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Response to Northwestern University IO/IL Working Group Symposium on The Evolution and Legitimacy of International Security Institutions

First and foremost, thank you to Miruna Barnoschi, Andrew Day, and Alan Kellner for their thoughtful and engaging reviews of my book The Evolution and Legitimacy of International Security Institutions. I am honored and grateful to have the opportunity to participate in this symposium.

The reviewers raise a number of excellent points and important questions about the concept of legitimacy and its application to the study of international institutions. In an attempt to group some of these comments together and address some of the broader thematic issues at stake for a broader audience, the response is divided into three parts: 1) the concept of legitimacy; 2) the empirical application of the concept; and 3) broader implications and future research.

But allow me to begin with a bit of background on this book. Prior to pursuing my doctorate, I worked at the US Department of State, primarily on arms control and nonproliferation issues, during the Clinton and Bush administrations. Upon reflection, the period seems almost Dickensian. For it was at once “the best of times” (e.g. the Mine Ban Treaty had opened for signature largely without great power support—a triumph for global civil society and humanitarianism) and “the worst of times” the UN inspection commission (UNSCOM) had been expelled from Iraq, Iran and North Korea had abrogated their NPT obligations and jeopardized the future of the treaty, and some high level Bush administration officials were openly questioning the project of multilateralism.

These experiences led me to ask: what would it take to overturn an existing institutional order? What would have to happen to generate the political will necessary to affect such a monumental change? Because politics are necessarily complex and social, I turned to the concept of legitimacy, which as the reviewers point out, has its operational challenges.

On Legitimacy

As Day notes, legitimacy or the “belief that an institution ought to be obeyed’ and hence exist” is a fundamentally social, contingent, and relational concept – an “intersubjective appraisal” rather than an objective moral quality. If an institutional order is to have resilience or staying power, it must be rooted in some basis of legitimacy. Legitimation processes can shape the practices of the governed and provide the social cement that locks in multidimensional power relationships. International institutions serve as the site for legitimation struggles, which may seek to alter international norms or perhaps even lead to a “crisis” that calls into question the validity of the institution altogether.

1 See also Hurd 2007.
2 See for example Barnett and Duvall eds (2005)
3 See Reus Smit 2007
Given the highly contextual character of legitimacy, some would refer to the concept as “squishy,” in part because it does not easily lend itself to elegant theorizing or clean causal relationships. However, as Day observed, this perceived weakness might also be a source of strength, as it affords the conceptual space to factor in human agency and historical contingency. So when Barnoschi writes, “it seems to me the role of change agents and political time in causing institutional replacement is just as important as the role of perceived institutional legitimacy (or lack thereof),” I would agree. But the point is that these factors must be viewed in interaction with one another: what are the characteristics of the change agents, what types of arguments are they deploying in the legitimation process, and how are these arguments situated vis-à-vis the social and historical context in which they are taking place? Because legitimacy is a social-relationship concept, it is capable of capturing these complex interactions between agents and prevailing structural (historical, institutional, distributional) conditions.

To be sure, we should be mindful of some of the limitations of what some might consider a “garbage can” type model. But politics is messy and complex. The framework advanced in the book attempts to provide a systematic way to think about the nature of these interactions and the empirical implications thereof. One might reasonably ask, as Barnoschi and Day do, are there specific ex ante operational conditions that make legitimacy contests (e.g. are they legal or moral in character?) more likely to lead to a major shift in institutional order? To a certain extent, there are. For instance, some change agents (e.g. those with common purpose, moral or knowledge-based authority, network density, material resources, and strong organizational capacities) will be better positioned to contest the legitimacy of an existing institution than others. Some political opportunity structures (e.g. in the wake of a “focusing event”) will be more likely to allow arguments made in the legitimation process to resonate. But these conditions alone are neither necessary nor sufficient to account for empirical outcomes. This is one of the reasons why the legitimation process holds analytical appeal as a framework that emphasizes interaction or “fit” between variables in a transitory international environment.

The reviewers also raise good questions about the “dark side” of legitimacy and the enduring role of power in maintaining the legitimacy of international institutions. Kellner underscores a need to be more explicit about integrating realist insights, while Day posits that “it seems more accurate to say that a few privileged global actors are empowered to determine which institutions are legitimate while less powerful actors, including some of the most populous states in the world, must put up with the consequences.” These

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4 Keck and Sikkink (1998) argue, for example, that actors are more likely to accept new claims (or frames) if these are shown to be similar to widely held principled or causal ideas. They find, for instance, that frames are likely to resonate by appealing to widely principled beliefs, such as opposition to bodily harm to innocent civilians from remnants of war such as landmines, and using symbols or graphic images to personalize the issue. But these too are contextual arguments, dependent on issue area and so forth.

5 See for example Kingdon 2003.

6 This is a similar argument made by Lloyd Gruber’s in his book Ruling the World: Power Politics and the Rise of Supranational Institutions.
observations both identify a core question: how and why would weaker actors consent to an unequal or even exploitative institutional order?

In this respect, realist (especially classical realist) and social constructivist insights are complementary. Whether the weak consent to what amounts to a fundamentally unequal order may result from whether the norms it propagates are perceived to be universal and/or framed in a way that captures intersubjective understandings about the nature of problem. In the case of the NPT, we see “nuclear apartheid,” but part of the reason for the broad membership can be attributed to the moral consensus that exists around the principles of nonproliferation and the so-called nuclear taboo. This is one reason why the empirical chapters of the book pay such close attention to the origins of the existing institutions and their founding basis of legitimacy. The stronger the founding basis for legitimacy, the less likely it will be necessary for the powerful to exert coercive pressure to maintain institutional order. Conversely, resistance is more likely if these values are viewed as particularistic or the institution operates in a discriminatory fashion. Indeed, many of the current debates over the health of liberal order hinge on the whether rising powers will seek to undermine it or are merely trying to acquire greater influence within it.

**Empirics**

The reviewers also identified some important issues about the nature of the empirical inquiry and the application of the procedural and substantive dimensions of legitimacy. Kellner notes,

“I worry that the term evolution threatens to undermine negotiation. Negotiation, questioning of legitimacy, revaluation, and so on, are all central to the political changes the book tracks...When he speaks of the ‘DNA’ of an institution (cf. 6, 80) he also renders the contours of an institution ‘biologically’ determined in advance. This is out of spirit with the book’s argument about history, timing, and negotiation – all of which the book successfully shows to be of central importance to security institutional replacement."

It is important to clarify that the emphasis on evolution and “DNA” is intended to underscore the importance of situating international institutions in broader historical context. The argument is not deterministic, but rather rests on the premise that institutions do not arise in a vacuum. The existing institution must be viewed against a broader temporal and ideational backdrop for it is a byproduct of an evolutionary process, shaped by its forerunners, tempered by past experience, and steeped in cognitive schemes that give meaning to this experience (which inform the DNA). While international institutions may be resistant to change, precisely for these reasons, they are not immutable. Legitimation processes (or negotiation), where boundaries for acceptable action are drawn, institutionalized, contested, and potentially redrawn, thus serve as engines of evolution. Replacement reflects one outcome along a broader evolutionary path.

Barnoschi astutely observes tensions both within and between cases with respect to the procedural and substantive dimensions of legitimacy. First, she asks, “What accounts for
consensus-based decision-making processes being contested as procedurally illegitimate for one international security institution [the Convention on Certain Conventional Weapons], while being the very feature that makes another international security institution procedurally legitimate [the Nuclear Nonproliferation Treaty]?

With respect to consensus-based (i.e. the unanimity principle) decision-making procedures, a paradox exists. On the one hand, it represents a significant source of procedural legitimacy because of its appeal as a mechanism that promotes direct democracy. All members have a vote, which holds both symbolic appeal and legislative power. For near-universal treaties such as the NPT, this is a particularly important source of legitimacy. However, if reform or change needs to occur, consensus-based principles can impede what many consider to be necessary change and force actors outside of the existing institutional framework to create a new institution, as occurred with the Mine Ban Treaty. The paradox operates differently depending on context and time. For example, when the NPT Review Conferences cannot generate a “final document,” many actors contest the procedural legitimacy. The difference with the landmines case is that an extra-institutional strategy (e.g. creating a de facto replacement institution such as the Mine Ban Treaty) is not as viable without the nuclear weapons states (e.g. a nuclear disarmament convention).

Second, with respect to the League of Nations, she observes:

“its procedural legitimacy was in question because (1) its negotiation was from the get-go exclusive and discriminatory (favoring the Great Powers), (2) its membership was not universal, and (3) its unanimity principle impeded direct impact on the deplorable substantive output of the League of Nations – a lack of organized international security. This raises two questions: (i.) can procedural and substantive legitimacy come apart? and (ii.) if they do, to what extent is procedural legitimacy and its contestation a significant causal factor for institutional replacement?”

Procedural and substantive legitimacy are, to my mind, distinct but interrelated dimensions. While I would generally subscribe to the premise that substance matters more for replacement, both can have a significant impact. Consider a counterfactual: what if Britain and France had acted to deter German and Japanese aggression during the interwar years? Would the League have collapsed the way it did, despite its questionable basis for procedural legitimacy? The discriminatory nature of the negotiations and lack of great power representation on the League Council might not have mattered as much if the League had more success in responding to or deterring aggression. In the Mine Ban case referenced above, agents contested legitimacy both in terms of process (consensus-based decision making) and substance (mines should be prohibited not just regulated). The key, therefore, becomes recognizing the relationship between process and substance and trying to manage the paradoxes that exist between them.

Implications for further research
By way of conclusion, let us consider some more general potential applications and implications for future research.

Does the theoretical framework advanced in the book have application beyond the realm of international institutions? Day writes, “there is no obvious reason why the theory would apply only to international security institutions, and yet attempting to theorize institutional development in general through an application of the concept of legitimacy is a daunting task.” Many of the treatments of legitimacy in political philosophy and elsewhere occur in more of a domestic context. Moreover, my approach to institutional development here draws significantly from the literature on American political development, which is where concepts of critical junctures and political time originated. At this writing, it is election season in the United States and many worry about the prospects of a contested presidential outcome. It would not be the first time. The 2000 Gore v. Bush decision underscored the legitimacy of not only the Supreme Court, but also the electoral college. An application of this framework might help us understand the nature and sources of this legitimacy and consider questions of what it would take to replace the latter.

Kellner notes possibilities for related lines of research that connect the history of political thought and international political theory.

“If Kant’s ideas did influence the League of Nations and the UN, a fruitful study might begin to look at ways Kant was appropriated for and in the establishment of these hallmark institutions. As political contestation does not occur in a vacuum, neither did Kant. Such a study might look not only at how Kant’s ideas informed discussions and founding documents, but why Kant’s ideas animated it and not the ideas of natural lawyers or competing cosmopolitans, for instance.”

I am most intrigued by this idea, as it opens up possibilities for considering use and misuse of political theory in policy settings, perhaps along the lines of Khong’s *Analogies at War.*

Finally, I am one who subscribes to the idea that academics, when possible, should try to make their research relevant to policy-makers. While this is no doubt an academic book, I believe it has application for policy. For instance, in the conclusion I suggest how experimental forms of governance might help build institutional legitimacy while limiting the “dark side.”

However, in writing the introduction to this piece and reflecting on my time in government, a more practical consideration came to mind. It is difficult to build intellectual capital while working in the policy community. Each day can seem like a game of tetris: you clear one task only to find three more waiting in the queue. Consequently, one tends to rely on cognitive frames that are structured by received wisdom and become socialized by the prevailing political culture – an example of which is what Obama derisively called the “Washington playbook.” While this observation evokes academic questions about

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7 Khong 1992
8 See also de Burca et al. 2014 and Nance and Cottrell 2014.
bureaucratic culture and groupthink, it is also relevant for scholars who wish to contribute to the policy discourse. In this regard, scholars could enhance the legitimacy of their work by empathizing with policy-makers, being mindful of their limited bandwidth, using simple frames that avoid jargon, and recognizing cultural constraints in which they operate.

**References Cited**


