the key to its stability, and hence to its durability (as after 1815), his own understanding of the relationship remains a complex one. This emerges in his various formulations of the order after the Vienna settlement:

> Thus the new international order came to be created with a sufficient awareness of the connection between power and morality; between security and legitimacy. No attempt was made to found it entirely on submission to a legitimizing principle … Rather, there was created a balance of forces which, because it conferred a relative security, came to be generally accepted.[62]

Elsewhere, and more succinctly, he talks of the post-Vienna order being predicated on 'not only a physical equilibrium but a moral one'.[63] What all this seems to suggest is that a physical balance of power is necessary, but not sufficient, for a secure and stable order. What it needs, in addition, is a 'moral balance' which, given what is said elsewhere, presumably can express itself only through agreement and consensus.

What is so manifestly inadequate about this Kissingerian variant of the argument is that, in his account, we are given an explanation of stability that is based both on the balance of power and also on consensus, but in which it is hard to discern that legitimacy has a role as a separate causal factor. The order is stable because the great powers have the capacity to keep it so, and its definition of legitimacy is, in any case, explicitly derivative from power differentials (only the great need be satisfied). What work is not being done by the exercise of power, is otherwise being done by consensus amongst the great powers. The circularity in Kissinger's argument is to make stability a consequence of great-power agreement, while in effect explaining that

[60] A. Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), pp. 291–3. Note, in this context, Onuf's related comment: 'Scholars have wondered whether recognition is a declaratory or a constitutive act – declaratory insofar as recognition acknowledges that the material conditions of statehood have been met, constitutive insofar as statehood depends on acknowledgement and not just material conditions', N. Onuf, *The Republican Legacy*, 1998), p. 187.

[61] Bobbitt, *The Shield of Achilles*, p. 777. This is also the central theme of my *Globalization and International Relations Theory* (Oxford University Press: Oxford, 1999).

[62] Kissinger, *A World Restored*, p. 318.

[63] Henry A. Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994), p. 79.

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agreement in terms of the stable conditions that have made it possible. He does this by defining a stable international order as being in the interests of great powers, but this holds true only as long as it holds true. In a stable international order, the great powers may well reach such agreement, but his analysis does not explain the conditions which make it possible, nor what role legitimacy can play in sustaining it. Legitimacy, in this version, is not a reason for compliance, beyond the continuing agreement amongst the great powers that no one of them will challenge the *status quo* in unacceptable ways.[64] Once any individual power decides that it has interests in doing precisely that, the order loses its stability, but not because of any decline in its legitimacy, simply because that power's definition of its interests has changed. Legitimacy, so understood, is no more than a restatement of an extant consensus (as long as it lasts), but gives us no additional insight into why the consensus exists in the first place, nor any account of how it can inhibit its own demise. From that point of view, it is merely descriptive of stability, and not an explanation of it. Indeed, it makes just as much sense to argue that it is the stability of the order that gives rise to the possibility of shared principles of legitimacy, as it does to posit the causality working in the opposite direction.

In short, this mode of reasoning that legitimacy is a cause of stability is at best half of an argument. This does not mean that the concept of legitimacy is unhelpful – far from it – but that the full force of this argument remains to be worked out in greater detail. If this is so in relation to the international order, where does this leave our understanding of legitimacy in relation to the global order? Does it at all matter? And if it does, is it simply about forging consensus? If so, amongst whom is it required? If it is also about membership and recognition, what does that actually mean within the context of a global order?

Legitimacy in a global order

In this final section, an attempt will be made to develop a framework for understanding legitimacy in a global order that steps outside the governance/resistance duality, while building upon the categories already explored in the IR context. To begin the discussion with a generic concept of resistance is to start from the wrong place, since this does not make clear whether the resistance is on the part of those whose entitlement to speak is recognised (but who dissent from specific policies nonetheless), or on the part of those who feel excluded (and whose demand is to be treated as part of the constituency). The first relates to issues of consent and/or

[64] There are, of course, constructivist arguments that attempt to deal with this issue, but this is not the position that Kissinger himself stakes out, and hence these will not be pursued at this point. The general constructivist response to the above is that the wish to sustain the consensus, by acting 'legitimately' within it, shapes new identities, and hence interests, and that this is conducive to stability. The interesting question is then why, historically, such phases have periodically broken down. The answer must presumably be couched in the language of the costs and benefits of defection *versus* continued cooperation, and the moot point is whether such a calculation of *interests* is compatible with what legitimacy means, or not, even if the practice of cooperation has helped to redefine those interests. See, on this, the discussion in Hurd, 'Legitimacy and Authority'.

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consensus, and the latter is a matter of membership. The implications for legitimacy are not the same in each case.

How then might this part of the argument be developed? Franck's claim that legitimacy is to be found only in the context of community is the obvious starting point, and stumbling block, for any consideration of the relevance of legitimacy to the global order. What is the pertinent community within which the sense of legitimacy is nested? One manifestation of the problem arises, for example, in discussion of the legitimacy of international organisations, where the particular perspective adopted yields differing conclusions about the proper constituency (governments, citizens, stakeholding groups, humankind), whose 'beliefs' about legitimacy should count.[65] Jackson attempts to solve the problem by his claim that 'today everybody is an insider of international society'.[66] This might be more plausible if, following Bull's interpretation of Grotius, we were to concede that 'international society … is not just the society of states, it is the great society of all mankind'.[67] This, however, is not Jackson's position, and his admission elsewhere that today's international society differs in density from one global sector to another – with some regions taking on solidarist characteristics - calls the utility of any such move into question. As these regions hover uncertainly along different parts of the spectrum between *societas* and *universitas*, to employ Jackson's own terminology,[68] there is surely the prospect that principles of legitimacy will not be universally shared, or shared with the same intensity, even within his framework of an all-embracing international society.

If not to international society, can we appeal to some other 'community' that is coextensive with the global order, and within which we might talk meaningfully of 'the norms of a specific cultural system'? From the available literature, a number of distinct possibilities emerge. Some of these derive from efforts to overcome the so-called communitarian/cosmopolitan divide, and express themselves in the form of enquiries into meaningful normative communities 'beyond borders'. Illustrative of these are the arguments predicated on interdependence, transformations in the nature of community in the context of globalisation, and such variants that focus on the notion of all-embracing communities of fate.[69] There is also a separate strand of literature that comes at the global governance issue from within the distinctive perspective – not of global normative communities, extant or imagined – but instead of really existing networks of global power which unify the globe within systems of

[65] G. C. A. Junne, 'International Organizations in a Period of Globalization: New (Problems of) Legitimacy', in Coicaud and Heiskenen (eds.), *Legitimacy of International Organizations*, pp. 191–2.

[66] Jackson , *Global Covenant*, p. 13.

[67] H. Bull, 'The Importance of Grotius in the Study of International Relations', in H. Bull, B. Kingsbury and A. Roberts (eds.), *Hugo Grotius and International Relations* (Oxford: Oxford University Press, 1990), p. 83.

[68] Jackson, *Global Covenant*, pp.127-8.

[69] For example, C. Beitz, *Political Theory and International Relations* (Princeton, NJ: Princeton University Press, 1979); C. Brown, *Sovereignty, Rights*; T. Erskine, ' "Citizen of Nowhere" or "The Point where Circles Intersect"? Impartialist and Embedded Cosmopolitanisms', *Review of International Studies*, 28 (2002), pp. 457–78; A. Linklater, *The Transformation of Political Community* (Cambridge: Polity, 1998); D. Archibugi, D. Held and M. Kohler (eds.), *Re-imagining Political Community* (Cambridge: Polity, 1998); M. Frost, *Towards a Normative Theory of International Relations* (Cambridge: Cambridge University Press, 1986); M. Cochran, *Normative Theory in International Relations: A Pragmatic Approach* (Cambridge: Cambridge University Press, 1999).

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rule. The stereotypical manifestations of this position are those works that make appeal to Empire, or to versions of the global or international state.[70] Might any one of these provide us with a credible social framework within which the emergence and evolution of legitimacy principles could be traced? Does thinking about global governance as morally interdependent communities of fate, on the one hand, or as Empire, on the other, offer a convincing sociological framework for a theory of legitimacy within the global order?

One possible analytical strategy for dealing with these weighty issues can be developed from Weber's treatment of the topic. It has been noted that there is in Weber's account of legitimacy, over and above what he says about authority specifically, also 'an apparently unrelated discussion of legitimacy concerned with "orders" '.[71] In elaboration, one writer makes the further distinction between norms and authority. In the former, actors orient their behaviour towards the same norms; in the latter, 'the *commands* of certain actors are treated as binding by the others'.[72] The query suggested by this is whether it is 'possible to separate discussion of the legitimacy of orders from the legitimacy of authority'.[73] Certainly, while Weber wrote extensively about legitimate forms and sources of authority (and it is for this that he is routinely invoked), he did also write some short passages about legitimate orders. He avers that 'legitimacy may be ascribed to an order' in several ways (tradition, affectual attitude, rational belief in value, legality).[74] This distinction will be adopted, without in any way entering into a detailed discussion of the precise sense in which Weber employed this terminology, and simply as an organising device for the remainder of this analysis. The tentative scheme that can be drawn from this suggestion is that legitimacy has purchase in two arenas: one is that of authority and focuses upon commands; the other is the broader normative order within which that nexus of command may exist. For the purposes of further analysis, these will be discussed, respectively, as the legitimacy of authority, and as the legitimacy of order. The argument will be that, globally speaking, we can distinguish between two emerging discourses of legitimacy, each appropriate to differing facets of the global order. The first is the authority structures of that order and the legitimacy of its systems of rule. The second is the normative principles that define membership and inclusion within that order, and entitlement to consultation and participation, but are not yet (fully) articulated in a system of commands. Since, as stated, the concept of global governance is firmly tied to structures and processes of authority, the framework of governance and resistance delivers some mileage in dealing with the first. It remains, however, largely unhelpful in understanding the second.

There are various lines of argument that can be drawn upon in support of this distinction. According to the widely cited version found in Thomas Franck, part of

[70] Hardt and Negri, *Empire*; M. Shaw, *Theory of the Global State: Globality as an Unfinished Revolution* (Cambridge: Cambridge University Press, 2000); T. Barkawi and M. Laffey, 'Retrieving the Imperial: Empire and International Relations', *Millennium*, 31 (2002), pp. 109–27; 'Exchange: What Empire? Whose Empire', *Millennium*, 31 (2002), pp. 318–45.

[71] M. E. Spencer, 'Weber on Legitimate Norms and Authority', *British Journal of Sociology*, 21 (1970), pp. 123–4.

[72] Spencer, 'Weber', p. 124.

[73] Ibid., pp. 123–4.

[74] Weber, *Economy and Society*, p. 12.

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the definition of legitimacy is that 'it is a property of a rule or rule-making institution'.[75] In any such account, discussion of legitimacy can take place only within a context of rules and rule making. Its focus is naturally upon the authority with which the rules are made and applied. Typically, standard discussions of legitimacy draw attention to its three key dimensions: conformity to established rules, justifiability of the rules themselves, and consent to the power relation expressed in this system of rule.[76] All of these criteria relate directly to rule, command and authority. It is from this angle that Adam Watson felt able to describe legitimacy as 'the acceptance of authority, the right of a rule or a ruler to be obeyed'.[77]

When this is placed in juxtaposition to some classic accounts of international order, interesting results begin to emerge. Most famously, Hedley Bull insisted that order was a 'pattern of human activity that sustains elementary, primary or universal goals of social life'.[78] Significantly, he was at pains to detach order from rules as such. While rules were frequently the basis of orderly human conduct, he believed that 'order in social life can exist in principle without rules', and it was therefore best to regard rules as a 'means of creating order', not as 'part of the definition of order itself'.[79] If we allow this much, and combine it with the reasoning of Franck, then it follows that legitimacy pertains to the realm of rules and rule making, but not necessarily to the social order as a whole. This circle of reasoning is completed when Bull offers his account of international society within which states bind themselves 'by a common set of rules', as the defining quality of that society.[80] Within the confines of international society, we are again entitled to engage in legitimacy talk because we are back in the realm of rules. Does this mean that Bull would have regarded legitimacy as irrelevant to the wider concept of global order? This seems unlikely. Such a conclusion would sit uncomfortably with other elements of his thought. For example, he accepted the reality of a global political system (based on the global system of states, but also moving beyond it), and perhaps more pertinently he accepted also the notion of 'world order' as something 'wider than order among states; something more fundamental and primordial than it; and also, I should argue, something morally prior to it'.[81] Given such a moral hierarchy, it seems implausible that Bull would have felt wholly at ease with the notion that legitimacy could be expressed within an international society, but not as part of the global order as a whole. If such a conclusion is to be avoided, there must be scope for a separate discourse of legitimacy pertaining, not to global rules and authority as such, but instead to the distinct terrain of community and membership within the global order.

Global authority

The first idea treats the global order as a system of rule, and hence gives rise to an agenda about the legitimacy of authority. This is most clearly to be found in the

[75] Franck, *The Power of Legitimacy*, p. 16.
[76] Beetham, *Legitimation of Power*, p. 16.
[77] Watson, *Evolution*, p. 17.
[78] H. Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977), p. 5.
[79] Bull, *Anarchical Society*, p. 7.
[80] Ibid., p. 13.
[81] Ibid., p. 21.

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various ideas about Empire or the global/international/world state,[82] albeit that all of those cluster very much to the 'hierarchy', as opposed to 'anarchy', end of the global governance spectrum. Central to these sundry claims is that, whether or not a global community exists in any kind of normative sense, we are all increasingly subject to common and integrated forms of political and economic rule. Hardt and Negri define the global order as an Empire, by which they mean that 'sovereignty has taken a new form, composed of a series of national and supranational organisations united under a single logic of rule'.[83] Note here, in particular, that the concentration is upon a 'logic of rule'. This global order, we are told, is 'still virtual' but, nonetheless, applies 'actually to us'.[84] Moreover, this unified logic of network power is spawning its own forms of legitimacy that are endogenous to it. It makes no appeal to traditional principles of international legitimacy, such as those expressed through international organisations. Instead, the 'legitimation of the imperial machine is born at least in part of the communications industries' and is a 'subject that produces its own image of authority'. It is self-referential and self-validating.[85] It evokes its own distinctive forms of resistance to this type of governance. The somewhat idiosyncratic appeal that these authors make to the 'multitude' is for it to take advantage of the 'new possibilities to the forces of liberation'. The imperial order cannot be overturned, they insist, by local forms of resistance to it. Instead, it can only be reshaped, at a global level, by 'constructing a counter-Empire, an alternative political organization of global forces and exchanges'.[86] What is interesting about this formulation, and what reinforces the above contention about the bewildering variety of the politics of resistance on offer, is that the task is construed, not really as one of resisting Empire at all, but instead of supplanting it with an alternative, but equally global, system. This would entail reconfiguring it, to be sure, but very much in its own original image. There can be no more compelling illustration of the general thesis that anti-globalisation is a strategy of globalisation by other means.

Theories of Empire and the global state assuredly lie towards the extreme end of those perspectives on global governance that insist upon the reality of an extant network of rule, claimed to be shaping our lives. But similar ideas are to be found throughout the global governance literature more generally. What we face, it has been suggested, is not the reality of a 'single institution', but nonetheless 'the networks and linkages that bring together different organizations, interest groups and forms of authority in relation to specific regulatory tasks'.[87]

Thus viewed, legitimacy – considered as a problem about the authority to rule – is deemed reducible to that of democratisation. What current arrangements lack is robust channels of consent and accountability, resulting in a 'global democratic deficit that must be reduced if world-wide arrangements are to be legitimate'.[88]

[82] On the former, see Hardt and Negri, *Empire*. On the latter, see variously Shaw, *Global State*; Barkawi and Laffey, 'Retrieving the Imperial'.
[83] Hardt and Negri, *Empire*, p. xii.
[84] Ibid., 19.
[85] Ibid., p. 33.
[86] Ibid., p. xv.
[87] M. Duffield, *Global Governance and the New Wars: The Merging of Development and Security* (London: Zed Books, 2001), p. 44.
[88] A. Linklater, 'The Evolving Spheres of International Justice', *International Affairs*, 75: 3 (July 1999), p. 477.

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Conceived as an issue in the authority of rule, legitimacy boils down to the need to institute effective democratic procedures.[89] The problem lies in knowing what this might look like. If, as seems plausible, it is the case that 'legitimate political activity is inseparable from responsibility',[90] then to whom should the myriad of policy-makers that contribute to global regulation in one way or another be held accountable? This is the core issue facing democratisation,[91] and what it is above all concerned with is the definition of the affected constituency.

Global order

This second debate – about the legitimacy of order – is more inchoate in form, but revolves around notions of community, citizenship and participation. At stake here is not the authority of rule, but the quest for a normative account of what it means to be part of this order, who is entitled to membership of it, and of the various rights and responsibilities entailed by such membership. By analogy with the earlier discussion of legitimacy within international society, this discussion of legitimacy within the global order is largely preoccupied with its constitutive basis, including rightful membership, and is not yet about the legitimacy of its procedures and systems of rule. The key theme that runs through this debate is 'who has a right to have rights?'[92] It is nonetheless the emergence of this dialogue that gives expression to the more obvious legitimacy deficits experienced in relation to the rule-making aspects of global governance. We cannot know what rule-making structures are suitable to be put in place until we have settled the primary issues of who is to count for membership, within what context, and for what purpose. Although the common diagnosis is of a legitimacy crisis in global governance, widely construed as a crisis of authority, it might more properly be said that the pressing legitimacy crisis, in terms of the global order, is actually about the nature of the community linked by the order, and about whose voice is entitled to be heard on what issues.

We return here to Franck's account of the secondary rules, and how they are not dependent upon explicit consent or consensus, and hence not directly about issues of democratisation. States, he avers, are obligated 'as part of their own validation; that is, as an inseparable aspect of "joining" a community of states'.[93] The same might be said of participation in the global order. Its more fundamental problem is less about the terms of authority, and more to do with the nature of this 'joining', and how to provide a coherent account of its terms of recognition. As a specific illustration, we can note the observation that the *ad hoc* consultation of various individuals and

[89] D. Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity, 1995); B. J. Barber, 'Democracy and Terror in the Era of Jihad *vs*. McWorld', in K. Booth and T. Dunne (eds.), *Worlds in Collision: Terror and the Future of the Global Order* (Basingstoke: Palgrave, 2002), p. 255; C. N. Murphy, 'Global Governance: Poorly Done and Poorly Understood', *International Affairs*, 76 (2000), p. 790; Devetak and Higgott, 'Justice Unbound?' p. 490.

[90] Coicaud, *Legitimacy and Politics*, p. 33.

[91] See C. Hill, *The Changing Politics of Foreign Policy* (Basingstoke: Palgrave, 2003), pp. 298–300.

[92] Coicaud, *Legitimacy and Politics*, p. 234.

[93] Franck, 'Legitimacy in the International System', p. 758.

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INGOs by international organisations rests 'on the quintessentially corporate concept of the stakeholder', and not on any concept of 'popular sovereignty, or a universal citizenship'.[94] What this highlights is that the problem has less to do with the structure of authority, than it is with finding the relevant model in terms of which those embraced by the order will be recognised, and their entitlements understood.

These thoughts can be reinforced by appeal to the equally 'incoherent' nature of the international order, appearances to the contrary notwithstanding. If order is a 'pattern' that sustains certain 'goals', it is, in principle, distinct from a system that 'authoritatively allocates' these values, and hence from rule and command. Order in this sense, and detached from rule as such, has been argued by others to be the very bedrock of international legitimacy. It constitutes the basic values in accordance with which legitimacy can be said to exist at all, and adherence to it adjudged. As argued by one exponent of this view, order 'provides an international value system against which it is possible to make judgments about the legitimacy of international institutions and international practices and procedures'.[95] However, even within a specifically 'international' setting, this value system is far from definitive, and embraces tensions and possible contradictions. The amalgam of sovereignty, non-intervention, self-determination and human rights – let alone the shifting bases of rightful membership, such as dynastic, popular and national – that looms large in the evolving international society raises questions about the coherence of the value system that underpins even that society. It comprehends a number of distinct 'legitimacies' since, in Coicaud's words, this 'kind of normative indeterminacy results when international principles constitute a normative order', but one that 'represents a relative plurality of values that is not entirely convergent'.[96] Yet others regard this tension as being even more deep-seated. It has recently been suggested that international society's concept of order is itself based on a fundamental ambivalence, since it espouses the values of both 'toleration' and of 'civilization'. By this is meant that it has been pluralistic towards its core members, and tolerant of difference between them, while at the same time seeking to impart civilisation to those outside.[97]

On these grounds, we should not dismiss talk of legitimacy in a global order because it appears nebulous. If these arguments are allowed, then even within the parameters of international order there is no clear and unambiguous set of basic values to be found, but only shifting compromises and tentative adjustments. To the extent that international legitimacy rests on the values embodied in any order, it rests on shifting sands. It is likely to be equally so with the search for the values embodied in any emerging global order. Thus viewed, the emergence of legitimacy within the global order is likely to be no more and no less the result of political processes – conflict and accommodation – than has been the quest for legitimacy

[94] Heiskanen, 'Introduction', in Coicaud and Heiskanen (eds.), *Legitimacy of International Organizations*, p. 12.
[95] Williams, *Legitimacy in International Relations*, p. 12.
[96] Coicaud, 'Conclusion' in Coicaud and Heiskanen (eds.), *Legitimacy of International Organizations*, p. 538.
[97] E. Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge University Press, 2002), esp. pp. 122, 148.

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within international society. This conflict and accommodation is too multi-layered and diffuse sensibly to be portrayed in terms of governance and resistance.

Here the parallel with the earlier discussion of international order can again be drawn. If much mainstream IR theory is incomplete in its suggestion that legitimacy causes stability, it is for the reason that it misconstrues legitimacy as a 'thing', separate from the process by which agreements about basic values are attained. The notion of legitimacy is our shorthand description of that process, and not something separate whereby legitimacy produces those results. By analogy, we should not imagine that there is a magical path by which the global order can acquire legitimacy, and thereby solve all its contingent problems of instability. This is to get it the wrong way round. Only once the global order is sufficiently stabilised – meaning by this which actors will be recognised and for which purposes, and how authority to decide is to be parcelled out amongst its various institutions – will this begin to express itself in the appropriate principles of legitimacy. The correct analysis must be, not that the system of global governance is illegitimate (since that assumes that its principles of legitimacy *already* exist, but are in some sense being disregarded or violated), but instead that they have not yet been 'constructed', or articulated in a developed form. Only when they have been so will we know that the order has become 'stable'. It is the working out of the politics of legitimacy that lies at the heart of contemporary global governance, and the manifold evidences of resistance at the present time. Actors within the global order are searching for, and competing about, the principles of legitimacy that deserve respect. When the massive and dynamic upheavals that currently beset us have reached some new point of political equilibrium, this stability will become manifest in the deployment of more coherent accounts of the global order's own legitimacy principles.[98] We might, at that stage, also feel comfortable to speak of a global society instead.

Conclusion

The issue of legitimacy is a central one in the current development of systems of global governance. However, this article has dissented from the view that we can simply subtract the resistance from the governance to reach an accurate measure of the legitimacy deficit under which the global order currently labours. In its stead, it has set out two key provenances of legitimacy – that pertaining to authority (and largely focused on the right to rule), and that pertaining to order (and largely focused on issues of community). It concludes that the debate about legitimacy in the global order has been overly concentrated upon the former, at the expense of the relative neglect of the latter.

At the level of international society, it has been demonstrated that the existing arguments for a causal relationship between legitimacy and international stability remain unpersuasive: it is just as convincing that a consensus about legitimacy

[98] It is important to stress the role of power in such recognition outcomes, as acknowledged in earlier legitimacy struggles of this kind. See H. Spruyt, *The Sovereign State and its Competitors: An Analysis of Systems Change* (Princeton, NJ: Princeton University Press, 1994); and Bukovansky, *Legitimacy*.

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emerges because of new conditions of political stability and equilibrium than that the causality works in the opposite direction. Alternatively expressed, the language of legitimacy is a way of describing what we mean by international stability, rather than a separate source of it. For that reason, any simple prescription that we need to make the global order legitimate, thereby to stabilise it, is doomed to be inadequate as policy, and incoherent as theory.

More specifically, when we explore the constituents of international legitimacy in historical international societies, we discover a recurrent fusion between its two separate, but profoundly intertwined, notions of consensus and fit membership. It is the political bargains on these two core issues that form the basis of any equilibrium in a political system, and allow us to describe its indigenous legitimacy principles.

By the same token, the quest for legitimacy principles within the wider global order encounters two major obstacles of its own. The first is the search for reasonable working principles around which the key players – both state and non-state actors – can coalesce. These concern the right to rule, and the procedural principles that will be accepted as signifying consent, if not consensus. More fundamentally, however, the order remains unsettled by its inability, as yet, to develop agreed conceptions of rightful membership: the entitlement to be heard. If the global order ever comes up with satisfactory solutions to these two sets of problems, it will have taken greater strides towards enduring stability. This will not have been caused by greater legitimacy, but will reflect the political bargains that have allowed these consensual legitimacy principles to be expressed in the first place. Hurrell is certainly correct to emphasise the inescapably political nature of legitimacy, as grounded in compromise, when he stresses its role as the 'pragmatic meeting point between political effectiveness and the need for moral consensus'.[99] Legitimacy cannot solve the problems of global governance, but will begin to emerge only when these problems are on the way to finding a solution. There is no simple, and bipolar, struggle between governance and resistance, but instead a multi-level politics directed at both. Legitimacy has no power to bring an end to this complex political process, but can emerge only, if at all, when that process has run its temporary course, and reached a new point of equilibrium which can find expression in such agreed principles. The pervasive sense of illegitimacy within the current global order is but a measure of the long distance this process still has to run.

[99] A. Hurrell, ' "There Are No Rules" (George W. Bush): International Order after September 11', *International Relations*, 16 (2002), p. 202.

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