



The Legitimacy of the UN Security Council: Evidence from Recent General Assembly Debates¹

MARTIN BINDER AND MONIKA HEUPEL

WZB Berlin Social Science Center

Existing research on the legitimacy of the UN Security Council is conceptual or theoretical, for the most part, as scholars tend to make legitimacy assessments with reference to objective standards. Whether UN member states perceive the Security Council as legitimate or illegitimate has yet to be investigated systematically; nor do we know whether states care primarily about the Council's compliance with its legal mandate, its procedures, or its effectiveness. To address this gap, our article analyzes evaluative statements made by states in UN General Assembly debates on the Security Council, for the period 1991–2009. In making such statements, states confer legitimacy on the Council or withhold legitimacy from it. We conclude the following: First, the Security Council suffers from a legitimacy deficit because negative evaluations of the Council by UN member states far outweigh positive ones. Nevertheless, the Council does not find itself in an intractable legitimacy crisis because it still enjoys a rudimentary degree of legitimacy. Second, the Council's legitimacy deficit results primarily from states' concerns regarding the body's procedural shortcomings. Misgivings as regards shortcomings in performance rank second. Whether or not the Council complies with its legal mandate has failed to attract much attention at all.

The United Nations (UN) Security Council has been considered “potentially the most powerful supranational organ in the world” (Alvarez 1995:5) and even “the most powerful international institution in the history of the nation-state system” (Cronin and Hurd 2008:3). This is in line with the more general claim in international relations research that international organizations (IOs) have become increasingly powerful or authoritative actors (for example, Lake 2010; Zürn, Binder, and Ecker-Ehrhardt 2012). Scholars argue that not only do IOs exert authority over previously unregulated issue areas, they also become more and more involved in lawmaking and law enforcement (Alter 2009); they pursue their own interests strategically and independently (Hawkins, Lake, Nielson, and Tierney 2006); and they define meanings and diffuse norms (Barnett and Finnemore 1999). To the extent that IOs are considered to be powerful actors in world poli-

tics, so too have questions about their legitimacy come into the foreground of concerns. Scholars began to consider the origins of the legitimacy deficit among IOs, frequently pointing to the democratic deficit in international institutions evidenced by a lack of popular control (for example, Dahl 1999; Rubenfeld 2004). Others have suggested remedies to enhance the legitimacy of international institutions: These proposals range from involving transnational actors (Jönsson and Tallberg 2010) or providing justifications for goals, principles, and procedures (Steffek 2003) to a “complex standard of legitimacy” that includes the consent of democratic states, substantive criteria, and epistemic virtues (Buchanan and Keohane 2006).

For the most part, research on the legitimacy of IOs is conceptual or theoretical. When scholars assess the legitimacy of IOs, they usually rely on *external* criteria derived from democratic theory. The exemplary work in this regard is Zweifel's (2006) study laying out a number of external normative criteria and determining whether these were met by 11 IOs. A similar approach was adopted by studies assessing the legitimacy of individual IOs like the European Union (EU; Majone 1998; Moravcsik 2002), the World Trade Organization (Elsig 2007), or the International Monetary Fund (Torres 2007). However, what is largely missing are empirical analyses that examine how states or citizens *perceive* the legitimacy of IOs (the exceptions are Caldeira and Gibson 1995; Johnson 2011; Nullmeier, Bigeon, Nonhoff, Schmidtke, and Schneider 2010). This holds in particular for research on the UN Security Council. Although the question of the Council's legitimacy has attracted a great deal of attention in the past two decades (for example, Charlesworth and Coicaud 2010), we do not know whether, and if so why, in the eyes of UN member states and their citizens, the Council is perceived as a legitimate authority holder or whether, and if so why, it suffers from a legitimacy deficit. Answering these questions is important because legitimacy is considered to be the key to effective governance

Martin Binder is a research associate at the WZB Berlin Social Science Center. He received his PhD in Political Science from the Free University Berlin. His current research focuses on the legitimacy of international institutions, the role of rising powers in international organizations, and UN intervention in humanitarian crises.

Monika Heupel is a research associate at the WZB Berlin Social Science Center. She received a MA in International Relations from the University of Warwick and a PhD in Political Science from the University of Bremen. Her current research focuses on the rule of law in global governance and the legitimacy of international institutions. She has recently published in the *European Journal of International Relations*, *International Affairs* and *Security Dialogue*, among others.

¹ *Authors' note.* For helpful comments on previous drafts, we would like to thank Pieter de Wilde, Matthias Ecker-Ehrhardt, Markus Jachtenfuchs, Mary Kelley-Bibra, Autumn Lockwood Payton, Sabine Otto, Christian Reus-Smit, Thomas Rixen, Frank Schimmelfennig, Henning Schmidtke, Anne Siemons, Bernhard Zangl, Hilde Zeiner, Michael Zürn, the anonymous reviewers, and the editors of *International Studies Quarterly*. Earlier versions were presented to audiences at the 2011 International Studies Association (ISA) Annual Convention, the *Global Governance as Public Authority* workshop at the Hertie School of Governance in 2011, the *Authority beyond States: Perspectives on International Institutions* workshop at the Norwegian Center for Human Rights in 2011 and at the 2011 Convention of the International Politics section of the German Political Science Association. The data can be accessed in the ISQ data archive.

(unlike governance based solely on the exercise of force)—thus making it crucial for any political institution, including the Security Council (Hurd 1999:388).

To address this shortcoming, we examine systematically the Security Council's perceived legitimacy among UN member states. "Measuring" the legitimacy of an IO is no trivial task. One intuitive way would be to look at states' compliance with IO decisions. However, legitimacy is only one mechanism through which compliance is induced (Hurd 1999). Alternatively, compliant behavior may be generated by coercion; that is, by fear of punishment in the context of asymmetrical power relations. Compliance may also be due to self-interest if the incentive structure is such that actors would comply even in the absence of coercion or legitimacy (Downs, Rocke, and Barsoom 1996). Another test for legitimacy could consist in looking at whether an institution experiences open resistance or opposition. However, as Scott (1985) has famously argued, open resistance may be prevented by many factors. For example, actors may be subject to material dependency or lack the resources and opportunities to resist; open resistance may also be precluded by fear of punishment. We have opted therefore for a different approach: We examine the level of and grounds for the Security Council's perceived legitimacy among states, expressed through the *evaluative statements* of their representatives in UN General Assembly (GA) debates. In making such statements, states publicly demonstrate their acceptance or disapproval of the Council and thus confer legitimacy on, or withhold legitimacy from, it. Our data consist of GA debates over the annual reports submitted to it by the Security Council. Such data have thus far not been used to test legitimacy, but they provide rich discussions of various dimensions relevant for the assessment of Security Council legitimacy. The debates feature statements by nearly the entire UN membership—states differing as regards their geographical region, political system, socioeconomic development, and culture. Our study therefore avoids the Western bias common to many studies on the legitimacy of (or support for or trust in) IOs, which are limited to surveys among EU citizens (Gibson and Caldeira 1995; Eichenberg and Dalton 2007; Ecker-Ehrhardt 2012)² or media coverage in advanced industrialized countries (Koopmans and Statham 2010; Nullmeier et al. 2010).

We intend to answer two main questions. First, how legitimate is the Security Council in the eyes of UN member states? To this end, we examine the extent to which states make positive or negative evaluative statements about the Council and thus ascribe legitimacy to, or withhold legitimacy from, it. Second, on what grounds are these ascriptions based? To answer this question, we consider whether states refer, as different theories of legitimacy hold, to the Security Council's compliance with its legal mandate (legal legitimacy), to the quality of its decision-making procedures (procedural legitimacy), or to its effectiveness (performance legitimacy). Regarding both questions, we also explore whether particular perceptions of Security Council legitimacy are linked to specific state characteristics.

Our findings suggest that the Security Council suffers from a legitimacy deficit in the eyes of UN member states. Negative evaluations of the Council far outweigh positive ones. This holds for all three grounds for

legitimacy. Yet, the Council does not find itself in an intractable legitimacy crisis because it still enjoys some rudimentary degree of legitimacy. The legitimacy deficit results primarily from concerns regarding procedural shortcomings; misgivings regarding performance shortcomings rank second. Whether or not the Council complies with its legal mandate has not attracted much attention. Our data also suggest that democracies, members of the Organization for Economic Co-operation and Development (OECD), and states represented in the Security Council are less critical of the Council than states to which these features do not apply.

Our findings challenge contemporary literature on the Security Council in several ways. With some simplification, scholars who have shaped this literature can be assigned into one of two groups, each holding different assumptions about the Council's degree of legitimacy and what its functions are. The first group argues that states act through the Security Council because it is in a unique position to confer legitimacy to their actions. Claude (1966:367, 374) describes the Council as a "dispenser of legitimacy" whose core function consists in collectively granting legitimation. Hurd (2007:17:6) claims that states try to "associate themselves with the Council as a means to legitimize their actions, decisions and identities." The legitimacy of the Security Council gives it symbolic power thus making "its scarce symbolic resources worth fighting over by giving them perceived value" (Hurd 2002:38). Finnemore (2003:81–82) points to a norm according to which humanitarian interventions require the approval of the Council. Finally, Johnstone (2003, 2011) and Sandholtz and Stone Sweet (2004) consider the Council to be a forum for deliberation and legal discourse embedded in a common normative framework. These studies explicitly or implicitly ascribe considerable legitimacy to the Security Council. Our analysis challenges these studies suggesting that they tend to underestimate the extent to which the Council's legitimacy is contested. Why should states seek legitimation by the Council if they ascribe only little legitimacy to it?

This is precisely the objection raised by the second group of scholars who claim that the Security Council does not even meet the basic standards of legitimacy. Caron (1993) alludes to the domination of the Council by a few powerful states and to the unfairness of the veto held by the permanent Council members. Voeten (2005:28) and Thompson (2006:27) stress that the Council's procedures fail to conform to common standards of inclusiveness, transparency, and accountability; they also criticize its inconsistent application of moral and legal principles. Scholars in this group do not uniformly deny the relevance of legitimation. Yet, they point to the Council's manifold legitimacy problems in order to argue that states act through the Security Council not because acquiring that body's approval would be appropriate, but because according to Thompson (2006) and Chapman (2009), states use the Council to transmit strategic information. That is, states seek the body's approval to signal information about their political intentions and possible policy outcomes to domestic and foreign audiences and leaders. Voeten (2005:543, 551) conceives of the Council as an "elite pact" that functions as a focal point for governments, helping them to "coordinate what limits to the exercise of power should be defended," thus contributing to effectively enforcing constraints on the United States and, in doing so, playing a legitimizing role in global politics. Westra (2010:522) argues that great powers do not

² Norris (1999) and Furiá (2005) who use World Values Survey data are notable exceptions.

seek Security Council authorization as a means of collective legitimation but rather to persuade other states that their actions are in accordance with Charter rules intended to sustain the existing international order whose legitimacy is based on habit and rational calculation. What our analysis shows is that these studies paint too bleak a picture of the legitimacy of the Council. The rudimentary degree of perceived Security Council legitimacy becomes puzzling for those who would deny it any substantial legitimacy based on objective standards, and thus suggest alternative accounts such as strategic information transmission. Further, our analysis indicates that states do not fully accept the “elite pact” role of the Council, nor do they perceive that the Council restrains its powerful members. Although we do not test these claims directly, our analysis suggests a need for further reflection on the assumptions of both groups.

The article is structured as follows. In section 2, we introduce our conceptual framework. In section 3, we present our empirical analysis, first introducing the data and method we use before revealing and interpreting the results. The conclusion summarizes our findings and briefly discusses the practical implications of these.

Conceptual Framework

Legitimacy and Legitimation

We examine the perceptions that states hold of the Security Council’s legitimacy, which they express through public evaluative statements. Various scholars have emphasized the importance of justificatory or evaluative claims in the process of legitimation (Reus-Smit 2007:159; Nullmeier et al. 2010). When states make positive statements about the Council, they publicly demonstrate their acceptance of that body and thus confer legitimacy on it. Conversely, when they express disapproval of the Council, they withhold legitimacy from it.

Legitimacy is an elusive concept. It is used mainly to designate rule as rightful, moral, or justified. Research on legitimacy usually sets out from the distinction between normative and empirical (or sociological) approaches to legitimacy. The former identifies standards for judging whether an order, an institution, or a decision is to be regarded as legitimate. The latter investigates whether actors believe in the legitimacy of something, thus making it a matter of an actor’s subjective belief (Weber 1980 [1921]).

The strict separation between the normative and the empirical concept has been criticized (Habermas 1979; Beetham 1991). An exclusive focus on beliefs about legitimacy, it is argued, empties the concept of any moral content. What an empirical investigation of legitimacy needs to take into account is the justifiability of a power relationship in people’s beliefs or how far the power relationship conforms “to their [people’s] values and standards.” The consideration of these second order beliefs is what Beetham (1991:11) means when he claims that a “given power relationship is not legitimate because people believe in its legitimacy, but because it can be *justified in terms of their beliefs*” (italics in original). Suchman (1995:547) shares this concern for combining empirical and normative aspects of legitimacy and defines legitimacy as a “generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.” As suggested by Suchman and

Beetham, we focus on legitimacy perceptions—that is, we examine empirically whether, to what extent, and why states view the Security Council as legitimate or illegitimate. In so doing, we look for statements related to normative criteria like legality, accountability, and consistency (for example, Clark 2005), highlighted by different theories of legitimacy, as well as by normative-theoretical studies on the Council’s legitimacy (see below).

Considering evaluative statements as expressions of state perceptions implies that we do not conceive of legitimacy as a static quality of institutions but rather as the temporary result of an ongoing process by which legitimacy is cultivated, sustained, or forfeited. Many scholars have drawn our attention to these processes of legitimation and delegitimation (Berger and Luckmann 1967; Beetham 1991; Barker 2001; Clark 2005). They argue that legitimation is an “activity which can be observed[;] it is something that people do, just as they challenge legitimation” (Barker 2001:24). In international politics, legitimation may occur through public statements, diplomatic exchanges, or practical support (Westra 2010:523); states may also apply strategies of delegitimation when they condemn a powerful state or revoke support from it in international institutions (Walt 2005). Some scholars focus on how subordinates legitimate power holders (Beetham 1991:19). Others stress the way in which the powerful engage in acts of self-legitimation but acknowledge, at the same time, that legitimation is a “contested political process” in which both rulers and their opponents engage (Barker 2001:112, 24–28). We examine legitimacy statements by both Security Council members and non-members, assuming that claims by both types of states legitimate (or delegitimate) the Council.

When making evaluative claims about the Security Council, states may ascribe legitimacy to it or they may reject its legitimacy on different grounds. We distinguish three such grounds as stressed by different legitimacy theories, namely legal legitimacy, procedural legitimacy, and performance legitimacy.³ We assume that the legitimacy of an IO is a function of positive attitudes by states with respect to all three grounds for legitimacy. These are not independent from one another, and scholars debate the way(s) in which they could interact. Some call attention to trade-offs and warn, for instance, that the greater transparency and accountability of global governance institutions can complicate effective decision making (Dahl 1994; Keohane and Nye 2001). Others argue that the different grounds for legitimacy can strengthen each other and, for instance, that fair procedures can increase support for decisions, which in turn facilitates effective decision making (Fearon 1998; Zürn 2000). We present and examine each of the different grounds for legitimacy separately and return subsequently to the issue of interdependence when discussing the practical implications of our results.

Legal Legitimacy

On the traditional Lockean view, legitimacy depends upon consent. In other words, an institution is legitimate if individuals have consented to the transfer of authority (Simmons 2001). Pursuant to conventional perspectives on international law, state consent is the principal source of legitimacy in the international realm (Henkin 1995:26;

³ We do not claim that the scholars we assign to the different theories of legitimacy focus exclusively on one specific ground for legitimacy.

Rabkin 2005:266–267). The legitimacy of an IO thus depends on whether states have consented to its creation (Bodansky 1999; Buchanan and Keohane 2006).⁴ IOs are also considered legitimate as long as they act in accordance with their own secondary rules, to which states have consented and which determine who has the right to exercise authority, according to whatever procedures have been established, and subject to whatever limits have been determined. Conversely, to the extent that institutions act outside their mandate, they lose their legitimacy (Bodansky 1999:608, 605). Law always needs to be interpreted when it is applied to specific situations; yet, there are limits to the leeway actors can have when interpreting legal documents because the relevant interpretive community determines the boundaries to plausible legal arguments. Overstepping such limits can entail legitimacy problems given the reputational costs that come along with putting forward implausible legal arguments (Johnstone 2003:451, 476).

Since the end of the Cold War, the Security Council has broadened the definition of what constitutes a threat to international peace and security according to Article 39 of the UN Charter. It has determined that civil wars, humanitarian crises, and coups are threats to international peace (Wallenstein and Johansson 2004). It has also made increasing use of measures under Chapter VII and penetrated deeply into the domestic jurisdiction of states (Philpott 1999). Not only has the number of robust peacekeeping missions and sanction regimes increased, but the Council has also introduced new intrusive instruments such as transitional administrations and international criminal courts (Caplan 2004). Finally, the Council has acted as a “world legislature” and committed all states—irrespective of their consent—to developing and enforcing specific domestic legislation (Talmon 2005). The Security Council’s new practices have been appraised varying among scholars. Some argue that the Charter permits coercive action when authorized by the members of the Council acting collectively according to established rules. Further, the broadening of Article 39 to include issues that were not considered threats to international peace and security when the UN Charter was signed is considered by some to be legitimate because current realities could not have been foreseen at that time several decades ago (Kirgis 1995:516–517; Rosand 2004:569–573). Other scholars question whether current practice is legitimated by the mere fact that UN member states have ratified the UN Charter. They criticize the Council’s increasing designation of various situations as threats to international peace (Alvarez 1995) and they also argue that the Council has increasingly taken over competences which, according to the Charter, originally belonged to the GA (Koskenniemi 1995).

Procedural Legitimacy

A second theory maintains that the quality of an institution’s decision-making procedures is the key to its legitimacy.⁵ In the international realm, scholars have stressed the role of “fair and accepted procedure” for the legitimacy of international norms (Chayes and Chayes

1995:127). With regard to IOs, four procedural standards are seen to be particularly relevant. First, the legitimacy of an IO is said to depend on the equal participation of all of its member states in formal decision making (Dingwerth 2007). Second, the legitimacy of an IO is considered to be a function of transparency that enables interested states and stakeholders to trace the decision-making process (Caney 2006:748–749). A third procedural standard is accountability, which means that states and other actors in whose name an IO takes decisions and who are affected by these decisions can hold the IO responsible (Grant and Keohane 2005). Fourth, an IO’s legitimacy can be undermined if the organization is dominated by great powers and if weaker states are forced to bow to their interests and accede to their values (Coicaud and Heiskanen 2001:525–527).

Many scholars have pointed out that the Security Council does not meet these procedural standards. Their criticism is that those states most affected by Council action are almost always excluded from the decision-making process, and that Council decision making is highly opaque and largely insulated from public scrutiny (Paul 2004:375). There is no judicial or quasi-judicial body entitled to determine whether the Council has overstepped its competences or violated international law, nor is the GA in a position to call the Council to account (Koskenniemi 1995). Finally, the dominance of the Security Council by a few powerful veto-holding states has been identified as the core challenge to the body’s legitimacy (Caron 1993:566). Since the early 1990s, the Security Council has taken some limited steps to improve its procedures. For example, the Council President has begun to brief non-Council members following closed meetings and the Arria Formula has provided non-governmental organizations with better opportunities to voice their opinions. Nonetheless, progress has not gone very far (Paul 2004).

Performance Legitimacy

According to a third theory, legitimacy depends on output. Scharpf (1999:6, 11) argues that output legitimacy stems from the ability of an institution or a regime to enhance the common welfare of a given constituency by effectively solving problems in need of collective solutions. This argument has also been made with respect to IOs: IOs are created with a specific aim; if they do not fulfill their purpose or if they create negative externalities, they will not be considered legitimate. Given that IOs frequently lack fair procedures, scholars have argued that good performance becomes the most important source of IO legitimacy (Scharpf 1999; Gutner and Thompson 2010). The most obvious way to assess IO performance is to examine whether the IO fulfills its mandate. Another way is to determine whether the IO applies its rules consistently, as consistency is believed to increase rule compliance (Franck 1990). Performance legitimacy of IOs can also depend on whether an IO manages to restrain great powers. International institutions can help build a legitimate order if they ensure that the hegemonic state does not exploit weaker states (Ikenberry 2001). Finally, the performance of an IO can be assessed by determining whether it avoids grave negative side-effects and, particularly, whether it respects fundamental human rights (Buchanan and Keohane 2006).

As regards each of these criteria, Security Council observers consider its track record over the past 20 years

⁴ Note that these authors are not proponents of this perspective (which is rarely explicitly theorized) but elaborate on it in order to develop a comprehensive theory of legitimacy.

⁵ For an overview of procedural legitimacy (in psychology) see Tyler (2006).

to be ambivalent at best. In terms of the fulfillment of its mandate, its successes contrast with failures (Wallensteen and Johansson 2004). Concerning consistency, empirical evidence shows that the Council has responded selectively to major humanitarian crises after the Cold War (Binder 2009). Scholars have also argued that the Council faces a legitimacy crisis due to its “inability to constrain great power use of force, particularly by the United States” (Morris and Wheeler 2007:214). Finally, concerning negative side-effects of Council action, the Security Council has been accused of being responsible for human rights violations, especially in relation to the practice of black-listing terror suspects (Heupel 2013).

Empirical Analysis

Data and Method

The objective of this article is to investigate the level of and grounds for the Security Council’s perceived legitimacy among UN member states as expressed through evaluative statements. Our approach is different from quantitative research on legitimacy, which frequently relies on Easton’s concept of diffuse support as “generalized attachment” to an institution independent of disaffection toward specific procedures, policies, or officials (Easton 1975:444). Such studies employ survey analysis to assess public attitudes toward international institutions (Caldeira and Gibson 1995; Gabel 2003). In contrast to this, we examine evaluative statements by UN member states on the Security Council in GA debates. In these debates, statements by states not only refer to the various theoretically derived aspects of legitimacy outlined above (for example, “there is a need for greater transparency in the work of the Security Council, which, unfortunately, remains the least democratic of United Nations institutions”⁶); many of their statements also link their assessments explicitly to the Council’s legitimacy (for example, “an undemocratic process is undermining the legitimacy of the Council’s decisions”⁷). Using these sorts of statements offers a more proximate measure of legitimacy than do approaches that measure legitimacy via related concepts such as support or trust (Weatherford 1992).

The study of public rhetoric is challenging. It is difficult to ascertain whether statements made are in line with sincere beliefs or whether they are made strategically as part of a “stage performance.” When states make statements in the GA, they do so in a diplomatic setting and their contributions may involve “generous doses of posturing and pretence” (Sandholtz and Stone Sweet 2004:263). Nevertheless, the analysis of public statements is useful for at least two reasons. First, providing reasons and justification for positions in the public sphere is not only an important political act in itself (Kratochwil 1989; Hurd 1999:391), but it is also revealing with regard to the beliefs held by the intended audience. Whether states make statements about the Council’s legitimacy and how these statements are framed show us what grounds for legitimacy, if any, are believed to resonate within the community of states. Second, public rhetoric, even if used strategically, may nevertheless be consequential. Scholars have highlighted the “civilizing force of hypocrisy” (Elster 1995:251) and the process of “argumentative

self-entrapment” (Risse 2000:23). With respect to the Security Council, it has been shown that (legal) discourse and reasoning matter in Council debates, and that they can have an impact on state behavior (Johnstone 2003; Sandholtz and Stone Sweet 2004).

The data forming the basis of our study consist of GA debates on Security Council annual reports.⁸ We focus on these reports for three reasons. First, the debates on the Council’s report constitute an opportunity for states to assess the Council,⁹ with respect both to its functioning as an institution in general and to specific policies. The annual reports summarize all of the activities of the Council and its subsidiary bodies including mediation, peace missions, sanctions regimes, international criminal tribunals, and cross-cutting issues. The reports also give an overview of all Council resolutions, meetings, communication brought to the attention of the Council, and the state of the reform debate on the Council’s working methods. Thus, these debates provide a setting that is not only conducive to making statements about the Security Council’s legitimacy at all, but also equally likely to induce statements that refer to various grounds for legitimacy. Second, focusing on periodic debates in the same forum and on the same document enables us to hold the context constant and ensures the comparability of the debates. This also allows us to track changes in legitimacy perceptions over time. Third, coding GA debates on the Security Council reports enables us to code statements by potentially all of the UN member states, which all have a seat in the GA and the right to voice their opinions in open debates.

Our analysis is based on a sample of seven debates on Security Council reports in the GA; namely, those from 1991, 1994, 1997, 2000, 2003, 2006, and 2009. Following the logic of systematic sampling, we analyzed every third debate since the end of the Cold War. Unlike random sampling, sampling intervals are kept constant and guarantee that we cover the entire post-Cold War period evenly. A potential issue with systematic sampling is “periodicity,” something which can occur if the sampling interval coincides with a cyclical pattern in the data thus creating a bias (Babbie 2013:211). This would be the case, for instance, if every seventh issue of a newspaper were to be analyzed, coinciding with the Sunday edition. Bias resulting from periodicity is not a problem in our case, because neither the annual debates on the Security Council reports nor the reports themselves are affected by cyclical patterns. While attendance in these debates is not universal—an average of 43 states participated in each of them—state participation is sufficiently high to draw meaningful conclusions. Altogether, a total of 117 states participated in at least one debate; some speakers spoke implicitly or explicitly on behalf of larger regional or functional groups such as the EU or the Group of 77.

We analyzed the debates using the qualitative data analysis software *Atlas.ti*. The coding of the debates was carried out by both authors on the basis of a common

⁸ UN General Assembly. Available at <http://unbisnet.un.org/> (Accessed January 7, 2013). We are grateful to Silke Weinlich for drawing our attention to these debates.

⁹ The representative from Italy stated: “This annual occasion provides the entire membership of the General Assembly with an opportunity for collective reflection. I would like to take this opportunity to share my thoughts on the work of the Security Council in the fundamental area of peace and security” (A/55/PV.35, October 17, 2000, p. 11).

⁶ A/52/PV.38, October 29, 1997, p. 12, statement by Malaysia.

⁷ A/58/PV.28, October 13, 2003, p. 13, statement by Jamaica.

coding scheme, which assured a high level of intercoder reliability.¹⁰ In line with our conceptual framework and based on the insights of political claims analysis (Koopmans and Statham 1999), for each debate on a Security Council report, we coded evaluative statements by UN member state representatives that shed light on their perceptions of the Council's legal legitimacy, procedural legitimacy, and performance legitimacy. We assigned four indicators to each of these three grounds for legitimacy. Evaluative statements on these indicators are coded either positive or negative. The coding unit is the evaluative statement with regard to a specific indicator by a specific speaker in a specific debate.¹¹ Altogether, 1531 evaluative statements were coded.

To capture statements on *legal legitimacy*, we developed the following indicators: *Article 39* refers to statements judging the Security Council's free-handed interpretation of article 39 of the UN charter. *Chapter VII* relates to statements evaluating the Council's increased adoption of Chapter VII resolutions. *Instruments* refer to statements assessing the increased use of intrusive instruments to implement Chapter VII resolutions. *Competence* refers to statements evaluating the usurpation of competences, which had heretofore belonged to the sphere of authority of the GA or other UN bodies.

To account for statements on *procedural legitimacy*, we also developed four indicators: *Participation* refers to statements evaluating the restrictions placed on non-permanent Council members that would limit their participation in formal decision making. *Transparency* corresponds to statements judging the opportunities for less powerful Council members and non-Council members to trace agenda setting and decision making. *Accountability* refers to statements evaluating the opportunity for non-Council members or the GA to hold the Council responsible. *Great power dominance* applies to statements assessing power asymmetries in the Council, especially as a result of the veto.

For *performance legitimacy*, we used the following indicators: *Mandate* refers to statements assessing the extent to which the Security Council fulfills its mandate. *Consistency* relates to statements evaluating the extent to which the Council responds to similar threats to peace in a similar fashion. *Great power restraint* deals with statements judging the Council's ability to constrain a great power's use of force without Council authorization. *Human rights* apply to statements evaluating the conformity of Council action to international human rights law.

Finally, we compared evaluative statements on the Security Council's overall legitimacy and the three grounds for legitimacy across UN member states to determine whether specific state characteristics matter for the legitimacy perception states hold. To this end, we examined four characteristics that might plausibly influence the evaluation of the Council's legitimacy. Is the state making a statement a member of the OECD world or is it part of the economically less advanced global South? Is the state a democracy or is its political system nondemocratic? Is the state a permanent or non-permanent Council member? Has the state been the target of coercive

measures initiated by the Council?¹² This analysis, which is not explanatory but comparative in nature, is meant to supplement our main research questions and not to be a test of systematically derived hypotheses.

The following statement by the representative from Colombia in 2006 serves to illustrate our coding procedure:

We would also like to underscore the importance of the Council's focusing its efforts on threats to international peace and security. Diluting the Council's agenda with issues that are not directly related to its mandate ... calls into question the legitimacy of its functions.¹³

This evaluative statement receives one code for the year the statement was made ("2006"), one code for the indicator addressed by the speaker ("Article 39"), one code for the evaluation, that is, whether the speaker makes a positive or negative statement ("negative"), and one code for the state making the statement ("Colombia"). Regarding the state, we also assess its values with respect to the four characteristics outlined above. If the representative from Colombia subsequently praised the Council's improved transparency, we would consider this a new evaluative statement and would assign the codes "2006," "transparency," "positive," and "Colombia." Speakers sometimes swing back and forth between different legitimacy indicators in the course of one oral contribution; as a result they may refer to one indicator more than once. Other speakers structure their contributions such that they evaluate an individual indicator only once. In the coding of the debates, however, we take into account only one positive and one negative evaluative statement for each indicator per speaker and debate. The frequency with which an indicator is emphasized is likely to be the function of the length of an oral contribution, which, in turn, may depend on several factors: States speaking toward the end of the agenda might opt for shorter contributions. Powerful states might demand more time to speak for themselves; yet, it might also be the case that less powerful states see the debate as a rare opportunity to speak to a broad audience and therefore make longer statements. The length of a contribution and the frequency of repetition may also be due to cultural factors or to different oratorical styles. In short, it is impossible to judge whether more than one evaluation of the same indicator in the same debate is an indication of emphasis. This is less of a problem, however, as we are interested in the general attitude of each contributing state rather than in the exact extent of its negative or positive attitude vis-à-vis individual indicators.

There is no agreed threshold in the literature allowing us to discriminate between legitimate and illegitimate international institutions. However, Nullmeier et al. (2010:238), who employ media analysis to compare the legitimacy of several states and international institutions, claim legitimacy is "stable" if the share of positive statements is above two-thirds and "problematic" if this share

¹⁰ Intercoder reliability is well above .8 (or 80%) calculated by the number of agreements/(number of agreements + number of disagreements). The coding scheme is available upon request.

¹¹ A statement begins and ends if one of the following conditions is fulfilled: (i) the speaker changes; (ii) the indicator changes; or (iii) the evaluation of an indicator changes (de Wilde 2011:178–179).

¹² A state is coded as a democracy if its score in the Polity IV data is equal to or higher than seven; states missing in the Polity IV data are coded as democracies if they are qualified as "free" by the Freedom House data. A state is considered to be a target of coercive measures if the Council imposed sanctions against or deployed robust peacekeeping operations under chapter VII in the state in the year of the debate.

¹³ A/61/PV.73, December 11, 2006, p. 7.

drops below one-third. Similarly, Gibson and Caldeira (1995:365) examine the legitimacy of the European Court of Justice and conclude that the Court is an “institution without a large bedrock of legitimacy” because, on average, only 36.4% of survey respondents supported the Court.¹⁴ In line with these approaches, we assume that institutions with less than one-third positive legitimacy evaluations have low levels of legitimacy, while those with more than two-thirds positive legitimacy evaluations have high levels of legitimacy.

Results and Interpretation

Overall Legitimacy

The central result of our analysis is that the Security Council suffers from a *legitimacy deficit* in the eyes of UN member states. States, like Argentina, deplore the Council’s “loss of . . . legitimacy” and perceive this to be “a growing trend in recent years that [they] hope will be reversed.”¹⁵ That the Council’s level of legitimacy is low is evident in our finding that the share of negative statements amounts to more than two-thirds of all coded statements: The number of negative statements on the Security Council by far outweighs the number of positive statements as 73% (1123) of all 1531 statements relevant for the assessment of the legitimacy of the Council are negative, while only 27% (408) are positive (see Figure 1).

We find a great deal of negative statements on all grounds for legitimacy as stressed according to the legitimacy theories introduced in our conceptual framework. For instance, Vietnam expresses concerns regarding the Council’s loose interpretation of its legal mandate, stating that “the Security Council should not attempt to expand its purview beyond what is authorized under the Charter,” and that the “general membership of the United Nations . . . will not accept the Council indulging in efforts to establish certain norms.”¹⁶ On numerous other occasions, states call for procedural reforms, like Peru’s demanding that “in order to adapt the Council to new realities, it is essential to admit new members . . . That would promote just and equitable regional representation, which would project a stronger image of Council legitimacy.”¹⁷ States also frequently criticize performance shortcomings, like Libya’s stating that “the Council has been questioned for not being able to fully shoulder its responsibility in dealing successfully with some of the most pressing peace and security issues.”¹⁸

Regardless of the obvious gap between the number of negative and positive statements, the Security Council nevertheless does not find itself in an irreversible legitimacy crisis. That 27% (408) of all statements are positive suggests that the Council enjoys some *rudimentary degree of legitimacy* (see Figure 1). This appraisal is supported by the fact that most states have a nuanced view of the Council’s legitimacy as opposed to a sharp division between one group of states with a positive view and another with a negative view. Most states deem the body to be illegitimate with regard to one indicator but legitimate with regard to another. Spain, for example,

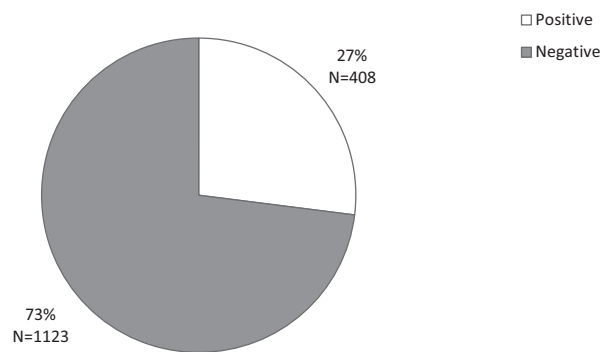


FIG. 1. Negative and Positive Evaluative Statements on the Security Council.

highlights its contribution to “enhancing transparency in the Council’s working methods” but at the same time points out that “Member States believe that the Council, in an organization that now has 191 Members, should be more representative.”¹⁹ In addition, existing studies on legitimacy perceptions of national and international institutions suggest that it is unrealistic to expect high approval ratings.²⁰ Nor can we rule out that there is some degree of bias toward negative statements in our data, as states are probably more likely to seize the opportunity in the GA to criticize the Council rather than to praise it. Finally, tacit consent might be a factor contributing to the overall negative views in the sense that states having once consented to the UN Charter might not feel any urgent need to vocally reaffirm their support for the Council. These considerations thus caution against assuming that the Council is in a deep legitimacy crisis even when negative statements clearly predominate. Nonetheless, the extent to which negative statements prevail over positive ones still indicates that the legitimacy of the Security Council is at least tenuous.

There is *no linear trend* as regards the development of legitimacy appraisals over time. While negative statements by far outnumber positive statements in each debate, legitimacy perceptions at first gradually improved from 1991 (22% positive statements versus 78% negative statements) up to 2003 (36% versus 64%). After 2003, legitimacy perceptions of the Council began to deteriorate (2006: 19% versus 81%) before they improved again slightly (2009: 23% versus 77%).

Negative assessments outnumber positive statements for all *types of states*. Yet, different types of states are critical to varying degrees. OECD members and democracies appraise the Council more positively than nondemocracies and economically less advanced states.²¹ Thus, marginalized states have on average a more negative attitude toward the Council than liberal and highly developed states, which tend to benefit most from the current international order. Permanent and non-permanent Council members are systematically less critical than states not

¹⁴ Our calculation is based on table 3, p. 364.

¹⁵ A/64/PV.45, November 13, 2009, p. 19.

¹⁶ A/55/PV.35, October 17, 2000, p. 22.

¹⁷ A/64/PV.44, November 12, 2009, p. 15.

¹⁸ A/64/PV.43, November 12, 2009, p. 2.

¹⁹ A/58/PV.28, October 13, 2003, p. 18.

²⁰ Even advanced democratic states tend to have low values when it comes to support in the eyes of their citizens (Norris 1999). Analysis of media coverage in OECD states suggests that IOs have low values when it comes to legitimacy perceptions (Nonhoff and Schneider 2010).

²¹ The cross tabulation of OECD membership (yes/no) and democracy (yes/no) with the type of evaluative statement (positive/negative) yields highly significant associations with $p = .006$ (OECD membership) and $p = .001$ (democracy).

represented on the Council.²² It seems that serving on the Council, be it for only two years, has a socializing effect and creates a certain degree of loyalty. States targeted by chapter VII interventions are significantly more critical than those who are not.²³ This meets our expectations, given that robust chapter VII measures are predominantly applied without the consent of the government of the state subjected to those measures.

Origins of the Legitimacy Deficit

With regard to all three grounds for legitimacy, the number of negative statements clearly outweighs the number of positive ones. This is consistent across all debates in the sample. Nevertheless—and this constitutes our second main result—it is predominantly concerned about procedures that inform the overall negative appraisal. Concerns about the Council's performance and its interpretation of its legal mandate rank second and third, respectively. Again, this is true for each debate in our sample.

Of all 1123 negative statements about the Security Council, 65% (731) refer to its *procedures* (Figure 2). As regards the different indicators for the procedural legitimacy dimension, concerns about transparency shortcomings carry the greatest weight, with 20% (229) of all negative statements referring to *transparency*. Of all negative statements, 19% (212) relate to *participation* and 16% (175) to *accountability*. Negative statements on *great power dominance* (10%, 115) fall off somewhat (see Figure 3).

That states take issue with the Council's procedures is exemplified in many contributions. Nicaragua for instance claims that “[t]here is a need for working methods that transform the Council into a more transparent, inclusive and participatory organ, and which render it accountable to the General Assembly in an effective way.”²⁴ We impute the prevalence of concerns about procedural shortcomings to some extent to broader changes in the international normative fabric. Scholars have started to argue that a global norm of democratic governance has emerged (Dingwerth 2010). Not only states, but also other sites of authority such as IOs are nowadays widely expected to guarantee that those affected by the rules have an opportunity to have an impact on rulemaking. Other statements suggest, however, that strategic calculations are also important. It is not solely or predominantly democracies but, to an even greater extent, nondemocracies as well, which object to Council procedures and call for more democratic decision making.²⁵ However, it is unlikely that nondemocracies invoke democratic principles in this case because they generally appreciate democratic values; rather, it is more likely that they do so because they seek to increase their influence on the Council.

Concerns about the Security Council's *performance* are less pronounced, given that only 24% (268) of all negative statements refer to this dimension. Among the indicators assigned to performance legitimacy, *mandate* is addressed most often, with 19% (209) of all negative statements referring to the Council's difficulty in fulfilling or failure to carry out its mandate. Negative statements on *consistency* (4%, 41) and especially *human rights*

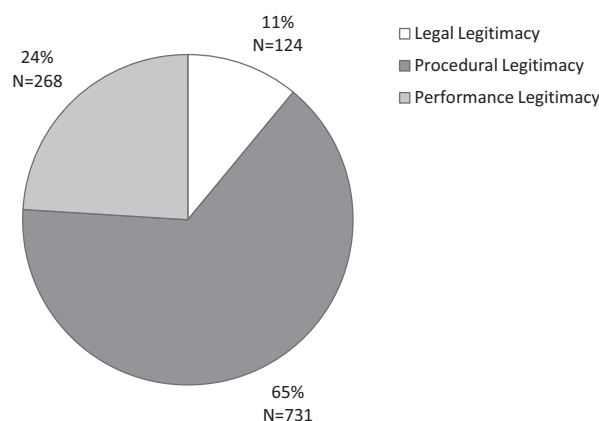


FIG. 2. Negative Evaluative Statements on the Security Council.

(1%, 15) and *great power restraint* (almost 0%, 3) fall off (see Figure 3). Dissatisfaction with the Security Council's performance therefore clearly pales in comparison with dissatisfaction with its procedural shortcomings (bearing in mind that negative statements on performance nevertheless outnumber positive ones). This finding challenges those who argue that performance or output is crucial for institutions such as the EU (Scharpf 1999) or that “performance is the path to legitimacy” for IOs more generally (Gutner and Thompson 2010:228). UN member states often do criticize the Council's failure to fulfill its mandate effectively. For instance, Kazakhstan has deplored the “inability on the part of the Council to respond in a timely and effective manner to emerging security concerns.”²⁶ Yet, concerns about the Council acting inconsistently, violating human rights laws, and failing to restrain the great powers hardly carry any weight. This is astonishing given that issues like the Council's selective interventionism or the violation of due process rights of blacklisted individuals are among the most heatedly disputed matters in the public debate. Obviously, there is a discrepancy between how the Council is perceived by states and how it is perceived by societal actors.

Discontent with the Security Council's loose interpretation of its *legal mandate* is even less pronounced. Only 11% (124) of all negative statements about the Council relate to the legal legitimacy dimension. There are no marked differences between concerns regarding different indicators: 5% (58) of all negative statements refer to *competence*, 3% (29) to *article 39*, 2% (22) to *chapter VII*, and 1% (15) to *instruments* (see Figure 3). That UN member states do not seem to be particularly worried about the Council overstepping its legal mandate and acting beyond what they had originally consented to is to some extent surprising. After all, principal-agent theory holds that states take great care to ensure that the agents to whom they have delegated power do not become unnecessarily independent. By contrast, our results suggest that the consent of sovereign states is increasingly challenged by another set of norms, namely human rights. Discourse on the “responsibility to protect” appears to have left its mark on states' assumptions regarding the conditions under which the Council is entitled to intervene in formerly domestic realms without

²² This association is highly significant with $p = .000$.

²³ This association is significant with $p = .022$.

²⁴ A/64/PV.46, November 13, 2009, p. 13.

²⁵ $p = .022$.

²⁶ A/61/PV.75, December 12, 2006, p. 7.

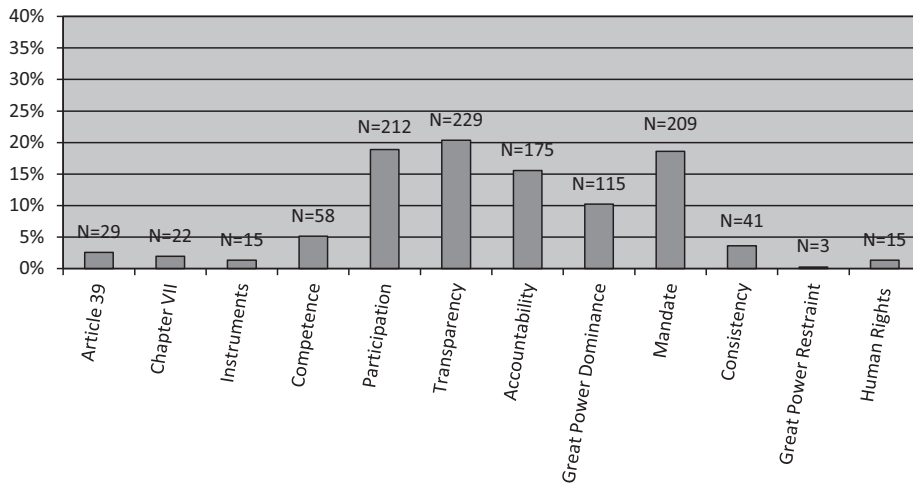


FIG. 3. Negative Evaluative Statements on Different Legitimacy Indicators.

state consent. The following statement by Canada is evidence of this reasoning:

In the post-cold-war period essentially intra-State conflicts ... dominate the Council's deliberations. ... Canada answers 'Yes' to those who ask whether the United Nations, and particularly the Security Council, should be involved in resolving them. The international community cannot stand aside as conflicts which imperil the lives of millions of innocent people and threaten their most fundamental rights, fester, degenerate and eventually explode."²⁷

A word of caution must be made here: this reasoning appears to apply mainly to democracies. Nondemocracies are systematically more critical of the Council's alleged transgression of its legal mandate than are democracies.²⁸ This might be due to the notion of sovereignty still highly cherished among non-liberal states, as Myanmar's statement shows: "[T]o involve the Council in matters that clearly fall within the domestic jurisdiction on grounds of perceived potential threat to peace and security is highly questionable and open to serious doubt about the real motive behind such attempt."²⁹

A possible objection to our finding on the origins of the legitimacy deficit is that our analysis does not grasp the possibility that negative statements on the Council's procedures are, at the same time, also reflective of concerns regarding legal and performance legitimacy. States might demand procedural improvement not just because they find fault with the Council's procedures but also because they assume that procedural improvements result in better performance and compliance with the Council's legal mandate. However, we did not find support for these considerations in the debates. Moreover, there is little reason to assume bias on account of states shying away from directly calling for better performance or compliance with the UN charter. It has been argued that the GA is more conducive to states expressing their preferences than most other international fora (Gartzke 1998:15).³⁰

Origins of Rudimentary Legitimacy

As pointed out above, the Security Council enjoys some rudimentary degree of legitimacy as 27% (408) of all statements about the Council were positive (see Figure 1). Interestingly, positive and negative evaluations are largely driven by references to the same grounds for legitimacy: Approval is greatest with regard to the Council's procedures, with 62% (252) of all positive statements referring to these. Only 32% (131) of all positive statements refer to the Council's performance. Finally, approval of the Security Council's interpretation of its legal mandate is negligible, comprising only 6% (25) of all positive statements (see Figure 4).

This distribution is mirrored in the appraisal of individual indicators because *transparency* and *mandate* fare best: 39% (159) of all positive statements relate to transparency and 32% (129) of all positive statements relate to mandate (see Figure 5).

Striking is, thus, that the Council's legitimacy deficit and its rudimentary degree of legitimacy have similar origins. Concerns about procedural deficits in Council decision making are the strongest driver for the perception of the Council as illegitimate. At the same time, the main reasons that the Council is perceived to some extent as legitimate are also reflected in positive statements about its procedures. Likewise, positive and negative statements on the transparency of the Council, or a lack thereof, and the fulfillment of its mandate, or its failure to do so, play an elevated role both in the perception of the

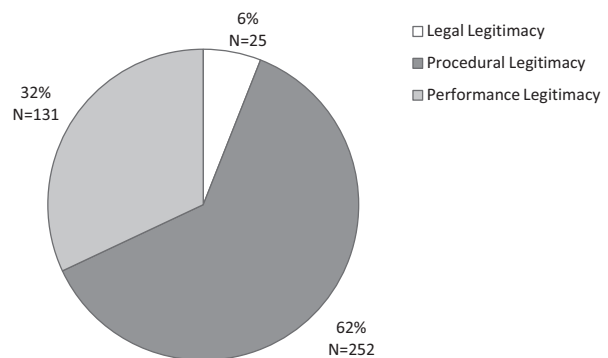


FIG. 4. Positive Evaluative Statements on the Security Council.

²⁷ A/49/PV.48, October 31, 1994, p. 24.

²⁸ This association is highly significant with $p = .003$.

²⁹ A/55/PV.36, October 18, 2000, p. 7.

³⁰ Gartzke analyzes voting behavior in the GA to assess states' revealed preferences.

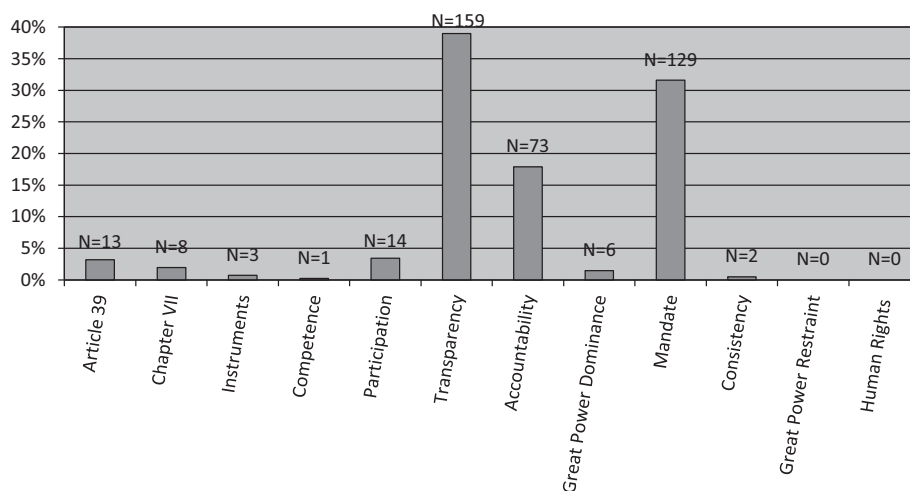


FIG. 5. Positive Evaluative Statements on Different Legitimacy Indicators.

Council as legitimate, on the one hand, and illegitimate, on the other. This underscores once more that states have a nuanced view of the legitimacy of the Council. Importantly, however, this applies to some but not all indicators, suggesting that a nuanced view is not merely reflective of diplomatic talk.

Implications for the Scholarly Debate

Our results suggest that the Security Council does not enjoy as much legitimacy as many scholars would attribute to it, highlighting its legitimation function. Therefore, further reflection on assumptions inspired by constructivism, according to which the Council confers legitimacy to state actions, would seem to be called for. It is not evident why states would seek the approval of, or support action that has been approved by, an international institution which they believe has a legitimacy deficit. Likewise, if states viewed the Council as a forum for deliberation and legal discourse, we would not expect lack of transparency to be the issue most often stressed when criticism is voiced, or that states like Mexico characterize informal Council consultations as “mysterious conclaves.”³¹ The Council does not seem to have the “unique legitimacy” that former UN Secretary General Annan ascribed to it.³²

Nor do our results support those scholars who deny that the Security Council has any substantial legitimacy and argue, instead, that its main function lies in maintaining international order and restraining the great powers, or in strategic information transmission. First, these approaches fail to acknowledge that states do ascribe some rudimentary degree of legitimacy to the Council. This is so because their assumption of the Council’s illegitimacy derives from comparing its features and behavior to normative standards, rather than from taking states’ perceptions into account. Second, as mentioned above, the Security Council is seen as an “elite pact” whose aim is to neutralize threats to international stability and to provide political reassurance. However, our data suggest that states do not fully accept this “elite pact” role in the first place. Objections to the dominance of the great powers are among the frequently uttered criticisms of the

Council, as indicated by Costa Rica’s refusal to “consent to . . . [the Security Council’s] becoming an instrument of a small group of States, thus losing its legitimacy”³³ or Zimbabwe’s denouncing the Council’s unequal institutional design as “global apartheid.”³⁴ Moreover, the Council’s alleged function as an institution to restrain the most powerful states was hardly significant for any assessment of its legitimacy in our study. Nowhere did we find evidence of states praising the Council for holding the great powers at bay or criticizing it in any meaningful way for its failure to do so.

Conclusion

We investigated perceptions that UN member states hold of the Security Council’s legitimacy by analyzing debates on the Council in the GA. We brought to light that, in the eyes of the UN membership, the Council suffers from a considerable legitimacy deficit, but it is nevertheless not in the throes of a full-fledged legitimacy crisis. Concerns about procedural deficits of the Security Council clearly dominate and inform the overall negative assessment of that body by UN member states. Such apprehension significantly outweighs concerns over the Council’s performance and the interpretation of its legal mandate. Finally, dissatisfaction prevails across different types of states, with some state features being more strongly associated with dissatisfaction than others.

Our findings suggest that those scholars who deny the Security Council any legitimacy as well as those scholars who take its legitimacy for granted would benefit from reassessing their own underlying assumptions. On a more general level, our findings indicate that states are far from acquiescing compliantly to IOs’ exercising power. States care about what IOs do and how they do it. IOs’ leeway is constrained by the need to justify their actions. Yet, our results also show that it is difficult for IOs to squander all of the legitimacy that states ascribe to them. IOs can be tainted by scandals and they can prolong widely called for reforms without being viewed by states as entirely illegitimate. IO member states demand reforms, but they also acknowledge efforts by IOs to legit-

³¹ A/53/PV.40, October 21, 1998, p. 10.

³² Cited in Hurd (2007:viii).

³³ A/57/PV.27, October 14, 2002, p. 11.

³⁴ A/57/PV.31, October 15, 2002, p. 24.

imate their existence or their expanding scope of action by improving decision-making procedures and/or performing well.

How can the Security Council avoid having its legitimacy deficit grow into an outright crisis? Reus-Smit (2007:158) defines a legitimacy crisis as a situation in which

the level of social recognition that [an actor's or institution's] identity, interests, practices, norms, or procedures are rightful declines to the point where the actor or institution must either adapt (by reconstituting the social bases of its legitimacy, or by investing more heavily in material practices of coercion or bribery) or face disempowerment.

The Council does not want to be disempowered nor can it ultimately sustain itself via coercion or bribery. Our results give a clear indication as to how the Council can strengthen the bases of its legitimacy: The Council is well advised to focus on procedural improvements. The institutionalized debates in the UN on Council reform, focusing on procedural improvement, began nearly 20 years ago, but these debates have thus far been inconclusive. Many states are disillusioned and view existing reforms as half-hearted or, at worst, mere window dressing. If the Council wants to address its legitimacy deficit, it is imperative that this procedure-oriented reform process be revitalized. However, in the course of such an undertaking, it is equally imperative to prevent the focus on procedural betterment from detracting from the Council's effectiveness. This is all the more important because our analysis has shown that difficulty as regards mandate fulfillment is also among the most criticized aspects of the Council. Given that fair procedures not only carry the risk of undermining effectiveness but also have the potential to increase effectiveness by inducing support for decisions and actions, establishing fair procedures and enhancing effectiveness must not necessarily be zero sum. Hence, the challenge for Security Council reform will be to introduce meaningful procedural reforms while assuring that these reforms enhance rather than hamper the ability of the Council to act decisively when it comes to maintaining or restoring international peace and security.

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