Institutional Facts and Principles of International Political Legitimacy

Introduction

How should the content and justification of action-guiding normative "principles" in political life be responsive to social "facts"? The importance of this question is evident nowhere more clearly than within debates about the principled grounds for political support of international institutions. Theoretical debates about international institutions have been shaped for the last century by efforts to balance the fact-sensitivity of "realpolitik" traditions with the "idealist" reformism underpinning liberal and other critical alternatives. Analysis of the tension between these realist and idealist approaches is perhaps most familiar to international relations scholars from the now-classic reflections of E.H. Carr on the challenges of building international order through institutions in the inter-war period of the twentieth century:

> All healthy human action, and therefore all healthy thought, must establish a balance between utopia and reality ... The complete realist, unconditionally accepting the causal sequence of events, deprives himself of the possibility of changing reality. The complete utopian, by rejecting the causal sequence, deprives himself of the possibility of understanding either the reality which he is seeking to change or the processes by which it can be changed. The characteristic vice of the utopian is naivety; of the realist, sterility. (Carr, 1946: 11-12)

But while Carr's call for such balanced normative analysis is compelling, it is not accompanied in his work or any subsequent body of international theory by an explanation of how such balance can be achieved within a given institutional context. What is required here is a systematic analytic strategy – or methodology – for helping political actors identify *which* political facts should be accommodated by normative political principles, and *how* principles should be responsive to these facts within specific contexts.

Methodological challenges of this general kind have received more sustained attention within political philosophy than international theory literatures. But within political philosophy most methodological debate has centred specifically on the moral justification of *principles of justice*, framed in critical dialogue with John Rawls's arguments for the claim that '[c]onceptions of justice must be justified by the conditions of our life as we know it or not at all' (Rawls, 1999: 398). While principles of justice articulate fundamental standards for moral critique of international institutions, political collectives are rarely mobilised to support political institutions solely for the pursuit of the goal of justice (Nagel, 2005). Real political action is motivated by a wider range of values – which are in turn reflected

in the functions and constitutive rules of the real institutions it sustains. The exclusive appeal to principles of justice as a guide to institutional action therefore cannot escape Carr's charge of utopian naivety, since the moral logics of justice can merely restrain – but never replace – the animating political logics of real institutional action.

A related critique of utopian normative theories has been pressed in recent 'realist' literature, which challenges the 'moralist' orthodoxy of justice-focused theories (for a survey see Rossi and Sleat, 2014). This new realist theory shares with classical international relations realists a focus on an analytically distinct *'political'* sphere of practical action and normative principle, differentiated from the sphere of morality (Morgenthau, 1948). It further shares with some international relations institutionalists a focus on the *concept of political legitimacy* as a frame for analysing the normative principles that regulate political action in institutional contexts (Buchanan and Keohane, 2006; Clark, 2005; Kratochwil, 2006). But these shared ideas have not yet been converted into a systematic methodology for identifying and justifying any substantive political principles as action-guiding alternatives to morally justified principles of justice. This methodological deficit derives in turn from a lack of clarity in these literatures about two issues: the special *regulative role* of the principles that operate within the political sphere; and the *conception of political legitimacy* that is deployed to frame their analysis.

In this article I respond to this deficit by sketching a provisional methodology for identifying and justifying non-utopian normative principles for guiding international institutional action, which is based on an original account of the regulative role and conceptual structure of principles of political legitimacy. I develop my argument for this approach in three steps. Drawing on insights from recent realist and pragmatist political scholarship, I argue first that a special non-utopian category of normative political principles has the regulatory role of helping *solve collective action problems that emerge in practice* among actors engaged in shared institutional projects – and that in doing so these principles can support the function of institutions as instruments of valuable collective action. Next, I argue that analysis of such normative political principles can be helpfully framed by what I call a *collective agency* conception of political legitimacy. On this conception, normative principles of political legitimacy specify: the conditions under which individual institutional participants should support the functional operation of an institution, in order for the group of participants together to accomplish valuable collective action.

Finally, I draw out the implications of these claims for the methodological question of how the content and justification of normative political principles should depend upon social facts. Principles of political legitimacy should vary across institutional contexts, I argue, in accordance with facts of two kinds: *motivational* facts about the conditions for participants' deliberative support for a given institution; and *empirical* facts about the preconditions for a given institution's successful functioning. This contextualist methodology is derived from a general (rather than a

narrowly international) theory of normative political legitimacy; but it has particularly useful applications to international politics insofar it can help to account for the widespread intuition that standards of political legitimacy for institutions may vary both across domestic and international levels, and among international institutions operating in different functional domains.

Individuals, institutions, and collective action: a special regulative role for normative political principles

Since my goal here is to outline a methodology for identifying non-utopian normative principles for regulating international institutional action, it is necessary to begin by saying a little more about the *kind* of real world guidance that we want such principles to offer. In simple terms, I assume that non-utopian principles must track facts about the political world in two key dimensions. First, they must offer determinate guidance for political action towards and through *real institutions* – as they actually exist in the present (albeit understood as transformable over time). Second, the reasons that justify these principles must be capable of engaging the *real motivations* of political agents, as they presently exist (again, understood as transformable). Here I will describe a regulative role for normative political principles that qualifies as non-utopian in both dimensions, and accordingly provides a usefully action-guiding focus for a normative theory of international institutions.

I propose that we can identify a set of non-utopian normative principles with a special regulative role: *remedying collective action problems that emerge in practice among actors engaged in shared institutional projects* – and in doing so supporting the function of institutions as instruments of valuable collective action. Here I define an 'institution' as a persistent and connected set of formal or informal rules that prescribes behavioural roles, constrains activity, and shapes expectations of some set of social actors (Keohane, 1989: 383).[1] I define 'collective action' as any behaviour that is: (a) engaged in by some collective of individuals; and (b) jointly intended by at least some sub-set of them.[2] I take it also that collective action is valuable to the extent that it is reflectively endorsed by individual participants as being worthy of their behavioural support. It need not be reflectively endorsed as valuable by *each* individual participant in order to be described as valuable in some sense; rather, the description of collective action as valuable can be taken as

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[1] Here I understand institutional 'rules' in pragmatist terms as a function of the meaning that is attributed to them as social 'artifacts' by institutional participants (Ansell, 2011).

[2] I do not claim that the collective behaviours must be jointly intended for *each* individual in order to constitute collective action, as in some influential analytic philosophical literature (Searle, 1990; Bratman, 1999). Rather, individuals can be participants in a collective action without sharing intentions, so long as they are connected to the sub-set of intention-sharing individuals through material interdependences reflected in shared habits and affects. This conception of collective action presupposes a pragmatist account of agency of the kind elaborated for example by Joas (1996).

shorthand for the more precise claim that it is *valuable for* the set of participants who so endorse it.

To understand this problem-solving role for normative principles, it helps to explore further the character of the collective action problems within political institutions, to which special regulative remedies may be required. Established rationalist analyses of the conditions for successful collective action provide a useful starting point for this. On standard rationalist accounts, institutions can support successful collective action insofar as they are they understood as *instrumentally valuable* to the multiple individual agents who together support their social functions (Keohane and Nye, 2001). Rationalist theories attribute this role to institutions on the basis of three assumptions about rational agents: first, that they have well defined goals that they are consistently motivated to advance through strategic action; second, that they share some goals that can more successfully be advanced through cooperative than unilateral action; and third, that they sometimes encounter certain coordination problems that result when they lack complete information about each other and their circumstances. Building on these assumptions, institutions are regarded as instruments for solving coordination problems that hinder beneficial cooperation (Buchanan and Keohane, 2006: 408).

This rationalist account supplies many fundamental building blocks for an understanding of the role played by institutions in supporting valuable collective action. But I propose that it must be qualified by recognising that its first key assumption – that agents have well defined goals that they are consistently motivated to advance through strategic action – is under many conditions empirically false. In fact, achieving valuable collective action through institutions is usually a fragile political accomplishment, which must routinely overcome several systemic threats in order to succeed. Three systemic threats to valuable collective action are especially pervasive under the modern background conditions of social pluralism and complexity,[3] and I will examine each in turn.

The first pervasive threat to valuable institutionalised collective action is the focus of standard rationalist theories, and can be called the threat from *disagreement about ends*. This threat results from disagreement about the optimal goals of institutionalised collective action – which is pervasive under conditions of social pluralism. Buchanan and Keohane describe it in rationalist terms as the 'higher order coordination problem' of reaching agreement among members of a group on which institutional arrangement to select, from some mutually beneficial but differentially optimal set of available institutional alternatives (Buchanan and Keohane, 2006: 408).

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[3] By *pluralism*, I mean circumstances whereby the multiple agents within a collective have divergent and conflicting identities, values, and goals. By *complexity*, I mean circumstances whereby the social impacts of many activities have complex causes that are difficult for agents to track.

The second threat to valuable institutionalised collective action can be called the threat from the *fluidity of ends*. It derives from the fact that agents' goals are often fluid rather than fixed or firm – especially under conditions of social pluralism whereby individual agents move continually across multiple social identities and associated practical roles. As such, the recognition of this threat directly challenges the rationalist assumption that agents have well defined strategic goals. To explain it, we can begin by noting that for an institution to discharge its valuable functions effectively, it needs to secure adequate political support – whether this takes the form of compliance with rules, provision of resources, or non-interference. Securing support can be difficult under conditions of social pluralism, since pluralism leads not only to disagreements *among* agents, but also to motivational tensions *within* individual agents who may occupy multiple social roles linked to varying values and practices. Even if all members of a collective value the functions of a shared institution in some general sense that counts in favour of supporting it, this may not consistently override their multiple competing motivational demands – which will often also be unsettled and fluctuating as a result of the tensions among them.

In order to sustain the claim that agents' values and motivations can fluctuate in this way, it is necessary to relax the rationalist supposition that agents have clearly defined goals that remain stable across the varying contexts and moments in which they undertake political action. Instead, agents' values and motivations are taken to be somewhat indeterminate in the abstract, and fully definable only through action itself within particular contexts and moments. The 'realist' political philosopher Raymond Geuss has made this general point about political motivation in the following terms:

> People often have no determinate beliefs at all about a variety of subjects; they often don't know what they want or why they did something ... This is not simply an epistemic failing, and also not something that one could in principle remedy, but a pervasive "inherent" feature in human life. (Geuss, 2008: 2-3)

If we accept that the values and motivations of political agents have this kind of fluidity, it is easy to see the threat this poses to institutionalised collective action: motivational fluidity can in some contexts undermine the stability of agents' motivational commitments to institutional goals and norms, and thereby corrode institutional functions through a loss of active support. This is so since an agent's support for an institution will depend not only on the value that might be accorded to the institution's functions relative to other goals in some abstract rationalist preference ranking process; it will further depend upon the character of the particular contextual circumstances in which institutional support is required, and the motivational salience of the institution's value in that context. A persistent challenge for institutionalised collective action, then, is finding ways to engage political agents actively with institutions in ways that make its value motivationally salient for them in the contexts in which they are required to offer material support.

The final systemic threat to valuable institutionalised collective action can be called the threat from the *interdependence of means and ends*. The sources of this threat have been analyzed most directly in recent work by pragmatist scholars working on problems in democratic theory (Dorf and Sabel, 1998; Knight and Johnson, 2011), drawing in different ways on the work of classical American pragmatist John Dewey. Like the threat from fluidity of ends, this one directly challenges the rationalist assumption agents' goals are well defined and consistently motivated. But whereas the former threat departs from rationalism by highlighting the multiplicity and motivational fluidity of agents' goals, this one departs by highlighting the difficulty of defining goals independently from exploration of ends – especially under conditions of complexity, where causal relationships between action and outcomes are difficult for agents to track or understand. This prevalence of this difficulty is recognised in the pragmatist claim that the distinction between means and ends is artificial, since goals can never be defined fully on terms 'that survive the effort to realise them' (Dorf and Sabel, 1998: 285).

This difficulty can threaten institutionalised collective action by inhibiting agents' capacity to define clear expectations for their shared institutions, and to predict in advance the value that their institutions may be able to produce if they are strongly supported within a collective. To the extent that individual agents are dispositionally risk-averse, distrustful, or rigidly strategic (in the sense of being motivated only by expected personal benefits), then motivating collective action under conditions of complexity may be difficult to sustain. For institutionalised collective action to succeed under these circumstances, participants must be willing to adopt the 'experimentalist' stance that Dorf and Sabel describe as a willingness to undertake 'workable cooperation by continuously exploring different understandings of means and ends' (Dorf and Sabel 1998, 314). A persistent challenge for projects of institutionalised collective action, then, is finding ways to build the kind of solidaristic, creative, and experimentalist dispositions among participants that will be required to motivate support for institutions without full clarity in advance about the value of their outcomes.

The final step in understanding the regulative role for normative political principles is to recognise that systemic threats to successful institutionalised collective action can be ameliorated by *remedial institutional mechanisms*, designed to combat these sources of institutional vulnerability. This is not the place for a survey of the myriad institutional mechanisms that can be built into institutional processes as means of combating various threats, but many liberal and democratic institutions provide familiar examples of the kinds of mechanisms I have in mind. These include: various mechanisms for controlling and managing disagreement about institutional goals – through both consensus building, and fair decision-making procedures for persistent disputes (Hamilton et al, 1966); 'experimentalist' mechanisms developed as remedies for the problem of interdependence between institutional means and ends (De Búrca et al, 2014); and mechanisms for linking institutions to motivationally unifying public cultures – such as public cultures of nationhood at the state level (Miller, 2000) – to remedy the problem of motivational instability.

Drawing together all these points – concerning the value of institutionalised collective action, the substance of systemic threats to its success, and the capacity for remedial institutional mechanisms to ameliorate these threats – we can see a functional role for some special normative principles. This role is to guide institutional participants about the kind of regulation that a given institution needs in order to ameliorate threats to its valuable functions, arising within its ongoing institutional practice. In doing so, these principles can perform the regulative role I identified at the outset: supporting the function of institutions as instruments of valuable collective action.

Principles of this kind can provide a useful focus for the normative political theory of international institutions insofar as they track facts about both the nature of institutions and the motivations of their participants – and thereby qualify as non-utopian in the sense sketched earlier. First, these principles offer determinate guidance for political action towards and through *real institutions*, by prescribing mechanisms for remedying collective action problems that emerge within real institutional practice. This direct prescriptive engagement with real institutional problems compares favourably with the more limited real-world guidance provided by principles of justice within familiar 'institutionalist' theories of justice (Pogge, 1989), which aim not to remedy concrete problems arising within existing institutions but more abstractly to specify morally justified constitutive rules for hypothetical just institutions. Given their focus on prescribing just institutional blueprints for hypothetical social orders, principles of justice mostly entail highly indeterminate prescriptions for political action towards real – morally flawed – institutions.[4]

The normative principles I have described here further qualify as non-utopian insofar as the normative reasons that justify them are capable of engaging *the real motivations of institutional participants*.[5] These justifying reasons are best characterised as a complex set of evaluative and empirical beliefs concerning the value of and preconditions for collective institutionalised action; these correspond with the points outlined above about the value of institutionalised collective action, the character of systemic threats to its success, and the capacity of remedial institutional mechanisms to ameliorate these threats. Since this chain of reasons begins with institutional participants' own understandings of the value of their collective institutionalised action, there is a direct internal relationship between the motivating reasons that animate the functions of any existing institution, and the

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[4] The question of whether or how moral justification of institutions should take account of facts about existing institutional practice attracts ongoing controversy among theorists of justice (for surveys of these debates see Erman, forthcoming, and Valentini, 2012). But in lieu of well-developed 'practice-dependent' or 'non-ideal theoretic' methodologies, the 'institutional' focus of theories of justice remains largely hypothetical.

[5] Here normative reasons are defined broadly as considerations that count in favour of some action or action-guiding principle (Scanlon 1998).

normative reasons that justify its regulative principles. This contrasts favourably with the moral reasons justifying principles of justice, which are commonly understood as products of hypothetical rather than real deliberative processes,[6] and as such lack a firm and stable basis for motivating real political action.

Normative principles of political legitimacy: a collective agency conception

With this understanding of the regulative role of normative political principles in place, my next task is to illustrate how analysis of the content and justification of these principles can be helpfully framed by the concept of *political legitimacy.* My claim here is that the conceptual structure of the idea of political legitimacy can help frame systematic analysis of the reasons that individuals have, as members of collectives, to support the institutions through which they engage in collective action with others. As such, we can characterise the normative political principles I have just described as principles of political legitimacy, on what I call a *collective agency conception*.

The concept of political legitimacy is widely invoked as a normative standard in debates about international institutions, concerned variously with the evaluation and design of International Organisations, the constitution of institutions of state sovereignty and international law, and the regulation of Corporations and Non-Governmental Organisations. But beyond the shared recognition that political legitimacy is a good thing and we want international institutions to have more of it, there is very little theoretical consensus about what exactly this legitimacy is or how it is valuable. To use the terms of my earlier discussion, there is little consensus about what kind of *regulative role* is played by normative principles of legitimacy within international political life.

One significant obstacle to resolving theoretical disagreements about the regulative role of these principles is the conceptual complexity of the idea of legitimacy itself. To begin with, the concept is defined differently across multiple disciplinary fields concerned with social institutions – including sociology, law, political science and political theory. Within political disciplines, moreover, theorists distinguish further between conceptions of legitimacy that are 'normative' versus 'empirical' (Beetham, 1991), 'moralist' versus 'realist' (Williams, 2005), 'input' versus 'output' oriented (Scharpf, 1999), and varying in institutional commitments (liberal, democratic, and so on). In the resulting proliferation of vocabularies and distinctions, it can be difficult to tell when scholarly disputes about political legitimacy result from substantive philosophical or empirical disagreements, and when they result merely from clashing definitions of theoretical terms.

Before any conception of legitimacy can be utilised to frame analysis of normative political principles, it is therefore important to locate a core set of conceptual

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[6] By this I mean that moral reasons are commonly understood as products of artificial deliberative perspectives designed to model an ideal of impartiality – captured for example in Rawls's (1971) 'veil of ignorance'.

elements that set conceptions of "legitimacy" apart from other widespread normative ideas like "justice" or "morality". I propose that conceptions of legitimacy deployed within mainstream theoretical literatures share four constitutive elements. Claims about legitimacy are concerned with evaluating some institutionalised *subject* (such as a state or law) to ascertain whether there are adequate *reasons* (understood as considerations that count in favour of an action, in the sense of either motivating or justifying it) for particular *agents* within the institutional scheme (such as political citizens or legal persons) to engage in particular forms of *conduct* (such as political participation or legal compliance) towards the subject of the legitimacy assessment. This analysis can be formalised in the following way:

> *The legitimacy of an institutionalised subject S tracks reasons R for agents A to engage in conduct C in relation to S.*

Political conceptions of legitimacy incorporate political content within one or more of these four conceptual elements. By this I mean that a conception of legitimacy may be political in virtue of: concern with some political *subject*, such as the state, political authority, or 'public power' (Hurrell and Macdonald, 2012); concern with the actions of some political *agents*, such as individual citizens or states in international society; concern with some political *conduct*, such as obedience to one's own political authorities, or non-interference within the sovereign jurisdictions of others; its concern with political *reasons*, such as the commitments entailed in the identity of a democratic citizen, or a concern with the value of order; or its concern with some bundled combination of political elements – such as in Buchanan and Keohane's (2006) conception of legitimacy as 'the right to rule', whereby the composite concept of political 'rule' bundles together specified content for *S*, *A*, and *C*.

Given the broad level at which the concept of political legitimacy is formulated, its substantive content must be specified through a narrower formulation of the general concept that we can call a *conception* of political legitimacy (Gallie, 1956: 176). Such conceptions incorporate specific assumptions about the content of each element, derived from a central motivating idea about the character of the *reasons* that some set of agents has for supporting institutions. Specifications of these reasons are commonly characterised in theoretical debates as claims about the 'grounds' or 'normativity' of action-guiding principles; but whichever of these rather slippery terms is used, claims about these reasons characterise *what it is about a principle that makes it the case that some agents' actions should be guided by it*.

It is beyond the scope of this article to elaborate a fuller theoretical account of political normativity, which situates these claims within wider philosophical debates about the character of normative reasons. But it is important to say enough about this, at least, to indicate a rough outline of the type of normativity possessed by principles of political legitimacy on the collective agency conception. In the aggregate, the reasons that ground principles of political legitimacy embody the value of the collective action enabled by political institutions: these principles are

normative insofar as they regulate the relationships between groups of individuals and their shared political institutions so as to support their collectively valuable functions. When we disaggregate these reasons, we can identify them directly with those laid out above in my discussion of the regulative role of these principles: a complex set of beliefs about how various systemic threats to successful collective action can be overcome through institutional regulation guided by suitable normative political principles.

As noted in that earlier discussion, the normative reasons for agents to support institutions as directed by principles of political legitimacy are *internally connected* to the motivating reasons for those supportive activities that enable institutions to operate materially and discharge their valuable political functions. Principles of political legitimacy do not supply reasons for regarding institutions as valuable; they merely specify the conditions under which agents who *already* regard institutions as at least potentially valuable should support these institutions, in order to counteract systemic threats to the material institutional functions that advance this value. To the extent that participants attribute moral purposes to their institutions (for example in the case of a state viewed as an instrument for social justice) then reasons of political legitimacy will possess strong moral content; but the moral character of these reasons will always be contingent on the real political commitments of institutional participants. This account of political normativity thereby embodies what Bernard Williams has called reason *internalism*, which claims that normative reasons – though not reducible to empirical motivations – must nonetheless be *reachable via some 'sound deliberative route'* from an agent's existing set of such motivations (Williams, 1979).

The substance of any internalist account of normativity depends on what is to count as a sound deliberative route from existing motivations. I will talk in more detail about the character of this deliberative process shortly, in my discussion of the analytic methodology through which the content of principles of political legitimacy can be identified and justified in particular institutional contexts. But at a very general level, what characterises it is that the motivations from which its reasoning proceeds in relation to a particular institution are the same as those animating the *material collective activities* through which the rules we call "institutions" are actualised as social entities with material functions.

These collective activities can be characterised in a variety of social theoretic terms, but for the analysis of normative principles of political legitimacy with the regulative role and functionality that I have described, I favour the idea of *collective*

agency.[7] The idea of collective agency provides a useful analytic frame for my account of political normativity insofar as the organic metaphor this concept evokes helps capture the *material* alongside the ideational sources of the relevant normative reasons, by supplying a simplified image of the complex processes linking deliberative reasoning about institutions with material institutional functions.

Organic metaphors of collective political agency – drawing on images of group mind and bodies politic – have been pervasive in the historical development of modern theories of social and political institutions (Rasmussen and Brown, 2005; Poovey, 1995). Organic metaphors are analytically useful insofar as their imagery represents the complex relationships between political processes of deliberation – group 'minds' (Pettit, 2011), and the material functions of political institutions – group 'bodies' (Poovey, 1995), through which politically legitimate institutions are constituted. The concept of collective agency adds analytic value to more straightforward talk of 'deliberation' insofar as it accommodates recognition of the material conditions under which political deliberation about institutions takes place.[8] More specifically, it recognises constraints imposed by empirical facts about the embodied motivations of institutional participants, and associated facts about the character of institutional functions, vulnerabilities, and potential capabilities, of the kind that are central to analysis of principles of political legitimacy as I have characterised them.

This collective agency account of the normative *reasons* underpinning principles of political legitimacy is the central and definitive element of the collective agency conception of political legitimacy. But substantive conceptions of the institutional subjects, agents, and conduct regulated through these normative principles also follow directly from this account. My analysis of the collective agency conception of political legitimacy can be concluded, then, by noting the content of these corollaries.

The institutional *subjects* for these principles of political legitimacy, first, will be any institutions sustained, at least in part, by reasoned support of participants – as

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[7] An alternative analytic frame for such material collective activities would be the concept of institutional *practices*, understood as rule-structured material patterns of behaviour consisting of several interconnected elements: 'forms of bodily activities, forms of mental activities, "things" and their use, a background knowledge in the form of understanding, know-how, states of emotion and motivational knowledge' (Reckwitz, 2002: 249). I take the idea of practices, however, to be too closely associated within contemporary political philosophy with narrower *ideational* conceptions of practice, that define it in terms of the constitutive rules of behavioural regularities (Rawls, 1955; Sangiovanni, 2008), or the pro-attitudes and beliefs associated with them (Southwood, 2011), while neglecting their *material* constituents.

[8] Some recent literature on group agency equates it with analysis of deliberation or group mind (List and Pettit, 2011), but this departs from more traditional uses of the collective agency metaphor within political theory.

distinct from those sustained solely through coercion or unreflective habituation. The *agents* for whom principles of political legitimacy are action-guiding will be those who are already participants in some social institution, the valuable functions of which standards of legitimacy aim to enhance. Here 'participants' must be construed broadly to include all those who act reflectively (that is, for reasons) to steer its material functions. This includes not only those who are compliant addressees of institutional rules, or occupants of institutionally defined roles, but also those who steer the material functions of an institution through political pressure for institutional reform or access. Finally, the forms of *conduct* prescribed by principles of political legitimacy can include any forms of support that help to sustain institutions' valuable collective functions – whether involving compliance with rules or directives, financial support, political non-interference, or delegation to these institutions of special technical or administrative powers.

The fact-dependent content and justification of principles of political legitimacy

With this account of the regulative role and normative conception of principles of political legitimacy in place, we can now consider: how does this translate into a methodology for identifying and justifying the *content* of these principles within particular institutional contexts? The content of a principle of political legitimacy for a given institution specifies some standard that this institution must meet in order for its participants to have sufficient reason to support it. Political controversies about political legitimacy within international institutions most commonly take the form of disputes over the specific standards that different institutions must meet in order to be judged as "legitimate", and as a corollary to warrant political support.

Such controversies concern, for example: under what conditions must institutions meet liberal or egalitarian standards of *justice* in order to be considered legitimate? Must all international institutions satisfy *democratic* standards in order to be considered legitimate, or can some institutions achieve legitimacy on non-democratic terms? If democratic standards are required for legitimacy only for some institutions, then what criteria can we apply to determine when democracy is required, and how can we determine what alternative standards to apply in lieu of democracy? To what extent can the satisfaction of other popularly touted institutional standards – such as human rights compliance, transparency, accountability, experimentalism, legality, beneficial output, or some more complex hybrid standard – contribute to the political legitimacy of different kinds of institutions within international politics?

Any theory of political legitimacy must incorporate a methodology for resolving controversies of this kind concerning the content of the principles that are to regulate particular institutions. Such methodologies specify the structure of processes of "practical reasoning" or "deliberation", through which agents' reasons for action are articulated and prioritised in the formulation of judgments or decisions. Such deliberative processes enable agents to move from a conception of the general type of reason that supports action in accordance with a principle (that is, a conception of its normative *grounds*), to a specification of the particular

instances of such reasons that support action in accordance with a principle within particular material contexts of action (that is, a justified account of its normative *content*).

The structures imposed upon such deliberations have been described variously in recent literatures: as 'modalities of justification' (Vallier and D'Agonstino, 2013); 'logics of action' (March and Olsen, 1983); or 'orders of worth' (Boltanski and Thévenot, 2006). While a plurality of justificatory logics can be identified within different social and political contexts, three such logics have been most extensively theorised within normative literatures.[9] These are: 'moral' deliberative processes which accord equal weight to the interests of all persons who are of motivational concern (Nagel, 1978); 'strategic' deliberative processes which strengthen the weight accorded to the interest of a future self of motivational concern (Nagel, 1978); and the idealised deliberative processes linked to ideas of 'public reason' or 'communicative action' in the influential work of John Rawls and Jurgen Habermas (Rawls, 1996, Habermas, 1984). These are closely associated with what have been called 'logics of appropriateness' (March and Olsen, 1998), 'logics of consequences' (March and Olsen, 1998), and 'logics of arguing' (Risse, 2000), respectively, within sociological literatures on international institutions.

Alongside these moral, strategic, and communicative logics we can situate another, which I am calling the justificatory logic of political legitimacy. This modality of justification differs from the others insofar as it focuses not on developing philosophical ideals of moral, strategic, or communicative rationality, but rather on reasoning about *what conduct is required to support collectively valuable functions of concrete institutions, and what structuring of regulative principles can help to guide this conduct.* Here justificatory reasoning about the content of principles of political legitimacy is structured in accordance with an understanding of the *point* of these principles, as specified in my earlier account of their regulative role.

Following this account, we can specify that justificatory reasoning about standards of political legitimacy requires systematic reflection on three questions. First, what is the value advanced by the set of ongoing institutional activities (the subject of the legitimacy assessment) in which participants are already in some way collectively engaged? Second, what are the systemic threats to that value given its material sources and circumstances? And third, what are some plausible institutional remedies to those threats, under the particular circumstances in which the institution is operating? These questions can structure justificatory reasoning about standards of political legitimacy insofar as they help frame analysis of the key

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[9] Despite their dominant influence, these three logics are by no means exhaustive. Boltanski and Thévenot (2006), for instance, have distinguished six situationally specific and sometimes clashing justificatory logics; these are non-exhaustive, but help to illustrate the character and consequences of *pluralism* in the structure normative justification. A similar kind of justificatory pluralism defended in normative political philosophy by Michael Walzer, whose work *Spheres of Justice* (Walzer, 1985) these authors acknowledge as a key theoretical influence.

considerations, or reasons, that supply normative grounds for principles of political legitimacy on the collective agency conception.

In addition to this account of the framing questions and their normative salience, a comprehensive methodology for settling standards of political legitimacy further requires an account of the considerations that can support decisive *answers* to these questions. It is at this point that we can return to the problem of methodological fact-dependence with which we began: how should the justification of normative standards of political legitimacy for international institutions be responsive to contextual political facts about institutions, and which are the salient facts? Building on the collective agency conception of political legitimacy established so far, I propose that it must take account of two key types of facts.

The first type is *motivational* facts, concerning the conditions under which participants can be motivated, through suitable deliberation, to support the institutions. Taking account of such facts is critical because of the 'internal' (motivationally dependent) character of the reasons that ground these principles of political legitimacy. We can gain certain insights about these motivational facts through empirical investigation of actors' motivations within somewhat analogous institutional contexts. But since motivational facts are always specific to a given context and moment of activity, these facts can most directly be incorporated within a deliberative process by positioning *institutional participants themselves*, embodying relevant motivations, as deliberators. Such deliberation among participants can be conducted through deliberative mechanisms incorporated within the relevant institutional apparatus (as in the case of deliberative democratic institutions), or it can be undertaken within some more institutionally independent setting (such as within the scholarly institutions within which "philosophical" justifications are constructed). But whatever the setting, this deliberation must be conducted from a point of view directly informed by political experience of institutional participation.

In addition to these motivational facts, the justification of normative standards of political legitimacy for international institutions must take account of *empirical* facts about the social functions of particular institutions, and the institutional preconditions for their successful operation. There are several kinds of empirical facts about institutional functions that will be salient considerations here, as a basis for answering the three framing questions sketched above. Deliberation about standards of political legitimacy in particular institutional contexts begins with judgments about the value advanced by a set of ongoing institutional activities in which participants are already in some way collectively engaged. Such judgments are often articulated through theoretical political ideals, such as familiar theoretical ideals of sovereign state functions elaborated in modern liberal theories of state legitimacy: the function of advancing mutually shared individual interests; that of protecting some set of individual rights; or that of advancing a shared moral conception of liberal justice. Functional ideals of this kind can also be articulated for any other institutional types within the international political order, though such

institutional ideals are typically less fully developed in established theoretical literatures.

Such functional ideals are not mere empirical descriptions of the institutions in question; they are ideals in the sense that they aim to model what is valuable about a given institution, by either abstracting away from some of its less desirable empirical characteristics, or incorporating some empirically false assumptions as a representative device, to help depict more vividly the institution's valuable function (Stemplowska, 2008). But what is distinctive about functional ideals within the collective agency theory of political legitimacy is that they are aimed at locating some valuable function *within a material institution*, animated by the ongoing activities of an existing collective of institutional participants. As such, these functional ideals cannot be constructed wholly through moral or other forms of reasoning detached from empirical facts about the material functions of institutions.

Functional ideals of particular institutions must instead be constructed through interpretive analysis of *what it is that institutional participants are doing together* when they act collectively to support these existing institutions. Interpretation of the meaning and value of such collective action cannot occur merely through cognitive reflection and communication among participants, since collective action – as I discussed earlier – incorporates material habits and affects that are non-reducible to participants' shared ideas. Consequently, interpretive analysis of the meaning and value of collective institutional action must also incorporate some empirical inquiry into these material dimensions of collective action, which combine with shared ideas to generate institutional functions.

In addition to formulating judgments about the value advanced by institutional functions, deliberation about standards of political legitimacy must also consider: the nature of *systemic threats* to that functional value in a given institutional context; and the character of some plausible institutional *remedies* to those threats. Here, too, a range of empirical facts will be salient considerations. Examples of this can be found in a familiar set of what we might call "institutional theories" of political legitimacy – most commonly liberal or democratic in form – which are concerned in large part with analysis of the special regulative institutional mechanisms through which institutions ameliorate threats to their primary valuable functions. Institutional theories of this kind begin with some kind of functional ideal of a legitimate institution (such as a functional ideal of "state" institutions, or an idealised "global governance" function), and then build recommendations for standards of legitimacy based on positive – and often empirically rich – analysis of functional threats and remedies.

As noted earlier, much of the institutional analysis within such liberal and democratic theories justifies a range of regulative standards of legitimacy as remedies to the threats to institutions posed by the phenomenon of political *disagreement*, evidenced in empirical facts about the conflicting interests and values held by different individuals. Justifications for various liberal mechanisms of political accountability – including horizontal accountability mechanisms such as

separations of powers, as well as public accountability mechanisms making public agents dependent upon public support and vulnerable to public sanction – provide particularly clear examples of such empirically responsive justificatory reasoning. Democratic standards for political decision-making institutions can similarly be justified as means of achieving stable political support for institutions in response to empirical facts about political disagreement, alongside some additional empirical facts about the widespread commitment to an egalitarian ideal of fairness within democratic societies.

Liberal and democratic theorists have so far said less about how their favoured regulative standards can remedy threats to institutions from the problems of interdependence between institutional means and ends, and the problem of motivational instability – highlighted respectively within pragmatist and realist traditions, as previously discussed. But a recent resurgence of interest in both pragmatism (Sabel, 2001; Knight and Johnson, 2011) and realism (Rossi and Sleat, 2014) within theories of political legitimacy may indicate that the importance of these other justificatory considerations is gaining increasing recognition.

Regulative standards of legitimacy of these kinds are best understood as ideal conceptions of functional *institutional mechanisms of legitimization* that often develop first – at least in some embryonic form – as regulative components of an institution itself. Such legitimizing mechanisms often develop in practice alongside an institution's primary functional mechanisms, as preconditions for its stable and effective operation. These mechanisms, however, can initially be weak and underdeveloped, or become poorly suited to changing operational circumstances, leading to a political demand for stronger legitimizing mechanisms. Under these circumstances, existing mechanisms can be theoretically interpreted, systematised, and applied back to practice more intentionally through a reflexive deliberative process undertaken by institutional participants.

Conclusions

In this article I have sketched a fact-sensitive methodology for identifying one important set of normative political principles within international politics, which I call principles of political legitimacy. On my proposed collective agency conception, these principles have the regulative role of specifying the conditions under which individual agents should support institutions as a means of enabling some valuable collective action. In accordance with this role, the content of normative principles of political legitimacy should be settled through a deliberative process that takes account of both: *motivational* facts concerning the conditions under which institutional participants can be motivated through deliberation to support institutional operations; and *empirical* facts about the social functions of particular institutions, and the institutional preconditions for their functional success. This contextualist methodology has the potential to help answer the central question within international political theory: how and why should standards of political legitimacy for institutions vary across domestic and international levels, as well as across international institutions operating within different functional domains? As

such, the theoretical agenda outlined here warrants further exploration by international theorists concerned with problems of political legitimacy beyond the state.

My account of this justificatory methodology, and of the wider normative theory of political legitimacy from which it is derived, is presented here merely as a proposal and framework for a new theoretical research agenda on international political legitimacy, rather than as a definitive argument about any aspect of the topic. I have made claims here on many complex and controversial philosophical issues, and much more would need to be said about each before I could claim to have fully elaborated and defended my proposal. Much more also needs to be said to explore how my methodological proposal can be applied in practice, to help settle the many substantive controversies surrounding which standards of political legitimacy should be applied within diverse international institutional contexts. Nonetheless, it has been my intention to say enough here, at least, to help widen the terms of existing theoretical conversations about how the content and justification of normative principles for international institutions should depend upon facts about the real institutions and actors that collectively shape the conditions of international political life.

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