Building Global Democracy? The Rise (and Fall) of Democratic Legitimation in Global Governance

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ABSTRACT: In this paper, I compare and reflect upon the role democratic norms have come to play in the legitimation of global governance institutions. Descriptively, I argue that democratic norms have been on the rise. Yet the dynamics that have given rise to democratic norms as well as the roles these norms have come to play differ significantly across these two realms of global governance. While the democratic narrative has steadily gained centrality in the justification of intergovernmental organizations and their activities, it has initially been strong in transnational governance, as well, but receded to the background in recent years. In the second part of the paper, I draw on contemporary social theory to reflect upon the context-sensitive rise (and fall) of a democratic legitimation narrative in global governance. I argue that the rise of democratic legitimation norms we can observe is episodic rather than linear, precarious rather than stable and reformist rather than radical. In normative terms, then, the ‘social order of justification’ to which the norm changes I sketch in this contribution gives rise oscillates somewhat uncomfortably between democratic potential and post-democratic practice.

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1 Introduction

In his *Building Global Democracy*, Jan Aart Scholte argues that democratic accountability norms have gained relevance in global governance and that, among other things, some form of consultations with global civil society have become ‘a sine qua non’ for intergovernmental organizations.¹ The Opening Up of International Organizations by Jonas Tallberg and colleagues lends further support to the latter argument by providing strong evidence for the assumption that civil society access to intergovernmental organizations has expanded significantly after World War II.² Finally, Alex Grigorescu’s *Democratic Intergovernmental Organizations*? reveals that, far from being entirely novel, democratic challenges to intergovernmental organizations have a significant historical tradition that is often neglected. Nevertheless, Grigorescu joins those who argue that such norms have gained strength in recent decades.³

All of this sounds promising: it suggests that global democracy might not only be ‘possible’⁴, but that the global community might, in fact, be moving closer to the normative ideals it embodies. In this paper, I address one important aspect of this alleged approximation of global democratic governance: I examine which role democratic norms and values have come to play in the legitimation of global governance institutions. In doing so, I build on James Rosenau’s insight of a ‘bifurcation of world politics’. According to this view, a ‘state-centric world of world politics’ has increasingly been complemented by a ‘multi-centric world of world politics’ in which a plethora of non-state actors co-ordinate their transboundary interactions.⁵ Taking this insight seriously gives rise to questions about the—factual as well as desirable—linkages between intergovernmental and transnational governance.⁶ At the same time, it also allows for meaningful comparisons of the dynamics, forms and modes of governance that prevail in the
two realms—a comparison that will ideally help to throw the contours of each realm into
sharper relief.

begin with a summary of what we know empirically. To this end, I first sketch the increasing
centrality of a democratic narrative in the legitimation of intergovernmental organizations,
followed by a discussion of the role of democratic legitimacy standards in the emergence and
evolution of transnational governance. The summary reveals opposing trends: while
democratic standards have steadily gained strength in the justification of intergovernmental
organizations and their activities, they have receded somewhat to the background in the
evolution of transnational governance.

In section 4, I bring in recent work in social theory to make sense of the developments we
observe. The discussion is based on the more general view that the literature on the
 legitimation of global governance has thus far made relatively sparse use of social theorizing
and that, as a result, it confronts difficulties to understand the ‘nature’ of the phenomenon it
has set out to investigate. Drawing on the works of Colin Crouch, Luc Boltanski and Rainer
Forst, I seek to provide some inroads for better understanding that nature. More precisely, I
interpret the rise of democratic legitimation as a shift in the ‘social orders of justification’ on
which global governance rests, and I argue that this shift oscillates between the potential for
democratization it embodies and the support it lends to a practice that can be described as
‘post-democratic’ in important ways. Overall, the rise of democratic legitimacy norms in global
governance thus appears more contingent, more fragile, and less democratic than some of the
literature I have cited above tends of assume.

2 Legitimating Intergovernmental Governance

2.1 Patterns of Normative Change

Let us start with the intergovernmental governance as the more conventional ‘world of world
politics’. Which roles have democratic legitimacy standards come to play in this realm? In
discussing this question, I primarily build on two studies I have conducted with colleagues over the past years.

The first is a quantitative study in which we collect data on the extent to which 20 intergovernmental governance organizations (IGOs) with membership in at least two world regions have made use of democratic rhetoric from 1980 to 2011. Drawing on the annual reports published by these organizations, we zero in on statements the organizations make about either their identity or their purpose. We then distinguish between those identity and purpose statements that refer to democratic values and those that do not. To be precise, we operationalize democratic rhetoric as the share of paragraphs that contain identity or purpose statements referring to one or more democratic values. In addition to the invocation of democracy itself, we count references to the more specific values of inclusiveness, participation, representation, responsiveness, transparency (or openness) and accountability.

Examples of democratic rhetoric include the IMF’s claim that it ‘has made notable strides in its own transparency, publishing an unprecedented amount of information on its member countries’ policies and IMF-supported reform programs and on its own operations and financial position’\(^8\), or the OECD’s stated ambition ‘to include more stakeholders and more countries’ and ‘involve the public in deliberating the difficult policy choices that almost every modern issue entails’\(^9\) in order to ‘become an open and inclusive policy-sharing organization’\(^10\).

Looking at all 20 IGOs over the entire period, we can see that some organizations invoke democratic values more than others. Yet, the more interesting pattern is intertemporal. Dividing the period of investigation roughly along the three decades, we can thus see that in the 1980s, the democratic legitimation narrative was virtually absent. In the 1990s, it increases from around 1 to 3 per cent to now 8 per cent. For the years since 2000, one in nine legitimacy claims make reference to democratic values. Similarly, the share of organizations that refer to a democratic value in a given year rises from 13 per cent in the 1980s to 33 per cent in the 1990s and 53 per cent since 2000. Finally, of the 18 organization years in which democratic rhetoric
is equal to or exceeds one in three legitimacy claims, 17 occur in the second half of our period of investigation while only one occurs before 1996.

By and large, democratic rhetoric has thus been on the rise. Moreover, its rise occurs roughly in parallel to the rise of *legitimation intensity*, defined as the share of paragraphs in an annual report that contain identity and purpose statements. Stated differently, as intergovernmental organizations feel a stronger need to inform their audiences about who they are and what they stand for, they resort to democratic rhetoric more often. Second, even though the extent to which organizations use the language of democracy varies considerably, democratic rhetoric is rising almost across the board. Third, while the democratization of member states has a causal effect on the use of democratic rhetoric, the latter is not systematically related to an increase of international authority.11

One organization that scores high on the authority measures developed by Gary Marks and Liesbet Hooghe but low on our measure of democratic rhetoric is the IAEA. This organization also forms part of a second study in which we seek to understand the role of democratic legitimation by looking at individual cases in depth.12 To this end, we reconstruct how the sets of norms that underpin contests over the legitimation of intergovernmental organizations have changed in five organizations since the 1970s. In addition to the IAEA as a security organization, our case studies include the WTO and its predecessor, the GATT, as an economic organization; the International Union for Conservation of Nature (IUCN) as an environmental organization; the UN Refugee Agency (UNHCR) in the field of human rights; and the African Union (AU) and its predecessor, the Organization of African Unity (OAU), as a regional intergovernmental organization.

So what role do democratic norms play in these organizations? First, we can observe that traditional ‘international society’ norms that emphasise state sovereignty, functional cooperation and non-coercion—but not democracy—remain in place in all five organizations. Second, however, new legitimacy standards are added to the menu. These standards often build on ‘world society’ norms guided by a cosmopolitan ideal grounded in the notion of
individuals as rights-holders and aimed at inclusive global governance. Overall, this addition give rise to people-based norms and it strengthens procedural legitimacy norms.

The rise of people-based norms is most unequivocal in the IUCN where the conservation of nature for nature’s sake gradually makes way for the idea that nature ought to be conserved for human well-being. This development implies a stronger consideration of the interests of communities living in or nearby protected areas, as well as a greater role for local participation and knowledge in the design and implementation of conservation activities. As a result, it significantly strengthens the role of democratic legitimation in the organization. In the GATT and WTO, individuals become a more prominent reference point when labour standards and other ‘non-trade values’ are debated in the early 1990s. In the late 1990s and early 2000s, public protests then tie the legitimacy of the WTO more closely to its respect for the democratic process, to the inclusion of civil society voices in the WTO’s decision-making process, or to the extent to which the WTO makes relevant information about its decision-making available.

Third, we can see the AU explicitly turning ‘the people’ into a primary category of beneficiaries as well as stakeholders. On the one hand, the policy agenda of the OAU and later the AU increasingly turns towards the promotion of ‘human security’, democracy, human rights and the rule of law, with the continental organization asking its members to recognize more fully the interests, desires and rights of ‘the people’. On the other hand, the AU itself establishes the Pan-African Parliament (PAP), formalizes and expands its engagement with civil society and explicitly aspires to become a ‘people-friendly’ and ‘people-oriented’ organization. Like in the other cases we study, the development is not always harmonious. While conventional wisdom suggests that AU member states shield their stakes and only reluctantly support the turn towards ‘the people’, the most vocal critique comes from civil society observers who find the new AU institutions insufficient to live up to the ideals the organization proclaims. Despite all the participatory talk and participatory mechanisms, the critics hold, the organization remains too exclusive, insufficiently transparent and inaccessible to the wider public. As a result, democratic legitimation becomes a central piece of the organization’s legitimation contest. In other cases, people-based norms also gain centrality, but they are less frequently linked to
democratic values. In UNHCR, a rights language thus dominates. Notions of inclusiveness mainly enter where refugees are increasingly recognized as ‘stakeholders’ whose views and voices need to be included in decision-making. The IAEA, in contrast, highlights how the development component of its work benefits individuals in the organization’s member states. Overall, our study nevertheless supports the idea that, to count as legitimate, today’s intergovernmental organizations need to demonstrate what they do for their member states as well as what they do for—and how they involve—the citizens of those states. While this new expansion of the legitimation menu renders a democratic legitimation narrative more attractive, the latter is also supported by a complementary shift in which procedural legitimacy standards gain currency. In brief, this second norm change implies that the audiences of intergovernmental organizations increasingly care not only about what the organization accomplishes, but also about how it is governed. Again, some of the new procedural standards add weight to the democratic legitimation narrative. In the WTO, for example, the organization’s response to the Seattle protests emphasize the consensus principle, civil society participation and transparency and hence point to the procedural standards that are closely tied to the democratic legitimation narrative.

In sum, procedural standards evaluate international organizations based on how they work rather than on what they achieve. Like people-based legitimacy standards, the challenges they formulate can be answered in various ways. While answering the demands of people-based and procedural legitimation norms thus remains possible without reference to democratic values, democratic legitimation frames stand out as the only ones that respond to both secular trends simultaneously.

2.2 Pathways of Normative Change

How have democratic standards been able to gain strength in the legitimation of intergovernmental organizations? As the WTO case demonstrates, the politicization of intergovernmental organizations that follows in the wake of an expansion of international authority is a driver of democratic legitimation in some cases. At the same time, we observe
that the politicization of international authority is neither a sufficient, nor a necessary condition for intergovernmental organizations to strengthen the role of democratic legitimation. The IAEA case thus suggests that even if they are followed by a politicization, authority gains do not always generate a stronger momentum for democratic legitimation. In contrast, the IUCN case shows that democratic legitimation may well become more central in the absence of significant authority gains.

While politicization matters in some cases, our case studies thus reveal three further pathways of normative change. The first refers to the emergence of new audiences beyond member states. As international organizations seek legitimacy from non-traditional audiences, their repertoire of legitimation often adapts to the normative expectations or demands of those audiences. These audiences can be the media (as in the IAEA case), donors (as in the UNHCR or the AU) or the broader public (as in the WTO). Depending on the precise configuration and expectation of these ‘second audiences’ from which an international organization seeks legitimacy, democratic legitimation will be more or less central. A second and related mechanism hints at bureaucratic politics. It suggests that international bureaucracies can face incentives to create or strengthen their own ‘second audiences’ to gain autonomy from member states. The AU is a case in point: equipped with little autonomy, the AU Commission pushed the idea of a ‘People’s Union’ in which it is accountable not only to the governments of AU member states, but also—and ultimately—to the African people. Finally, a third mechanism is path dependence: the self-reinforcing dynamic that sets in to deepen an initial norm shift once the latter has occurred. The IUCN case exemplifies this logic: the shift from conserving nature for nature’s sake to conserving nature for human well-being was not intended to strengthen participatory norms, but it indirectly led to this effect when, unlike nature, ‘the people’ whose well-being the organization claimed to serve demanded a say.

Taken together, the pathways we identify suggest a high level of contingency. Democratic normative pressures have been on the rise for a variety of reasons, but these reasons—whether we think of social protests or the democratization of member states—are not necessarily a stable presence. Moreover, while many driving forces we identify render democratic
legitimation a plausible response, few of them inevitably require a ‘democratic’ response. Overall, we can therefore conclude that, even though democratic norms have gained relevance in the legitimation of intergovernmental organizations in the past, there is no guarantee that they will gain further strength in the future.

3 Legitimating Transnational Governance

How does transnational governance compare to this picture? How does legitimation work in this second world of world politics? To examine this question, I look at the sustainability politics, a field that has witnessed a ‘Cambrian explosion’ of transnational governance initiatives. Some of the governance organizations we find here standardize crosscutting issues like environmental reporting, environmental management systems or social accountability. Others address individual natural resources: the Forest Stewardship Council (FSC) and its competitors thus define what counts as sustainable wood. The Marine Stewardship Council (MSC) provides the same service for wild-catch fish, Bonsucro for sustainable sugarcane, and the Roundtable for Sustainable Palm Oil (RSPO), the Roundtable for Responsible Soy (RTRS) and many others for additional commodities. Add a number of standards on greenhouse gas accounting, offsetting and management, on fair trade, on mining or on corporate conduct in the textiles industry and you will still only get an idea of the breadth, depth and diversity in contemporary transnational regulation.

So what role do democratic norms play in the legitimation of transnational standard schemes in this issue area? In short, I argue that it is useful to distinguish between an early period in which transnational sustainability governance emerged and democratic legitimation was central, and a more recent phase in which transnational governance had largely become normalized as a form of governance, thereby reducing the pressures for democratic legitimation.
3.1 The Baseline: Democracy as a Central Pillar of Legitimation

When transnational governance schemes like the Forest Stewardship Council (FSC) emerged as new modes or tools of global governance, their claim to legitimacy rested on three pillars. Their first and foremost claim was that they responded to important ‘governance gaps’. Because governments failed to agree on a global forest convention and boycotts of tropical wood could not hinder deforestation either, for example, environmental activists promoted sustainability certification as a viable second best.\(^{19}\)

In most cases, however, the actual contribution to problem solving remained modest. In absolute terms, the FSC could not halt deforestation, nor was the GRI able to render the business sector environment-friendly and socially responsible. As a result, *continued progress* became a catch phrase for the legitimation of transnational governance initiatives. It required the governance organizations to demonstrate that they were able to expand their reach ever further once they had harvested the proverbial low-hanging fruit. As a result, the ability to get ‘beyond the 10 per cent’ of world market shares figured prominently in their communications.

Second, *legal certainty* constituted another legitimation resource for those governance initiatives that offered certification of compliance with their standards. To be credible on the market, they had to show that firms holding a certificate lived up to the rules laid down by a transnational governance scheme while those who were denied a certificate had to be able to know why. In most cases, this need resulted in a strong institutionalization and legalization of transnational governance schemes.\(^{20}\) As this institutionalization affected decision-making as well as implementation, full-fledged ‘private regimes’\(^{21}\) modelled on the form and function of other legal regimes emerged over time.

Third, the legislative function transnational governance schemes had come to adopt raised the question of authorization. Who, in fact, had mandated them to ‘regulate for the rest of us’?\(^{22}\) This question turned references to *democratic norms and values* into a core pillar of their legitimation. In short, those representing the schemes argued that their organizations were designed to maximize the inclusion of affected ‘stakeholder groups’, the transparency of the decision-making process and the possibility for mutual learning in deliberative forums. To lend
credibility to such claims, many organizations formally or informally divided seats in executive boards along the lines of pre-defined stakeholder groups, established consultative stakeholder forums and allowed for public comments periods when proposing new or amending existing regulations (Bernstein and Cashore 2007; Dingwerth 2007; Dingwerth and Pattberg 2009).

3.2 From Basic to Distinctive Legitimacy: Change over Time

In contrast to intergovernmental governance, however, democratic legitimation the function of democratic legitimation has shifted in recent years. Once a key ingredient of basic legitimacy, democratic legitimacy has largely become an element of best practice that provides distinctive legitimacy. With this shift in function, the democratic narrative has hardly become irrelevant, but it has arguably lost centrality in the legitimation of transnational sustainability governance. The driving forces that lie beneath the shift are two-fold. First, transnational governance has become a ‘normal’ element of global governance and thus requires less justification per se. Second, many new initiatives were able to define their objectives in terms of internationally agreed goals, thereby further reducing the need to defend their democratic credentials.

Gaining vs. maintaining legitimacy. In the social worlds we inhabit, deviations from the norm—from what is considered as ‘normal’—raise interest as well as suspicion. This is no different for novel organizational forms. When the FSC was founded in 1993, it therefore confronted a ‘liability of newness’.23 It was a civil society organization, but it neither sought to raise awareness, nor to lobby for new intergovernmental norms, nor to monitor the compliance with existing rules. Instead, it created new rules. This function made it resemble an international organization; yet its members were individuals and associations, not states. So, what exactly was the FSC? And which standards should organizations like the FSC follow to gain legitimacy? Copying standard features of international institutions—whose absence or failure was often the raison d’être for transnational governance organizations—was one part of the solution. The
FSC thus defined membership rules and categories, designated the general assembly of members as the highest decision-making body and designed the *Principles and Criteria* on which certification in ways that resembled an international legal document. In addition, the *democratic* quality of the decision-making process featured prominently. Like international standardization bodies, the legitimacy narrative suggested, the FSC held actors to account by monitoring their compliance with environmental performance standards. Unlike conventional international organizations, however, everyone who shared an interest in the issues that were at stake, could become a member and take part in the making of those standards. Ultimately, transnational governance initiatives thus portrayed themselves not only as more efficient and more effective, but also as the more democratic cousins of intergovernmental regulators.

As more and more standard-setters followed the FSC template, a standard model evolved over time. With the establishment of the ISEAL Alliance as an umbrella organization of transnational standard-setters in 2002 and the Alliance’s adoption of the *Code of Good Practice for Setting Social and Environmental Standards* in 2004, this standard model was eventually codified. It included numerous criteria that, by focusing on participation and inclusiveness, by demanding transparency or by seeking to guarantee a high quality of deliberations, were closely tied to the ideal of democratic decision-making.

Yet, the adoption of the *Code of Good Practice for Setting Social and Environmental Standards* also marks an important change in the function the democratic legitimation narrative came to play as the organizational field matured. While democratic legitimacy claims had initially served to establish legitimacy for a new type of organization, their function increasingly shifted to *distinction* between the more and the less ‘credible’ actors in the field. The organizations that originally made up the field thus no longer used the *Code of Good Practice* to claim that transnational standard systems could be legitimate in the first place. Instead, they used it to demonstrate compliance with the conception of ‘international standards’ as defined in the WTO Agreement on Technical Barriers to Trade (TBT) and to draw a boundary between ISEAL members and a host of other regulatory initiatives which did not (yet) deserve the same level of ‘credibility’. As the ISEAL Alliance expanded from eight
members to 22 full members, it also added two further instruments of distinction—the *Impacts Code* in 2010 and the *Assurance Code* in 2012—with which all ISEAL members need to comply. Overall, this diversification indicates that democratic legitimacy remains relevant, but that its role changed from providing *basic legitimacy* to generating *distinctive legitimacy*. This development occurred in a context in which key audiences had become increasingly familiar with transnational governance as a new form of regulation. As the liability of newness diminished, as private transnational governance organizations came to be recognized as a ‘normal’ pillar of global governance, and as their ‘right to rule’ was no longer fundamentally challenged, the democratic claim lost centrality. As a result, second generation initiatives like Bonsucro, the Roundtable for Sustainable Palm Oil (RSPO) or the Roundtable for Responsible Soy (RTRS) continue to acknowledge ‘democratic’ legitimation criteria in their communications. But they put much less emphasis on such criteria than first generation initiatives like the FSC.

For example, organizations like the RSPO or RTRS focus primarily on the growth rates of their certification programmes or respond to challenges to the credibility of the environmental claims of certificate-holders by NGOs.\(^{25}\) Moreover, when commenting on the inclusiveness of their multi-stakeholder approaches, organizations like the Better Cotton Initiative (BCI) or Bonsucro state that they ‘work with a diverse range of stakeholders across the (...) supply chain’\(^{26}\) or build ‘a platform to accelerate change’.\(^{27}\) This contrasts starkly with the FSC’s stated ambition ‘to make sure no one viewpoint dominates the others, our membership has three chambers—*environmental, social and economic*—that have equal rights in decision-making’ (FSC, 2016, emphasis in the original).

* Embeddedness in international regulation. In addition, a change in the more general outlook of transnational governance initiatives made a difference. Whereas first generation initiatives mainly sought to devise regulations in fields where intergovernmental rules were absent, many recent initiatives are intertwined with existing international regimes. As they derive their overarching goals from international agreements, they are less susceptible to the charge of
'regulating for the rest of us'. Because their basic legitimacy is tied to the legitimacy of the ‘parent agreement’ to which they seek to contribute, their need to draw on democratic legitimation is lessened. Transnational climate initiatives are the prime example in this regard. As Jessica Green has shown, transnational governance has grown faster in this sector than in any other. Importantly, however, it also includes the lowest share of ‘de novo’ regulations. Most transnational climate governance initiatives thus ‘appropriate some aspects’ of existing regulations. They seek to contribute to the broader goals set in the United Nations Framework Convention on Climate Change (UNFCCC), in the Kyoto Protocol or, more recently, the Paris Agreement.

In sum, we can therefore complement the field recognition argument with a state prerogative argument. In short, this argument holds that, where (inter-)state regulation is in place, private regulation primarily legitimates itself in relation to the goals, principles and instruments of public regulation; as a result, democratic legitimation norms become less central. In contrast, where (inter-)state regulation is absent, the right to regulate needs to be claimed and defended. As a result, democratic legitimation norms become central.

4 Making Sense of Democratic Legitimation

So far, I have provided two broad sketches of the role democratic legitimation has come to play in the two major realms of global governance. In the legitimation of intergovernmental organizations, I have argued, democratic values were initially marginal but have steadily gained centrality since the 1990s. In transnational governance, their trajectory appears to be different. Democratic values they were a central pillar of legitimation efforts when private transnational regulation emerged as a new form of global governance in the 1990s, but they have receded to the background since those days.

How are we to interpret what we see? In the following, I offer some starting points for reflecting more thoroughly about the phenomenon at hand. Such a reflection, I would argue, should precede—or at least go hand in hand with—the examination of the ‘correlates’ of the
phenomenon to which contemporary social science tends to rush all too quickly. This seems to me to go beyond the distinction between *explaining* and *understanding* in relation to which social scientist often simply identify with one or the other tradition. Instead, it refers to the ability to make sense of the social world in a more general way: if we do not understand what it is we wish to explain—what the ‘nature’ of something is or what that something ‘is a case of’—then an explanation that tells us this or that factor have caused ‘it’ is likely to be of limited use. In this spirit, I offer four initial lines of thought that might help us to grasp the phenomenon.

4.1 Episodic, Not Linear

A first inroad for making sense of democratic legitimation in global governance as we see it remains at a more descriptive level. From what I have outlined above, we can conclude that democratic legitimation has become one important normative yardstick for governance beyond the state. At the same time, and in contrast to some other interpretations, the emergence of democratic norms in global governance is episodic, not linear. By and large, we see that democratic norms begin to matter in both realms of global governance in the 1990s. In each individual case, however, the successful introduction of democratic norms into an organization’s legitimation discourse responds to the specific legitimation needs defined by the historical context and the field-specific social conditions at that time.

In transnational sustainability governance, the FSC’s role as a first mover strongly shaped what a ‘legitimate’ global governance institutions in the field would have to look like; yet its affirmation of democratic governance principles as much from functional needs as from the political persuasions of its founding members. Moreover, the WTO’s TBT Agreement came to provide an important context when it required international standards to be the products of inclusive and transparent decision-making processes.

In intergovernmental governance, our quantitative study hints that democratic members, a large share of very poor members, and social protests render the adoption of a strong democratic rhetoric more likely. Our case studies additionally reveal that international bureaucracies may develop an interest in promoting democratic values to build new
constituencies that allow bureaucratic actors to expand their autonomy vis-à-vis governments. Furthermore, notions of transparency and accountability tend to gain relevance when new types of donors contribute significant shares to an organization’s budget. Finally, issue-specific legitimation cultures matter. In the IAEA case, democratic legitimation is thus virtually absent despite a politicization of the organization’s authority; in IUCN, it is present from the very beginning and gains further strength as the membership becomes more diverse and as the introduction of human well-being as a fundamental rationale creates path dependencies in support of democratic norms.

Taken together, these examples provide evidence of the multiple contextual conditions that give rise to democratic legitimation norms. This multiplicity confirms Steven Bernstein’s argument that ‘there is no abstract mix of procedural, substantive, or performance criteria that can be known to produce legitimacy outside the context of particular political communities’. In addition, it suggests that the rise of democratic norms is not steady, but occurs in episodes of normative change instead. Finally, our discussion of transnational governance illustrates that democratic norms do not need to remain central once they are successfully introduced into a legitimation discourse.

4.2 Democracy vs. Post-Democracy

Beyond description, the observation that democratic legitimation norms are on the rise in global governance while they experience a crisis in contemporary democracies might be a first reason to pause and reflect. How does the strengthening of democratic norms in the legitimation of intergovernmental organizations square with the rise of authoritarianism, populism and ‘illiberal democracies’ in Western as well as non-Western domestic contexts? That democracy becomes a more attractive standard in intergovernmental governance seems puzzling, moreover, if one accepts Colin Crouch’s diagnosis that nominally democratic societies are increasingly ‘moving towards the post-democratic pole’ of the continuum from democracy to post-democracy. At that pole, Crouch argues, elections are still held to determine the government. Yet ‘public electoral debate is a tightly controlled spectacle’; citizens play ‘a
passive, quiescent, even apathetic part, responding only to the signals given them’; and ‘politics is really shaped in private by interaction between elected governments and elites that overwhelmingly represent business interests’. As a result, many hopes associated with the democratic project—Crouch mentions strong egalitarian policies and efforts to restrain powerful interests—are facing a hard time.\textsuperscript{34}

To solve the puzzle, we could contest Crouch’s diagnosis in the first place. Alternatively, we could accept it and resolve the contradiction between international and domestic trends by pointing to the flattening of the curve of the rise of democratic legitimation in global governance in recent years. Maybe, then, democratic legitimation in global governance as a whole was merely an episode that originated in the ‘end of history’ euphoria of the early 1990s but that will eventually evaporate into thin air without leaving much of a trace. The WTO—as well as other international economic organizations—responded to the social protests in the 1990s by adopting a rhetoric in which values and norms espoused by civil society were central. But it gradually reduced its reliance on such norms and values once protests weakened and attention shifted back to more traditional terrains. Similarly, transnational sustainability governance schemes may have needed democratic legitimation to gain initial recognition. But once such recognition has been forthcoming for the organizational field as a whole, the need declined and new entrants to the field stressed their democratic credentials to a much lesser extent than the founding institutions.

While this is a plausible reading, two further interpretations are also compatible with a post-democratic diagnosis. On the one hand, the rise of transnational governance itself, as a form of a privatization of global rule-making, fits with the broader narrative of a political system that ‘increasingly cedes power to business lobbies’.\textsuperscript{35} As private regulators take over public functions, we can expect them to—at least ceremonially—embrace ‘public’ norms that traditionally apply to rule-making organizations. While public rule-makers are increasingly evaluated in terms of private businesses, it therefore should not come as a surprise that private regulators are subjected to scrutiny in relation to public norms.\textsuperscript{36}
Second, the observation that those in power have adopted the democratic legitimation discourse without having to change much in terms of the practice of decision-making may also explain some of the ‘boredom, frustration and disillusion’ that have contributed to the end of protests based on a democracy frame. The lack of continued normative pressures to democratize, Crouch argues, is to be expected after a ‘democratic moment’. Yet like with other originally transformative concepts like ‘sustainability’, the successful re-definition of ‘democracy’ by those challenged as suffering from a ‘democratic deficit’ can be expected to facilitate disillusion and hence disengagement among activists. As ‘powerful elites have learned to manage and manipulate popular demands’, normative pressures are reduced. What results is a ‘trivialization of democracy’ in which ‘the forms of democracy remain fully in place’, but ‘politics and government are increasingly slipping back into the control of privileged elites’.

Crouch’s diagnosis is geared to democracy at the domestic level. At the international level, however, the virtually exclusive focus of ‘democratic’ proposals on formal institutional reform would seem to confirm the suspicion to which Crouch’s argument gives expression. By neglecting all informal sources of exclusion from global decision-making—from literacy rates to access to healthcare and basic social security—it ignores the inconvenient truth that formal transparency and formal access alone will inevitably render global governance more democratic only for some. A focus on ‘nominal democracy’—a democracy that is democratic only by name—in other words, would equally lend support to the idea that the rise of democratic legitimation is ‘post-democratic’ in important ways.

4.3 Global Governance Organizations and the ‘Whatness of What Is’

These comments provide a further link to some ideas developed by Luc Boltanski in his *pragmatic sociology of critique*. Boltanski is primarily interested in the possibility of critique in contemporary, capitalist-democratic societies. Based on the view that social institutions are central as they define what is and what has value in society, he argues that, social actors are aware that social reality (as opposed to the ‘world’) is constructed and could hence also be different. As a result, those who benefit from the way in which reality is currently constructed
face incentives to make that reality appear robust. Domination occurs when the ‘instances responsible for the determination of what is’ are able to ‘act in such a way that reality has sufficient robustness to conceal the world as completely as possible and prevent it from manifesting itself’.\textsuperscript{42}

Seen in this way, the application of democratic legitimation norms to the institutions of global governance amounts to what Boltanski terms an ‘existential test’. Existential tests differ from ‘reality tests’. The latter merely check whether a given institution really meets the demands of the specific categories to which they are assigned—for instance if a product deserves a ‘fair trade’ label according to a recognized and standardized definition. In contrast, existential tests challenge the construction of reality. If necessary, they demand that new tests are introduced ‘to sanction acknowledgement of offensive factors that have hitherto remained unacknowledged, in the sense that they could be seen but without being identified or integrated into the domain of reality’.\textsuperscript{43} When the protesters in Seattle presented a banner that put democracy and the WTO in opposition to each other, we could thus understand this as the introduction of a ‘legitimation grammar’ drawn from one field—namely that of domestic politics commonly subject to the test of ‘democracy’—to a new institutional field to which it had not traditionally been applied. It is in this sense in which the quest for democratization to which global governance institutions respond with a democratic legitimation narrative can be seen as ‘radical’.\textsuperscript{44}

While it is plausible to assume that the introduction of a new legitimacy standard will, almost by definition, meet resistance, a key question remains how the normative pressures mounted by public protests could be defused. I am not sure what is the right answer, but I find it plausible to assume that the role of international organizations in constructing social reality—in stating ‘the whatness of what is’—would need to figure prominently. In line with Boltanski’s general argument, Michael Barnett and Martha Finnemore have thus argued that the power of intergovernmental organizations essentially lies in their ability to define the reality of the thematic fields in which they operate.\textsuperscript{45} Simply stated, ‘development’ is what the World Bank says it is, and a significant share of what we ‘know’ about how and when development works
comes from or has passed through the World Bank, an institution that has tellingly re-defined itself as a ‘Knowledge Bank’. Similarly, the UNHCR defines who is a refugee and provides information about the number of refugees in different world regions; the OECD collects, organizes and distributes specialized and widely recognized knowledge about the performance of school systems in its member states; and the UNFCCC Secretariat collects and disseminates authoritative data on national greenhouse gas inventories. Arguably, the advantage such organizations have in terms of authoritative knowledge in their respective fields, not least because they develop the most widely accepted classification schemes and are backed up by topical research departments, makes it difficult to challenge them over a longer period of time on grounds they can argue to be unrelated to their ‘core mandate’. As the WTO has successfully done, organizations that are challenged may offer some concessions but will at some point demand that protestors allow them to ‘get back to business’. By implication, radical quests for the introduction of ‘democratic’ tests are likely to remain episodes.

4.4 Noumenal Power and Normative Progress

Finally, all this begs the question whether the changes we can observe—a rise of democratic legitimation norms that is episodic rather than linear, contingent rather than stable and reformist rather than radical—constitutes progress in normative terms. The critical remarks in the previous paragraphs seem to suggest they do not, but a closer look is warranted.

A final inroad to reflect upon the rise of democratic legitimation norms in global governance could thus make use of Rainer Forst’s work on ‘social orders of justification’ (soziale Rechtfertigungsordnungen). Like Boltanski, Forst is interested in social critique as it is practiced: in what constitute, in a given social order, ‘socially effective justifications’. Adopting a focus on the ‘power of justifications’ rather than on the ‘justification of power’, Forst holds that power is rooted in accepted justifications—that it takes, as he calls it, a primarily ‘noumenal’ form. To have power then means to be able ‘to influence, make use of, define occupy or even seclude’ the realm of accepted justifications for others.
Accordingly, the rise and fall of democratic legitimation in global governance matters because it implies that the terrain on which the legitimacy of global governance organizations is contested shifts towards ‘democracy’. Some actors will inevitably wield a higher credibility on that particular terrain; they will benefit from this shift. In contrast, those with a lower standing in relation to the task of defining ‘democracy’ stand to lose. Stated differently, the ability to define the conceptual terrain on which legitimacy is negotiated in the first place is, and always has been, an important general source of power. The basis of the empirical evidence presented in this paper suggests that the ability to define the terms of ‘democracy’ has become a specific form of power in at least some areas of contemporary global governance.

Unlike Boltanski, however, Forst does not stop at the sociological analysis of social practices. He also has a normative interest in ‘well-reasoned justifications’. In the spirit of critical theory, he aims to identify what inhibits existing ‘social orders of justification’ from realizing more fully a social order of justification that, from a normative point of view, could be defended based on good reasons. This normative position allows him to not only state that ‘power is rooted in accepted justifications’, but to also qualify such accepted justifications as ‘sometimes good, sometimes bad, and often somewhere in between’ and to identify critique with the question ‘whether the dominant language is actually the right one’.

Social protests raise precisely this question when they seek to either complement or replace the language of functionality with the language of democracy.

Substantively, Forst associates normative progress with the idea ‘that a society strives for new levels of justification according to which political and social conditions can not only be justified in reciprocal and general ways, but where there also exist institutions for generating such justifications’. To what extent the developments sketched in sections 2 and 3 of this paper meet this ambition is a big question. In principle, the democratic legitimation narrative holds a strong potential for normative progress in the sense identified by Forst simply because, more than other legitimation narratives that matter in world politics, it is built around a political idea that takes the ‘right to justification’ seriously. In that sense, democracy should clearly be at the core of the legitimation discourses related to global governance institutions; and from
that particular angle, the observation that democratic standards have indeed entered public discourse about the legitimacy of global governance institutions must seem promising.

In practice, however, there are major challenges: the episodic nature of the rise of democratic legitimation, the many ways in which the specific conceptualizations of democratic governance offered by global governance institutions fall short of embodying a ‘right to justification’, or the gap between democratic rhetoric and the ‘institutions for generating justifications’ that meet a certain normative ambition. Looking at these shortcomings, it seems fair to say that the rise (and fall) of democratic legitimation narratives in global governance oscillate somewhat uncomfortably between democratic potential on the one hand and post-democratic practice on the other. The democratic potential lies in the fact that the mere presence of democracy talk can open the door for normative progress. The ideological potential lies in the fact that the powerful may employ democracy talk to silence opposition, disguise the true contours of their power or make the exercise of their power—in which the few represent the many—appear to be in the name or interest of ‘the public’.

5 Conclusion

In this contribution, I have sketched the pattern of a growing role for democratic legitimation in one ‘world of world politics’—intergovernmental governance—combined with the initial strength but subsequent decline of the same legitimation narrative in the other ‘world of world politics’—transnational governance. What does this pattern amount to? The reflections I have added based on the works of Luc Boltanski, Colin Crouch and Rainer Forst suggest that what we see when we look at these broader trends in conjunction is a non-linear, episodic transformation of a specific social order of justification—namely the justificatory order that applies to global governance institutions—that, from a normative point of view, oscillates between democratic potential and post-democratic threat.

Taking a broader look, this observation has two main implications. With regard to the objective of enabling a reflexive discussion within the community of scholars, positivists share a distaste
for what they call ‘arguing by example’. Because we can find examples for almost everything, they prove almost nothing. To substantiate claims about the pervasiveness of a democratic legitimation narrative in global governance, I have therefore gone beyond examples and provided a systematic sketch based on a comprehensive collection of quantitative as well as qualitative data from the two major sub-fields of global governance. At the same time, I could easily plead guilty for being selective in a different way, namely in relation to the social theories I have relied upon to make sense of the rise (and fall) of democratic legitimation in these fields. While a scholar like Jens Steffek may have relied on Max Weber’s ideas about rationalization, I come to different conclusions when building on Boltanski, Crouch or Forst. In one way, I could defend my choice by claiming that the work of Boltanski and Forst allows me to see the ‘social orders of justifications’ I have sketched above while the work of Crouch allows me to make sense of the particular order of ‘democratic’ justification I see to be emerging. In a different way, however, I could also claim that my ambition is much more modest. From this angle, my selection would exemplify ‘arguing by example’ in a useful way, namely to the extent to which my discussion shows that we can learn something from bringing social theory —of whatever sort or color—into the study of global governance and its legitimation. That something, in my view, is the ability to take a few steps back and ask what we are actually seeing when we are looking at ‘legitimation’.

Finally, with a look to the public debate, the verdict that the current path we have embarked on with the shifts I have sketched in this paper oscillates between democratic potential and the threat of a largely post-democratic practice must seem unsatisfactory. It begs the question how we may know in a given situation. And it leaves us wondering how we many realize the potential and avoid the threat. These are, no doubt, tricky questions to which I can hardly provide a thorough answer in this contribution. Nevertheless, because democratization is inherently linked to the regulative idea of emancipation, a relatively simple test could provide a shorthand here. If it does not hurt the privileged, this test would suggest, it probably does not imply much democratization. To be sure: not every reform that ‘hurts the privileged’ will benefit the underprivileged; yet it seems fair to assume that most shifts that will accomplish
the latter goal will come at cost to those who enjoy access to and influence over global decision-making thus far. The test itself would require us to be clear about which who ‘the privileged’ are in matters of global governance and it would confront us with the task of identifying which formal and informal obstacles actually impede the members of less privileged groups or communities from contributing to global governance as free and equal persons. Both tasks, I would claim, have yet to enter the standard repertoires of contemporary debates over the prospects of global democratic governance. In a way, our simultaneous desire ‘to be democrats’ but not to pay a price for realizing this ideal at the global level could thus help to account for some of the oscillating I have sketched in this contribution. Seen from this angle, the ideal of global democracy presents Western societies with a choice not only between our values and our interests and, in some way, also between ‘us’ and ‘them’—an inconvenient truth that academic as well as public debates over the prospects for global democratization might need to take seriously.

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Notes

1 Scholte 2011.
2 Tallberg, Jönsson, Sommerer and Squatrito 2013
3 Grigorescu 2015.
4 Koenig-Archipugi 2011.
5 Rosenau 1990.
7 The following builds on Dingwerth, Schmidtke and Weise 2018.
8 IMF 2000, ii.
9 OECD 2000, 7.
10 OECD 2011, 10.
11 Calculations are based on authority measures provided by Hooghe et al. 2017.
The following paragraphs build on Dingwerth, Witt, Lehmann, Reichel and Weise 2018.

Clark 2007.

For an overview, see also O’Brien et al. 2000 and Strange 2014.


See also Symons 2011; Zaum 2013.

Abbott 2012.

This argument is more fully developed in Dingwerth 2017.

Cashore 2002.

Brown, de Jong and Lessidrenska 2009.

Haufler 1993.

Lipschutz and Fogel 2002.

Freeman, Carroll and Hannan 1983.

Bernstein and Cashore 2008; Dingwerth and Pattberg 2009; Etzion and Ferraro 2010.

Nikoloyuk, Burns and de Man 2010, 68-69; Schouten and Glasbergen 2011; Schouten, Leroy and Glasbergen 2012.


Bonsucro 2016.

Green 2014, 89-95; see also Bulkeley et al. 2014.

For a similar argument at the domestic level, see also Balleisen 2017.

See also Nullmeier et al. 2010; Scholte 2011.

For contrasting views, see Drori, Meyer and Hwang 2006 and Steffek 2003.

Bernstein 2011, 28.

See also Grigoresu 2015.

Crouch 2004, 2-4.

Crouch 2004, 4.

Dingwerth and Hanrieder 2010.

Crouch 2004, 19.

Ibid.
In addition, the possibility to disaggregate the ‘democratic deficit’ and point to improvements in some, but not all dimensions of democratic legitimacy, helps to deflect normative pressures (Grigorescu 2015). In part, such efforts are assisted by benchmarking exercises such as the transparency ranking of powerful international organizations in 2003 by the One World Trust in which the WTO ranked fourth of 18 intergovernmental organizations. On the ability to define and adopt to benchmarking criteria as a particular form of power, see also Boltanski 2011: 133.

Forst 2015, 56.

Forst 2015, 60-66; translations are my own.

The original quote reads: ‘Macht beruht auf akzeptierten Rechtfertigungen – manche gut, manche schlecht, viele irgendwo dazwischen’ (Forst 2015, 65).

Ibid., 109.

References


