Rethinking Hierarchy in International Relations - Authority, de facto Rule and the Legitimacy of International Organizations

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Introduction

In recent years, scholars of international relations have increasingly paid attention to hierarchies in global politics. Already since the late 1980s, authors proposed a paradigm shift away from the “Anarchy Problematique” (Ashley, 1988) towards the notion of “global governance”. In his seminal work in 1997, James Rosenau defined global governance as “an order that lacks a centralized authority with the capacity to enforce decisions on a global scale” (Rosenau 1992, p.7). Rosenau’s conception of global governance intends to capture how an effective order with regulatory capacity is viable in the international system despite the absence of a world state. Yet, his broad definition has nothing to say about who makes decisions, how order comes about or how enforcement takes place. In short, Rosenau’s conception of global governance does not capture vertical differentiation (Donelly, 2006), formal and informal hierarchies (Lake, 2009), or simply the “Problematique of Rule” (Daase & Deitelhoff, 2015). Normatively, this question gains relevance as the scope and depth of international institution’s exercise of power increases. This paper is devoted to the question under which conditions the exercise of power by international organizations (IOs) can be considered legitimate.

To this end, I first seek to clarify how we should conceptualize hierarchies between international organizations (IOs) and their governance-addressees. I distinguish political authority from the exercise of *de facto* rule. While both constitute exercises of structural power, only relationships of authority are characterized by a normative claim, which in turn generates corresponding duties on the person or institution exercising this power. Against authors such as David Lake (2010), Michael Zürn (2015) and Armin von Bogdandy et al. (2010), who proposed to replace the anarchy paradigm in IR by an authority paradigm, I argue that the bulk of IO power exercise we currently observe represent *de facto* rule, that is, illegitimate forms of structural power. Against formalistic conceptions of hierarchies as rule (cp. Daase & Deitelhoff, 2015), I argue that the concept of political authority remains valuable as a normative yardstick against which we should evaluate the legitimacy of global governance institutions.

In section two, I claim that the exercise of power on behalf of international organizations vis-à-vis their governance addressees constitutes an increase in *de facto* rule, rather than authority. To support this claim, I sketch some broad empirical trends that document the increase in IO competencies along the policy cycle, including agenda-setting, decision-making, implementation, monitoring and rule interpretation, enforcement and evaluation (cp. Zürn, 2016a).

This diagnose begs the question which standards of legitimacy are applicable. In order to approximate an answer, I contrast Joseph Raz’s (1986) service conception of authority which is closely related to the notion of “output legitimacy” (Scharpf, 1999), with an input-oriented conception – the authority of democracy (Christiano, 2008) in section three. Despite IO
engagement that is directly aimed at the protection of human rights, I argue that only democratic procedures are capable of generating legitimacy – for governments as well as for IOs.

Finally, I turn to the most challenging part of this paper: the question, how relations of de facto rule could realistically be translated into relations of legitimate rule in a non-ideal world. Against the background of current empirical developments, I argue that a model of cosmopolitan pluralism built on the principles of deliberation and accountability is most promising.

1. Conceptualizing Hierarchies in IR – Power, Authority and Rule

Are we moving from an “Anarchy Paradigm” towards an “Authority Paradigm” in International Relations? As I intend to show, the conceptualization of power relations needs further elaboration. While the concept of authority provides an important normative impetus, we should distinguish authority from illegitimate forms of structural power, which I will refer to as de facto rule.

In everyday language use, it is common to use the term authority to describe a personal trait. If a person is said to “have authority”, that person is thereby assigned a particular status that gives others reasons to follow that person’s instructions. Often, the basis of this kind of personal authority is expertise: For instance, we might recognize a physician as an authority based on her reputation as an expert. If we do so, within her field of expertise we are likely to take her advice as authoritative. Other times, people are said to have “natural authority,” which does not refer to some special expertise but rather to a person’s charismatic ability to get others to follow his commands. Though inherently mythical, Weber showed that this kind of charisma has long been a traditional source of authority (Weber 1979, ch. xiv). To a certain extent, this understanding of individual authority also informing our thinking about institutional authority. This is likely not just a coincidence: After all, historically it has only been quite recently that institutional forms of rule have replaced personal forms of rule such as monarchy.

What the common language use of the concept underlines is that authority is a form of power. In line with the canonical definition of Robert Dahl “A has power over B to the extent that he can get B to do something that B would not otherwise do.” (Dahl, 1957, pp. 202-203). Following Baldwin, “doing” or “behavior” in this context should not be understood narrowly, but may include “beliefs, attitudes, preferences, opinions, expectations, emotions and/or predispositions to act” (Baldwin, 2013, p.2). Importantly, Dahl’s definition is a relational one. Rather than being a property of an actor, power is conceived of as an actual or potential relationship between two or more actors (e.g. persons, collectivities, states). This perspective on power opens up the possibility to specify in which issue area A has power over B. Moreover, there are several means through which A can influence B, including military, economic, but also discursive means.

I am concerned with the power of international organizations. When an institution claims authority, it claims political authority, a claim which does not merely express its will to power,
but instead the right to rule. As Joseph Raz notes: “It is common to regard authority over persons as centrally involving a right to rule, where that is understood as correlated with an obligation to obey on the part of those subject to the authority” (Raz 1986, p.23).

Such political authority can be understood as a particular type of structural power. Steve Lukes (1974) proposed to pay special attention to ways in which A shapes the preferences, wants or thoughts of B as a particularly effective means of influence and stated that “A exercises power over B when A affects B in a manner contrary to B’s interests” (Lukes 2005, 30). Notions of structural power as opposed to power in direct interactions have subsequently been at the heart of post-structuralists (cp. Foucault, 1979), critical theorists and neo-Marxists (cp. Gramsci, 2011). Despite important theoretical differences, structural accounts of power share an emphasis on the ways in which power in interactions is shaped by a larger structural context of deep-seated and often invisible power relations. Structural accounts of power direct our attention to the manifold ways in which power is exercised in international relations, be it among states, among international organizations (IOs) and states or among IOs and individuals.

In line with these accounts, the “right to rule” does not primarily express itself in the direct interactions between an institution and individuals or groups of individuals. These direct interactions are an important manifestation of authority; yet exercising authority essentially involves the attempt to explicitly and legitimately shape structural power relations. Many actors and institutions intentionally or habitually shape structural power relations. When an institution claims political authority, however, it sets itself the task to explicitly regulate certain elements of structural power relations and demands from others that this regulation is followed. Most importantly, political authorities claim the competence to regulate normative relations of various societal actors, e.g. through criminal law or by passing a law that specifies the social and environmental standards private enterprises need to respect when doing business. Yet, instances of exercising political authority through legislation are only one instance of exercising structural power. Because relations of structural power are pervasive and elusive at the same time, no single institution will ever be able to regulate all relevant dimensions of structural power. Yet, the promise of political authority is to make forms of structural power transparent, and to regulate them in a legitimate way. This is what distinguishes authority from alternative forms of structural power, which lack an explicit and justifiable claim to legitimacy. I will refer to instances of the latter kind as de facto rule.

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1 In contrast to this definition, I hold that power does not have to be detrimental to B’s interests. In fact, Lukes himself acknowledges this in the second edition of his book (cp. Lukes, 2007; Baldwin, 2012).
2 Structural accounts of power can still be embedded in Dahl’s general definition of power (see above).
3 To be sure, an authority rules as well. Where an actor does not possess a capacity to exercise power, it can exercise neither authority, nor other forms of structural power. Yet, de facto rule here designates the exercise of structural power that is different from authority.
In his discussion of international hierarchies, Michael Zürn rejects this way of linking authority and legitimacy. While he agrees that authority always implies a claim to legitimacy, he asserts that there can be authority without legitimacy. Zürn writes that “since Weber points to the variety of sources that can produce obedience, legitimacy cannot be a necessary component of authority” (Zürn, forthcoming, p.7). For him, it is the notion of “voluntary deference” that lies at the heart of deference to an authority (Zürn, 2015). With this conception of authority, Zürn conflates the distinction between different motivations for submission and thus between obedience and obligation (Jacob & Schettler, forthcoming). For instance, people may defer to an institution’s commands on the basis of rational self-interest. Especially when resistance comes at too high a cost, it can be very rational not to resist a clearly illegitimate power. This is different from authority that generates an obligation to obey. In principle, such an obligation also holds when it runs against a person’s interest, as it may be the case where citizens are obliged to pay their taxes. Moreover, Nicole Deitelhoff and Christopher Daase rightly pointed out that deference might be the result of preceding coercion, habituation and/or an internalization of existing power structures (Daase and Deitelhoff, 2015). Clearly, such obedience crucially differs from a situation in which people recognize a moral obligation to comply with an institution’s commands. Moreover, Zürn conceptualizes authority as the more foundational concept than rule. For him, an authority relationship turns into rule only if the commands are backed by coercion and if the relationship is encompassing in scope rather than specific (Zürn, 2015, pp.321-322). Because for Zürn all forms of IO power constitute different forms of authority, and because he defines authority as “voluntary deference”, he is unable to distinguish between legitimate and illegitimate exercises of power (cp. Daase and Deitelhoff, 2015, pp.302 – 303).

One encounters this problem in other recent conceptualizations as well. For instance, Armin Bogdandy et al. (2010) suggest defining international authority as:

“the legal capacity to determine others and to reduce their freedom, i.e. to unilaterally shape their legal or factual situation. An exercise is the realization of that capacity, in particular by the production of standard instruments such as decisions and regulations, but also by the dissemination of information, like rankings. The determination may or may not be legally binding. [...]” (Bogdandy et al., 2010, p.11)

Whereas the mechanisms of exercising power listed by Bogdandy et al. may have significant practical impact, the relationship falls short of authority where IOs do not claim a right to rule. Similarly, David Lake proposes to classify the United States’ informal empire over the Caribbean littoral as an instance of authority (Lake, 2010, p.600). Michael Zürn, Bogdandy et al. as well as David Lake thus mistake authority for what in fact constitutes de facto rule, that is, an illegitimate exercise of structural power.
In response to these shortcomings, Nicole Deitelhoff and Christopher Daase propose to adopt a more formal perspective on hierarchies that is void of any normative baggage. For them, the paradigm shift in IR should be one from an “Anarchy Problematique” to a “Problematique of Rule” (Daase & Deitelhoff, 2015). They define rule as

“a structure of institutionalized superordination and subordination through which basic goods and influence are distributed, alternatives and contingency are minimized and expectations are stabilized” (Daase and Deitelhoff 2014, p.11).

This understanding fits with my understanding of structural power. Yet, I insist on the distinction between authority and de facto rule as two distinct types of structural power. Thus, I want to preserve the normative ideal of authority while at the same time acknowledging the perseverance of illegitimate exercises of power.

To sum up, authority relations are relations of power. When an institution claims political authority, this involves two normative claims: (a) that the institution has the right to rule, and (b) that those subject to the institution have a corresponding duty to obey. Moreover, authority is an instance of structural power, whereby authority-holders seek to change the normative relations of their governance addressees. Prominent conceptions of hierarchies in IR advanced by Bogdandy et al., David Lake and especially Michael Zürn, risk mistaking illegitimate exercises of structural power for authority. Christopher Daase and Nicole Deitelhoff’s formalist approach on the other hand fails to differentiate legitimate from illegitimate exercises of power. I propose to distinguish political authority from mere de facto rule. This conceptual clarification helps to separate the wheat from the chaff. While both are instances of structural power, only authority is normatively desirable.

2. The de facto Rule of International Organizations

In order to detect authority in the international realm, one should look for instances in which an international institution exercises structural power and legitimately claims the right to do so. In this section, I argue that the empirical trends concerning IOs exercises of power point to a different direction: while they indicate an increase in the exercise of structural power, IOs refrain from explicitly claiming a right to rule. Rather, we observe an increase in exercises of de facto rule. To make this claim plausible, I briefly address major empirical development along different phases of the policy-cycle, including 1) agenda setting, 2) decision-making, 3) implementation, 4) monitoring and rule interpretation, 5) enforcement and 6) evaluation (cp. Abbot & Snidal, 2009;
The World Bank is a particularly interesting example for my purpose, as it walks the line between IOs who are widely recognized of possessing far-ranging capacities to issue collectively binding decisions (e.g. the UN Security Council (cp. Hurd, 2002)), and those whose authority is considered merely “epistemic” (e.g. the International Panel on Climate Change (IPCC) (cp. Zürn et al., 2012)).

First, international organizations play an increasingly important role in the agenda setting of world political issues. In concrete terms, they engage in designing transnational guidelines, but also shaping concepts that are central for the policy discourse and in shaping the agenda of international summits such as the G7/G8. Several IOs, including the OECD, the World Bank and the International Monetary Fund (IMF), have developed research capacities that surpass those of most states in the world. As a result, they are in a good position to launch transnational guidelines that provide guidance to a variety of public and private governance actors. Examples include the “Principles for Good International Engagement in Fragile States” by the OECD, as well as the “Guidelines for Public Debt Management” issued jointly by the World Bank and the IMF. Moreover, international organizations develop concepts that shape the global policy discourse. For example, the World Bank’s coinage of the term governance in the late 1980s and early 1990s has been very successful to introduce a novel perspective on development (Offe, 2008; Pagden, 1998). In 1989, the World Bank published a report analyzing the economic and political crisis in Sub-Saharan Africa. The report held that institutional failure was the predominant cause blocking development. The World Bank president at the time, Barber Conable, stipulated that a market economy needed to be embedded in a framework of “good governance” understood as an efficient public sector, the rule of law and accountability (World Bank, 1989). “Governance” was defined by the World Bank as “the exercise of political power to manage a nation’s affairs” (World Bank, 1989, p.69). Since the publication of this report, the World Bank and other major development organizations, primarily the UNDP, picked up the idea that Africa faced a “crisis of governance”, for which the promotion of “good governance” was the solution (Kötter, 2013). Over the next two decades, “good governance” became the dominant concept informing development approaches for the Western donor community at large (Nuscheler, 2009, p.15). This trajectory indicates a first important dimension of the World Bank’s structural power - the power to establish conceptual guidelines transnationally in the area of development.

Secondly, majoritarian decision-making has replaced a strict consensus requirement and in consequence vastly increased the ability of international institutions to act. Today, roughly two-thirds of all international organizations with membership of at least one major power have the opportunity to take majority decisions and thus the ability to cancel vetoes (Blake & Payton, 2004).

The stages are drawn from the public administration literature which has been adopted to the study of international institutions. I do not include “knowledge generation” (cp. Zürn et al., 2012) as a seventh category, as I conceptualize knowledge creation as a form of agenda setting.
In a recent, comprehensive study, Lisbeth Hooghe and Gary Marks collected data on 74 IOs over the period from 1950 – 2010, looking at the delegation of tasks from states to IO bodies. Specifically, they looked at the competencies of IO bodies to access or suspend members, to reform their own mandate, allocate budgets and policy-making. Their standardized delegation index shows a steady increase in competences of IO bodies, especially among larger and more complex organizations where increasing IO autonomy promises to reduce the transaction costs of cooperation (Hooghe & Marks, 2015).

Third, the implementation of policies and projects is a source of power, as this guarantees the possibility to shape the symbolic order of a given local context. While several international organizations (e.g. development banks) formally leave project implementation to state agencies, they may shape implementation by working through actors that are largely governed (or have even been created) by the IO. A prominent example for such agents are so-called “financial intermediaries” such as banks, insurance companies, or private equity funds that the private investment arm of the World Bank, the International Finance Corporation (IFC) uses. In fact, a large and growing portion (currently more than 60%) of IFC-funding is provided to the private sector through such third-party entities, which in turn have tremendously grown in significance (Geary, 2015). Moreover, IOs directly implement projects where they seek to build state capacity. Next to its core business of lending money, the World Bank also engages in non-lending activities. For instance, a World Bank project aimed at private sector development and financial sector modernization would typically also include a “Technical Assistance” component. In World Bank terminology, “Technical Assistance” covers a wide range of activities from trainings of bureaucrats, legal advice in carrying out reforms as well as building whole institutions from scratch. In short, all forms of legal, organizational or public policy expertise fall under this category. Because the World Bank reproduces certain systems of knowledge in their training and advice, technical assistance constitutes a standard mechanism through which discourses on “governance” and “development” materialize (Jacob & Schettler, forthcoming).

Fourth, international institutions increasingly perform monitoring tasks and rule interpretation. As the number of international treaties is growing, there is a concomitant need for actors who process and publicize information on treaty compliance. Treaty regimes either empower international organizations to conduct such oversight (e.g. the International Monetary Fund for the financial system), or they delegate regulatory monitoring tasks to international secretariats (Siebenhüner & Biermann, 2009). Relatedly, the task of rule-interpretation has increasingly shifted to quasi-judicial bodies. While there were only 27 such bodies in 1960, there were 97 in 2004 (Alter, 2009). The vast bulk of rule interpretation and monitoring proceeds behind the stage of public debate. An exception in this regard and hence a potential candidate for authority in this group is the WTO’s Appellate Body. The purpose of this Quasi-Judicial body is to resolve trade disputes among member states. To this end, it has very stringent sanctioning
powers. As Lake notes, it “issues binding rules, expects and receives broad compliance from member states, and authorizes punishment against violators” (Lake 2010, p.602).

*Rule enforcement* remains rare in international politics. Yet, it is here that we observe the clearest instances of IOs claiming authority. A first example is the United Nations Security Council (UNSC), which exercises considerable power over the UN’s member states and explicitly claims a right to rule. Both its actions and its claim to authority, however, are limited in scope to the prevention of war and, more recently, the protection of human rights (Hurd 2008, p.185). International transitional administrations, such as those that have been established in Bosnia, Kosovo or East Timor, make a very broad claim to authority: at least temporarily, they claim the right to assume the role of a state government (Jacob 2014, Wilde 2001). The International Criminal Court (ICC) is yet another instance of political authority, for it claims the right to issue commands that are binding for all states that have submitted themselves to the court by signing the Rome statute (Bogdandy & Venzke, 2012, p.18). Whereas the UNSC, Transitional UN Administrations and the ICC demand a right to rule, they clearly remain the exception among international organizations.

The few number of institutions tasked with rule enforcement contrasts with the extensive amount of international organizations that evaluate policies and institutions through rating and rankings. According to Michael Zürn, transnational institutions which do not make binding decisions, but have the competence to make consequential interpretations have risen dramatically since the last two decades (Zürn, 2016). For instance, rating agencies such as the International Accounting Standards Board (Büthe & Mattli, 2011), the International Panel for Climate Change (Gale et al., 2015) or the PISA studies of the OECD (Knodel et al., 2015) have gained in relevance. At the World Bank, Country Policy and Institutional Assessment (CPIA) ratings determine the future distribution of loans and subsidies. With the help of an “Assessment Questionnaire”, World Bank country teams evaluate the member state in question according to 16 criteria grouped together in four clusters (“Economic Management”, “Structural Policies”, “Policies for Social Inclusion” and “Public Sector Management and Institutions”). In combination with a benchmarking report, this aggregated evaluation is consequential, since it constitutes the basis on which the Board of Governors decides over the conditions for credits/loans of a given country (Riegner, 2012). Rankings, likewise, can amount to effective instruments of power. Prominent examples are the Worldwide Governance Indicators (WGI) which have been developed by the World Bank to capture the governance performance of its member states since 1996. Covering six key dimensions of “governance”, countries are ranked according to e.g. government

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5 Transnational religious organizations constitute an interesting case of authority that draws on a range of dimensions of the policy cycle vis-à-vis their constituencies. Religious institutions such as the Al-Azhar University in Cairo, the Al-Medina University in Saudi Arabia (cp. Bano and Sakurai 2015) as well as the Catholic Church (Casanova 1996) claim the right to issue binding commands to their members around the globe and can effectively enforce decisions by using the threat of social exclusion or stigmatization.
effectiveness, regulatory quality, political stability, lack of violence and corruption. Scores on the WGI do not directly inform the allocation of funds. Yet, because of its public nature, its wide recognition as a tool for measuring governance quality, and because it compares countries, negative results on the WGI follow the logic of “naming and shaming” (Kötter, 2013; Schuppert, 2010) and hence have been rightly described as attempts at “global governance by indicators” (Davis and Fisher, 2012).

In sum, the power of international institutions is on the rise in all dimensions of the policy cycle, albeit to different degrees. While we observe minor increases among institutions claiming authority, they remain the exception. On the other hand, there is a broad increase in competences among institutions who refrain from any claim to political authority. Whether IOs govern by majority decisions or decide autonomously to change their mandate, whether they govern through the development of novel concepts, through projects, trainings or by indicators – in none of these instances do IOs claim a right to rule. Hence, there is no acknowledgement that the exercise of power should be justified. Moreover, their exercise of de facto rule does not create a normative bond from which an obligation to follow commands could be derived.

Rather than constituting a comprehensive regime, the de facto rule on the international level takes place with regard to specific scope and domains (cp. Baldwin, 2013). Hence, the degree to which an IO exercises power may vary considerably between issue areas, countries and the availability of alternatives. In many cases, actors habitually reproduce structural power without being aware of it themselves. Due to the amount of actors in international relations with conflicting, co-existing or overlapping mandates and spheres of influence, the attribution of responsibility becomes increasingly difficult for civil society and academics as well as for IO staff (Daase & Deitelhoff, 2014, 2015). However, the lack of a clear center of power does not imply the absence of IO de facto rule.

Finally, it is important to note that the results of IO interventions could well be beneficial for the World Bank’s governance addressees. For instance, a harmonization of development concepts and practices may increase coherence among the donor community. Ratings and ranking could provide important guidance to donors who seek to increase the impact of their credits, loans and aid. Finally, carefully designed and skillfully implemented projects may achieve the desired results. Yet, this is different from legitimate rule. To the extent to which we observe de facto rule in international relations, we are confronted with a normative problem. This begs the question how we can transform relations of de facto rule into relations of authority – a question to which I turn now.
3. Competing Standards of Legitimacy

In the previous section, I hope to have shown that authority should be distinguished from de facto rule as two distinct forms of structural power. A claim to authority exposes an international institution to demands for adequate legitimation – a demand that the vast majority of IOs seeks to avoid. If successful, however, such legitimation creates a normative bond between the international institution and those subject to it. The latter accept the institution’s right to rule, which in turn allows for demanding and yet stable forms of rule. Conceptually, this renders the notion of ‘illegitimate authority’ implausible. If an institution is not legitimate, it also does not possess political authority. This is not to deny that sometimes a state leader or an institution may claim authority without having the necessary degree of legitimacy. Such an institution de facto rules, yet because it does not have the right to rule those subject to it do not have a moral obligation to comply with its commands. They may have prudential reasons for not resisting such an institution or even complying with its demands (Weber 1979, p.214), but this in itself does not confer any legitimacy – and, importantly, does not create future obligations. Against this conceptual background, I now turn to the question of appropriate standards for legitimacy of international institutions.

Famously, Fritz Scharpf distinguished between input- and output-legitimacy (Scharpf, 1999). This distinction is also represented in different conceptions of authority. By contrasting Joseph Raz’s Service Conception of Authority (SCA) on the one hand, and conceptions of democratic authority (Christiano, 2008) on the other, I intend to show that a conception of output-legitimacy is normatively deficient and hence problematic – for governments as well as for International Organizations. A more thorough analysis of output-legitimacy is due before I move on to argue that only democratic decision-making procedures can provide legitimacy for the exercise of structural power beyond the protection of human rights.

Joseph Raz’s Service Conception of Authority

Instrumental reasons referring to output-legitimacy dominate discussions about the legitimacy of international organizations (cp. Dingwerth & Weise, 2012). The most prominent instrumental justification for political rule has been provided by Joseph Raz (1986) in his seminal works “The Morality of Freedom” and “Practical Reason and Norms”. Therein, Raz understands authority as the possibility of an actor to provide content-independent reasons that create binding reasons for another actor to behave in a certain way. To Raz, authoritative directives do not only provide reasons for the ordered behavior, they also constitute second-order reasons which pre-emptively exclude other reasons that might be relevant for the behavior in question (Raz, 1986, p.42). To justify such authoritative directives, Raz provides a “service conception of authority” (SCA), which centrally relies on his normal justification thesis (NJT) stating that
“to establish that a person has authority over another person involves showing that the alleged subject is likely better to comply with reasons which apply to him [...] if he accepts the directives [...] as binding [...] rather than trying to follow the reasons which apply to him directly” (Raz, 1986, p.53).

In short, the NJT provides a formal structure for the justification of authoritative directives, stating that A’s commands are binding upon B, if they are more likely to bring B’s behavior in line with reasons that apply to him, compared to B acting on his own. This is not to say that the reasons which apply to B also need to be shared by B. Rather, Raz believes that reasons may apply objectively, independent from B’s convictions. Authorities are obliged to make a serious effort to determine those reasons (Raz, 1986, p.47). Without going into further depth, it is important to note at this point that Raz’s conception of legitimate rule is one where authorities contribute to the realization of an independently valid reason of their addressees. In order to illustrate the value of his instrumental account of political authority, Raz discusses different sets of circumstances. First, coordination problems are classical instances where everyone is better off if they follow an authority rather than acting on their own. A good example are traffic rules, where individuals do not have strong preferences with respect to the content of the rules (e.g. left- or right-hand traffic), but collectively benefit if they all follow the same set of rules. Authorities provide for mutually stable expectations. Second, authorities promise to solve cooperation problems. Coordination problems emerge where a certain behavior is rational from the perspective of each individual, but irrational in terms of their collective outcome. In game-theoretical terms, the prisoners’ dilemma (Axelrod, 1984) represents such a choice situation where everyone would be better off if they cooperated, but where uncertainty of the other’s behavior suggests egoistic behavior as a rational strategy. Authorities who alter the choice situation by reliably attributing sanctions to egoistic behavior then fulfill the important task to align individual with collective rationality (Raz, 1986, p.50). Thus, authorities avoid “tragedies of the commons” (Ostrom, 1990). Third, Raz believes that the rule of authorities is binding due to its epistemic quality. Because expert knowledge on a range of issues is spread, authorities are justified where they rule based on superior knowledge. For instance, a regulation on the use of chemicals is binding for me, given the low level of chemical expertise I command myself. Clearly, following the experts’ rule here is a rational strategy for me.

To recap, Raz claims that the exercise of power is legitimate where rules build on reasons that already apply to B and help B to behave in line with them. It is then not only rational for B to behave in line with the authority’s directive, but also an obligation, as the reasons that apply to B represent values that B should realize. In his eloquent critique of Raz’s conception of authority, Schmelzle (2015) does not reject the NJT all together, but provides convincing arguments for a
more limited application to cases where the inherent normative content of a reason cannot plausibly be disputed, i.e. the protection of basic human rights. In short, Schmelze proposes three reasons against the NJT as a standard justification for authority – a) paternalism, b) a failure to differentiate optional and non-optional reasons and c) an unjustifiable bias towards the status quo. 

First, paternalism can be defined as interventions into the liberty of B without B’s consent to further B’s well-being (cp. Dworkin, 2016). Indeed, the NJT is paternalistic as it renders rule binding upon its subjects in cases of optional, as well as in cases of non-optional reasons. Reasons are non-optional where they possess an inherent, objective normative force, irrespective of the fact that B actually chose them. For instance, moral obligations are non-optional and hence constitute a plausible base for rule that rests on the SCA. In contrast, optional reasons are a matter of choice. I am allowed to distance myself from such reasons (e.g. to become a good guitar player) at any point in time. Wherever we leave the ground of non-optional reasons that can be determined in a clear manner, rule based on the furthering of optional reasons despite B’s disagreement is paternalistic.

The distinction between optional and non-optional reasons shows that B’s reasons cannot be viewed as given. For in most cases where norms are needed to enable cooperation, their precise content can be reasonably disputed and thus falls under the category of optional reasons (Schmelze, 2015). In such “circumstances of politics” (Waldron, 1999), no objectively preferable solution concerning precise policies exists. The only non-optional reason is to find a common coordination point. In game theoretical terms, such a situation can be described best with the “Battle of the Sexes” – a scenario where she wants to see a boxing match while he wants to see a ballet performance. Whereas both have an overriding reason to find a common solution, none of their preferences is clearly better than the other one. If authorities would determine a coordination point on the basis of the higher-level, non-optional reasons to find a common solution, this would violate the autonomy of the subjects involved (Christiano, 2008).

Finally, Raz privileges the status quo to an excessive degree when he argues that those exercising power should be those who are in the best position to rule at time X1. While it is true that the successful exercise of rule presupposes a minimum degree of actual control, Raz criterion favours the status quo excessively. For the status quo power holder will always be the one who is in the best position to rule at t= X1. This unjustifiably precludes the option that another actor, chosen through a fair process, gets to rule at t= X2 (Schmelze, 2015).

In sum, Raz argues that the ability to provide for social coordination and cooperation as well as the epistemic quality of authoritative judgements provide strong instrumental justifications for the presence of authorities. Yet, his Service Conception of Authority (SCA) faces severe normative challenges, as it can be criticized of paternalism, a failure to respect people’s autonomy in circumstances of reasonable disagreement as well as its unjustified bias for the status quo. In the next section, I show that democratic procedures offer alternative means of decision-
making that fulfill the same functions while avoiding these criticisms. What is more, I argue that they are also *intrinsically* valuable on grounds of liberty and equality.

**The Authority of Democracy**

Let me consider once more the virtues Raz views in political authorities – social coordination, cooperation and epistemic quality. If the foregoing criticisms are correct, the notion of “epistemic quality” is problematic. For most decisions in political life take place within the confines of reasonable disagreement concerning the realization of higher-level values, “epistemic quality” cannot be determined a priori. Instead, a preceding agreement on norms is due. For instance, a society may value maximum degree of security in order to protect airports, train stations, malls and restaurants from terrorist attacks. Alternatively, people might prefer to guarantee basic security at particularly sensitive locations while simultaneously allowing for public spaces without security checks. Both scenarios are reasonable in balancing liberty and security as overriding values. Yet, the nature of the compromise needs to be settled first in order to provide the criteria asserting epistemic quality. Without, “epistemic quality” cannot be a valid criterion judging the quality of an authoritative directive (Schmelzle, 2015, p.150).

The situation is different concerning the provision of social coordination and cooperation, as both are valuable in themselves. In fact, they provide good candidates to justify the existence of political authority to the extent that coordination and cooperation depends on centralized decision-making. Yet, they do not say anything about the selection of those who should have the right to govern. They provide *necessary* conditions for the exercise of rule, but are only *sufficient* where only a single actor is capable of providing social coordination and cooperation. Wherever a variety of potential rulers is available, the provision of coordination and cooperation is not enough to justify a particular ruler. It is here where democratic procedures come in, as they provide a mechanism to choose rulers in a non-arbitrary way. Beyond the realization of non-optional reasons (e.g. the duty to help people in need), democratic decision-making procedures trump purely instrumental justifications. This is because they avoid the criticisms that the SCA faces. What is more, democratic procedures are *intrinsically* valuable. Proponents of an intrinsic value of democratic decision-making argue that democracy is valuable in itself, due to the values it realizes. Authors in this camp propose two fundamental values in democracy’s favor – liberty and equality.

Liberty understood as autonomy is at the heart of liberal accounts and provides a good shield against accusations of paternalism. The basic observation is that human consciousness has a reflective structure. Hence, we have a capacity for personal autonomy, that is, a capacity to govern ourselves according to considerations that are our own. As a capacity to reflect upon our desires, convictions and actions, personal autonomy presupposes a minimum degree of reflexivity.
(cp. Anderson & Christman, 2005; Feinberg, 1986). While the idea that we have a basic interest in the exercise of personal autonomy is hardly disputed, the marginal impact a single vote has on the overall outcome provides strong doubts regarding the link between democracy and the realization of personal autonomy (cp. Buchanan, 1998, p.17). More important for my discussion here is the idea that this basic interest in autonomy also has a collective dimension. On the one hand, this is because personal autonomy is always embedded in and constrained by social context (Christman, 2009). On the other hand, we are dependent upon others where we seek the realization of goals that demand social cooperation. As Daniel Jacob argues, democratic procedures ensure collective self-determination. The value of collective self-determination in turn roots in the basic interest in autonomy among members of the political community (Jacob, 2014). In another conception of liberty, neo-republican authors hold that democracy expresses freedom from arbitrary interventions (cp. Pettit, 1997, p.81). Republicans like Philip Pettit think that we should care about liberty as a structural relationship that exists between groups or individuals. It describes the condition of not being subject to the arbitrary power of a ‘master’. As Pettit puts it, people are free to the extent that no one else has “the capacity to interfere in their affairs on an arbitrary basis” (Pettit, 1999, p.165). According to Republicans, democracy directly ensures this freedom.

The second camp of scholars views the intrinsic value of democracy in the realization of equality. In particular, democracy guarantees each person the same rights of participating in decision-making and hence realizes equal recognition as to each member of society. Moreover, this equal moral status is publicly embodied and hence visible to everyone in democratic procedures. As Thomas Christiano writes,

“Democratic decision-making is the unique way to publicly embody equality in collective decision-making under the circumstances of pervasive conscientious disagreement in which we find ourselves” (Christiano, 2008, p.75).

In contrast, non-democratic decision-making violates the equality of equal recognition, by reserving the right to rule to those few kings, autocrats or experts who happen to be in power. In another variant, Rainer Forst takes a “basic right to justification” (Forst, 2007) as a starting point demarcating the most fundamental right of human beings. For Forst, democratic decision-making ensures the fairest distribution of this right, as all those affected by political rule have an equal chance to demand justification.

The reader may note that all arguments put forward for an intrinsic value of democratic procedures presume the existence of moral values that are taken for granted, independent of those procedures. Specifically, autonomy (Jacob, 2014), freedom from domination (Pettit, 1999) and the equal moral status of human beings (Christiano, 2000) and their equal right to justification (Forst, 2007) are the pillars upon which democratic procedures are built. However, they are
To sum up, Raz’s first justification for the existence of political authorities – epistemic quality – is problematic. Social Coordination and Cooperation are valuable goals that provide necessary, but not sufficient conditions for the exercise of political rule. Since democratic procedures avoid the criticisms of paternalism, disrespect for autonomy and a bias towards the status quo, and because they are intrinsically valuable in their realization of liberty and equality, democratic procedures provide content-independent reasons to follow their directives in a way that the SCA (outside the protection of human rights) could not provide. With this in mind, I will now turn to the final section of this paper and analyze, which standards of legitimacy should be applied to IOs in a non-ideal world in order to judge them as legitimate.

4. Global Democratic Authority in a non-ideal World

In his article “Global Governance and Legitimacy”, Robert O. Keohane (2011) seeks to establish criteria of legitimacy for the evaluation of IOs that are both, normatively aspirational and yet realistically attainable. According to Keohane:

“It almost goes without saying that liberal democratic theory does not match well with the actual practices of global governance. [...] 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.” (Keohane, 2011, p.100)

Keohane makes an implicit distinction here between ideal and non-ideal political theory. Similarly, Michael Zürn (2016) distinguishes between three levels of abstraction in his discussion of different “institutional orders with a cosmopolitan intent” (Zürn, 2016, p.88). On the first and most general level, ideal theories seek to establish general moral principles of a utopian, but
certainly desirable end-state. Secondly, the question is which institutional order is best suited to realize those principles. On a third level, political theory analyzes the rightfulness of policies in specific circumstances. The more we move down the ladder of abstraction, the more we are halted to deal with transitional improvements and to take empirical feasibility constraints into account (cp. Zürn, 2016; Valentini, 2012). I am here concerned with the second level of abstraction, dealing with the legitimacy of international organizations. In this dimension, empirical facts and trends play a substantial role, since “ought implies – at least to some extent – can” (Zürn, 2016, p.89). Three basic proposals for an institutional order that does justice to a conception of democratic authority can be distinguished: 1) the Intergovernmental model of Democratic States, 2) Cosmopolitan Democracy7 and 3) Cosmopolitan Pluralism. Before I elaborate on my proposal for substantive legitimacy criteria within the model of Cosmopolitan Pluralism, I briefly sketch that neither of the other two models is a realistic option at this point in time (cp. Zürn, 2016).

First, proponents of an *intergovernmental model of well-ordered states* (cp. Thomas Christiano, Robert Dahl, Andrew Moravcsik and John Rawls) argue that the value of equal respect towards all human beings can best be realized in an international system composed of sovereign states which interact on the basis of consent. As a result, only national representatives should make fundamental decisions in international institutions, always retaining the possibility to withdraw any power they have conferred upon them. Moreover, only national governments are allowed to implement decisions and only they should have the power to rule over individuals directly (Scharpf, 1996). This model encounters major problems, as it rests on flawed premises. To begin with, a majority of states in the international system are not democratic. While the model points us towards enhanced efforts of democratization, the empirical record indicates that global levels of democratization stagnate or even decline since 2005 (cp. Plattner, 2015). If states are not democratic in the first place, it is hard to see how they could render international institutions legitimate. They simply lack any legitimacy to transfer. If, on the other hand, only democracies build institutions, these would a) not be global institutions and hence fail to provide for global social coordination and cooperation to address transnational issues and b) still affect citizens of non-democratic states despite their legitimacy deficit towards them. Moreover, the majority of states in international system are characterized by “areas of limited statehood” (Risse & Lehmkuhl, 2007) where the state - be it democratic or not - does not play any role and hence cannot represent its citizens. Finally, the empirical developments of increasing delegation of competencies to IOs described above (see section 2) point in the opposite direction of what the model relies upon: national sovereignty.

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7 Michael Zürn distinguishes between four basic models, including the model of a Minimal World State (Zürn, 2016). Yet, because this model is a hybrid between the second and the fourth, I here only distinguish between three basic types. However, I do not mean to exclude the possibility of hybrids.
At the same time, the transformation of the international order into a *cosmopolitan democracy* (Archibugi, 2008; Held, 1995) is not viable. Proponents of this model envision a global parliamentary assembly in order to secure congruence between decision-makers and those affected, but also to regulate global problems from climate change to issues of peace and security. Moreover, Thomas Pogge (2002) places a particular emphasis on the redistribution of resources. Pogge argues in favour of greater political centralization on the global level to achieve distributive economic justice (Pogge, 2002, p.149). Among the several reasons against such a model, I limit myself to the most important ones: first, it is not clear at all how the organization of global elections, or global representation could be organized (Müller, 2008). Secondly, states are not willing to give up their sovereignty to the extent of IO rule enforcement along a range of sectors (Wolf, 2000). Despite an increase in IO competencies, there are virtually no signs of centralized economic redistribution. Third, we lack a common understanding of values and perceptions that suffices to bring about a global demos, not to mention a global parliamentary assembly (Zürn, 2000).

Against the background of these empirical trends, the legitimacy of rule by international institutions needs to be determined in a manner that takes multiple loci of power into account. In a post-national constellation, a clear institutional template is not in sight, as the capacity to exercise power is dispersed depending on its function among various levels (Zürn & Leibfried, 2005). Proponents of *cosmopolitan pluralism* (cp. John Dryzek, Lisbeth Hooghe & Gary Marks, Nico Krisch, Matthias Kumm, Terry Macdonald, Jürgen Neyer) thus share the view that the state has lost its central steering capacity, while IOs do not assume superiority in a static way either. The governance of IOs thus needs to be conceptualized as an independent order with its own legitimacy requirements, independent from the other levels of government. Moreover, authors have advocated different sets of procedural requirements rather than templates of institutional design. For instance, John Dryzek argues in favour of discursive democratization “as a process rather than a model, which can be applied to all levels in complex multi-level governance, from the local to the global.” (Dryzek, 2008; p.470). Since IO governance does not stop at national borders, *membership* is abandoned in favour of an *all-affected* criterion to constitute the relevant demos in question (cp. Macdonald, 2012, p.48).

Among the proposals for substantive procedural criteria that are reconcilable with the notion of democratic authority, I argue that a specific conceptualization of deliberation combined with a sophisticated standard of accountability provide the most plausible route to legitimacy.

**Deliberation**

Deliberation has been proposed as a promising and viable way to generate input-legitimacy that does not require fundamental institutional reform (Wolf, 2000; Deitelhoff, 2012). For the purpose of this paper, I follow William Smith and James Brasset in their minimal definition of deliberation
as “a process of public reasoning geared toward generating political decisions or public opinion about how to resolve shared problems” (Smith & Brasset, 2008). Different from alternative interpretations of democracy, theories of deliberation are centered around the notion of “public reason” (Freeman, 2000). Rather than pre-supposing a Demos as the sovereign of decision-making, deliberation demands that all perspectives and arguments enter the decision-making process. The aggregation of preferences and strategic bargaining between competing interests is replaced by public reasoning. As deliberation can be organized in a decentralized manner, it thus promises to mitigate the representation problem. What is more, deliberation itself has been theorized to contribute to the very creation of a global Demos (Habermas, 2005). Jürgen Habermas observes how individualization and the demise of a common life-world lead to a radical pluralization already within nation states. This requires permanent communication in order to explain and reflect upon one’s premises in the global public discourse (Habermas, 1996). Due to its reflexivity, deliberation realizes the value of collective autonomy, while the obligation of each actor to justify her arguments ensures freedom from arbitrary domination. Moreover, deliberation embodies the idea of equal recognition, as everyone is equally invited to participate in the discourse. In addition to these intrinsic democratic qualities, deliberation also promises to produce outcomes that are more rational. The idea of public reason entails that institutions and political decisions are defended based on generally comprehensible reasons that all participants of the deliberative process can accept. As a result, arguments that survive the public discourse of contestation refer to the common good (cp. Offe, 1989) and elevate the problem-solving capacity of (international) institutions (Deitelhoff, 2012).

Certainly, deliberation has also been criticized as a realization of democratic values on different grounds. Theorists of radical democracy (cp. Mouffe, 2005; Laclau & Mouffe, 2001; Rancière, 1999) view politics as inherently conflictual. According to Chantal Mouffe, the main function of democracy is to transform conflicts into spheres where differences are acknowledged and respected (Mouffe, 2005). They hence object the consensus-orientation in deliberative procedures, as it denies the presence of such irreconcilable differences and seeks to assimilate them instead (Erman, 2009). As a result of an oppressing request for consensus, conflicts may degenerate and even become violent (Mouffe, 2005). Another strand of critique comes from authors who do not deny the value of deliberation, but caution against negative tendencies that undermine its potential. For instance, Jane Mansbridge (1996) argues that differences in socio-economic and cultural capital translate into unequal access to deliberation. In part, the reasons for this are inherent to the unequal distribution of capital in society. But in part, they also stem from the formal requirements of deliberation, favouring non-emotional, “rational” argumentation and thus a specific language-game (Young, 1996). This argument is all the more valid, the more deliberative procedures take place within established institutions that are themselves embedded in a web of norms. Under such circumstances, deliberation reproduces the rationality of these
institutions. Limitations to access to, and unequal opportunities of participation within deliberative procedures pose normative problems, but they also decrease the rationality of the process and thus lead to sub-optimal outcomes. In order to actually live up to its expectations, genuine deliberative processes then need to fulfill a set of criteria, including equal access for different social groups, openness to radical forms of opposition and a reversible agenda and (Deitelhoff, 2012).

Equal access to deliberative fora should be guaranteed by a set of rules empowering those with less social and cultural capital. This involves an openness towards alternative modes of communication (e.g. narrative or emotional styles) (Young, 1996). Besides, deliberative forums should remain open towards more radical forms of opposition. Admittedly, theories of radical democracy fail to propose institutional settings within which decision-making can take place in transparent and reliable ways (Jörke, 2006) and ultimately restrict their understanding of opposition to that of dissidence (Deitelhoff, 2012). Yet, they are valuable ingredients of well-functioning democracies which question deeply embedded power structures and thus open up space for radical forms of critique (cp. Sparks, 1997; Celikates, 2010). Instead of being feared, dissidence should be welcomed as important potential correctives to institutionalized inequalities as they continuously create space for new perspectives and innovation (Deitelhoff, 2012).

To recapitulate, deliberative processes are an essential feature of democratic authority if they remain flexible and open to re-negotiation, accommodating also radical forms of critique. Successful deliberation embodies a high degree of reflexivity and freedom from arbitrary domination, but also an equal recognition of all perspectives in political decision-making without depending on a pre-existing constituency. It thus provides a good candidate for the realization of democratic authority in global governance. Yet, against authors who view deliberation as a sufficient source of democratic legitimation (cp. especially Dryzek, 2008), I argue that deliberation needs to be accompanied by an institutionalization of direct IO accountability vis-à-vis those affected by its actions. For without, there is no way to ensure that IOs respect the virtues of deliberation as well as their further human rights obligations.

Accountability

Accountability as a concept has deep roots in different literatures which produced a wide set of definitions. Scholars of public administration (cp. Romzek & Dubnick, 1998; Mulgan, 2003) adopt rather formal definitions, emphasizing public bodies such as governments as addressees of accountability. Political scientists (cp. Mansbridge, 2014; Stokes, 2005) often approach accountability from the perspective of power, mostly in the context of government accountability towards their voters. In international relations (cp. Scholte, 2011; Bovens et al., 2014), national voters are replaced by a much broader scope of addressees. Not only governments, but also non-governmental organizations (NGOs) or transnational corporations (TNCs) increasingly become
objects of accountability demands. According to Mark Bovens, Robert Goodin and Thomas Schillemans (2014) the core of accountability is about providing answers towards those with a legitimate demand for justification. Moreover, accountability is a relational concept, linking those who perform tasks and those for whom they perform, or alternatively, those affected. As demands for justification come after the act, accountability is an *ex post* activity. Lastly, accountability is a consequential task, as it may bear sanctions for accountability holders (Bovens et al., 2014). In line with this broad consensus and in line with my research interest, I adopt Robert O. Keohane’s definition according to which accountability involves three elements: “standards that those who are held accountable are expected to meet (1); information available to accountability-holders, who can then apply the standards in question to the performance of those who are held to account (2); and the ability of these accountability holders to impose sanctions: to attach costs to the failure to meet these standards (3)” (Keohane, 2011, p. 102). In order to meet the second requirement, substantial *transparency* concerning the application of standards on behalf of the institution in question is paramount. In order to capture the essence of the three dimensions of accountability, I will refer to them in the following as “standards”, “transparency” and “costs for non-compliance”. Together, these three elements make it possible that the ruled have power over the rulers. A crucial question when talking about the accountability of IOs is: accountability towards *whom* exactly? For most actors are accountable to someone, be it a professor, drug lord or God. In the context of international institutions, “accountability” commonly means that the agent (the IO) is responsible in front of the principal (the member states). As Buchanan and Keohane rightly point out, such a pattern of accountability is normatively deficient, as it does not ensure meaningful participation of those affected by exercises of IO power. Of course, one could counter that member states represent their citizens, and that hence accountability towards member states ensures accountability towards those affected. There are three main reasons why such an argument is flawed: first, most member states in IOs are not democratic, so the assumption that governments represent their citizens is flawed in the first place. Secondly, the vast majority of states in the world are not consolidated, but include large areas of limited statehood (cp. Krasner & Risse, 2014). Where the (democratic) government only controls the capital, but IOs have an impact on the whole population, those affected are not represented by their governments. Third, even if democratic and consolidated, only few states actually have a say in IO decision-making due to their lack of relative influence. Hence, “accountability per se is not sufficient; it must be the right sort of accountability” (Buchanan & Keohane, 2006, p.19) – that is, IO accountability towards those affected.

To recall, the three components of accountability are standards, transparency and sanctions in cases of non-compliance. As to the first, the question is which substantive *standards* should apply to judge whether the actor has acted in an acceptable manner. While different specific standards may apply due to the role and nature of the organization, I hold that all IOs should
respect human rights to be morally acceptable. In virtue of the universal character of the human rights treaty regime as well as their widely shared normative moral force, human rights provide a minimum threshold for evaluating the legitimacy of IOs. With Martha Nussbaum (2007), I believe that a basic interest conception of human rights is the most plausible one. According to this conception, rights serve as individual entitlements to the protection of interests. Among the rights individuals hold, human rights are fundamental in that they protect the most vital interests. Whereas there is disagreement on the exact catalogue of interests human rights should protect, there is widespread consensus that these rights include a protection of physical security, subsistence and autonomy (cp. Shue, 1988). More specifically, my foregoing analysis suggests that the standard for minimally legitimate IOs also involves respect for open and inclusive deliberation, as genuinely deliberative processes currently constitute the best available operationalization of democratic authority for IOs.

As elaborated upon above, deliberation embodies the potential to guarantee the virtues of democratic authority. Yet without accountability, governance addressees have no effective means to ensure that IOs realize this potential to a sufficient degree. To illustrate this point, the equal right to justification is not a full right unless effective accountability mechanisms ensure that actors explain and justify their behaviour towards those who possess a right to justification (Neyer, 2012, p. 107). Just like states, IOs have no intrinsic normative value. Instead, they derive their ‘raison d’être’ from their instrumental value in serving human interests. If IOs violate human rights or, more specifically, the realization of autonomy, freedom from arbitrary domination, equal respect and a right to justification, they cannot be legitimate8. Transparency is the second element of accountability, for without transparency a violation of standards remains covert. To ensure transparency, those affected by IO interventions need accurate information about the work and internal functioning of the organization. In addition, transparency involves responding to requests that are directed to it by accountability holders. IOs have an obligation to share this information in a timely and understandable manner. For instance, only very few educated Europeans are actually capable of understanding EU legislation due to its specialized discourse. In parallel to the requirement of an open and inclusive deliberative process of decision-making, the availability of information about IO activities also includes translations into a language accountability holders understand. Last, accountability involves the possibility for effective sanctions in cases where power-holders do not comply with human rights standards. The existence of sanctions has important instrumental value, as sanctions provide strong incentives for compliance with the standards of accountability. Without the ability to punish and correct IO

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8 An important additional question is whether IOs should also have obligations to actively promote human rights to be legitimate. Given the particular functions of some IOs (e.g. assigning internet addresses) and given my interest in a general standard of legitimacy for IOs, I do not follow this line of thought. This however does not preclude that obligations to actively promote human rights should be conferred on some IOs.
misbehavior, an accountability regime could not effectively guarantee the equal right to justification.

With the foregoing I hope to have shown that demanding standards of deliberation and accountability are both necessary to ensure IO legitimacy. Genuinely open processes of deliberation express respect for people’s autonomy. Yet in order to fully secure freedom from arbitrary rule, the equal right to justification as well as an equal recognition for the interests of governance addressees, deliberation needs to be supplemented with accountability regimes that hold the IO immediately accountable towards those affected by its rule.

Conclusion

Scholars from different disciplinary backgrounds increasingly observe that we are moving away from a paradigm of “anarchy” towards a “hierarchy paradigm” in international relations. This paper deals with the legitimacy of international organizations, whose mounting capacity to govern in an autonomous manner has contributed significantly to this trend. Yet, disagreement persists concerning the best conceptualization of hierarchies between IOs and their governance addressees – be they states or individuals. Whereas prominent advocates of liberalism advocated “authority” as the overriding concept, critical theorists have emphasized how structural power relations may easily turn into illegitimate forms of rule. I am convinced that both camps capture important dimensions of hierarchies, but fail to integrate the other’s perspectives. This is why I think it is important to distinguish political authority from the exercise of de facto rule conceptually as two distinct forms of structural power. Only then are we able to derive standards of legitimacy for IO exercises of power that are consistent with key elements of liberal democratic theory. To substantiate the claim that a majority of IOs currently exercises de facto rule rather than authority, I describe important empirical trends documenting a shift of competencies to the international level that is not accompanied by a corresponding claim to rule in legitimate ways. In particular, my discussion of selected World Bank activities – the exercise of discursive power, governance by rating and ranking, ‘Technical Assistance’ - illustrated various mechanisms through which IOs exercise power without claiming a right to do so. I then discussed two conceptions of authority and their corresponding notion of a reasonable standard for IO legitimacy. I argued that Joseph Raz’s Service Conception of Authority has its place where the immediate protection of human rights is at stake. Yet, beyond this narrow scope of application, I demonstrated that IOs depend on the authority of democratic procedures to justify their exercise of power. In the circumstances of politics, the imperatives of autonomy, freedom from arbitrary interference, equal recognition and an equal right to justification demand IO democratization. Finally, I laid out that this democratization is bound to rely on deliberation and direct accountability as the overriding
principles, as cosmopolitan pluralism offers the only realistic model to date that is able to institutionalize democratic values in global governance. This is no bad news, as a substantial democratic potential inheres in deliberation and direct accountability. Well understood, the former guarantees an inclusive process in which a wide range of perspectives are considered, while the latter ensures compliance with the pre-conditions for deliberation as well as with other human rights obligations.

In times where we increasingly depend on international organizations and hence transfer considerable powers to them, we urgently need a common denominator that allows us to evaluate their actions and potentially support them on normative grounds. I am convinced that the only conception capable of generating this support is the one of political authority as democratic authority – todays as well as in a longer-term perspective. Thus, we should not mistake all forms of power exercise by IOs for authority. Neither should we give up on the concept of authority, but fill it with well-reasoned democratic substance that allows for a progressive, but realistic critique of what IOs should accomplish. My wish is that this paper contributed to this goal.
References


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