Global Governance Institutions Managing Global Public Health: Opportunities and Challenges

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Abstract

Global Health Governance (GHG) has risen in significance as an independent field of study over the last 5 years. Ever since the inclusion of three of the Millennium Goals which relate directly to health, and the promotion of health as an aspect of human security, global awareness of health and its importance as a cross-cutting issue has grown. Within the paper it is argued that at this a crucial time it is important to address changes in the global public health issue area from an international relations and global governance point of view, as this issue area has experienced very distinct changes in governance forms over the past 150 years, and especially over the past 15 years.

In the existing literature, the development of international health is commonly described in relation to three periods: first; the nineteenth century, characterised in particular by the first International Sanitary Conferences, second, the interwar period, distinguished by the establishment of international organisations, third, the post-war era – dominated by the history of the World Health Organisation. In this paper a fourth period is identified, during which two prominent changes in global public health have taken place: first, the rapid spread of HIV/AIDS as a highly visible and politicised disease and second: ideological competition between states and international organisations in addressing health, e.g. structural adjustment programmes vs. public health systems, intellectual property rights vs. access to medicine, and importantly comprehensive vs. selective primary health care. This has led to new and innovative approaches to combat global health problems.

Two empirical observations from this final period provide the basis for the presented analysis: First, a range of governance forms have emerged within this issue area, each with different characteristics in terms of their constitutional make-up, and their approach to achieve outcomes. Examples include organizations such as UNAIDS, The Global Fund to Fight AIDS, Tuberculosis and Malaria and the Global Alliance for Vaccines and Immunization. Second, these new governance forms are increasingly acting independently of, (member-) states, yet at the same time are increasing their scope in terms of determining policy for action, and gaining funding.

These observations raise questions about how such organisations gain the ability to act on a global level. To address this question the paper takes an in depth look into examining aspects of their decision-making procedures, openness to non-state actors, aims and operations, which will help decide whether they will be able to sustain long-term political and financial support.

Introduction

Global Public Health is a relatively new area of research, which has only taken form as an independent field of study over the last 5 years. Mainly it has been handled within schools of medicine, building on public health and health systems research, or in schools of law looking at comparative health systems or international treaties. I take Global Public Health, and more specifically the sub-field Global Health Governance (GHG) as both important, and useful, for studies of international relations, as this issue area has experienced very distinct changes in governance forms over the past 150 years, especially over the past 15 years.

Two empirical observations from within the GHG field underlie the work:

1. A range of new governance forms have emerged within this issue area, each with unprecedented innovative characteristics in terms of their constitutional make-up, and their approach to achieving outcomes.
2. These governance forms, referred to in this as GHG organisations, are increasingly operating independently of, (member-) states, yet at the same time are increasing their scope in terms of determining rules for action, and gaining funding.

In the absence of traditional means of governance found on the domestic level such as coercion, and in light of their limited material capacity, these observations raise questions about how such organisations gain the ability to act on a global level. This is a puzzle with which scholars of IR, in particular those within the constructivist school, are increasingly occupied. One of the most promising and increasingly popular concepts now taken is that of *legitimacy*, which is taken as embodying the normative pull that an organisation or a rule exerts on its addressees (as opposed to an interest-based material or coercive pull). Still, despite an increasing amount of literature accepting legitimacy as an empirical reality and an increasing amount of studies which use legitimacy as an explanatory variable, it remains a contested concept without a concrete explanation of what it is composed of.

The changes that can be observed within the GHG issue-area are well suited for a study into legitimacy. GHG organisations have emerged in response to a failure of more traditional forms of international health governance to sustain financial and political support and can be seen as deliberately seeking to improve their legitimacy in order to attract funds and exert a pull on addressees to comply with rules for action.

Therefore, this paper addresses the following aim: to offer insights into developing a basis for examinations into legitimacy within this field by looking at what makes up the legitimacy of three different GHG organisations. The aim is not to prove the significance of legitimacy in relation to other modes of social control (interests, coercion), but rather to **develop a method for constitutive analysis** of an organisation's legitimacy, which can be replicated for the purpose of analysing the legitimacy of other organisations either as a variable in causal research, or as a basis for constitutive research in other issue-areas.

This is to be achieved by posing the following questions:

1. What different forms of global health governance exist and what new forms are emerging?

2. On what grounds might actors such as donors, addressees and watchers accept GHG organisations as having the right to govern? (Which properties might make an organisation legitimate?)

3. Which actors must perceive the organisation as legitimate? What are their positions to the properties identified by answering question 2? (ie.Whose perception counts?)

Throughout the paper I will refer to the objects of interest, namely Global Health Governance (GHG) organisations. These organisations represent a newly emerging form of governance with distinct characteristics, which sets them apart form more traditional forms of international governance.
The development and characteristics of GHG organisations will be explained more closely below, however, a short description is necessary from the outset.
Four aspects can be used to define a GHG organisation. First and foremost they are organisations with their own secretariats, and not mere departments, programmes or partnerships. Second, they were formed as an alternative to failing (in terms of funding, acceptance and compliance) forms of international governance; third, they attempt to embody the principles known as 'new public health' a term developed at the International Conference on Primary Health Care in Alma-Ata in 1978 during which the aims of Health for All) was declared (Baum 2002: 33-34). Fourth and finally, within International Relations they fit the requirements of what are called 'inclusive' institutions. "An institution is considered to be inclusive if membership is granted to actors from at least two sectors, including a private and a public one." (Rittberger/Huckel/Rieth/Zimmer 2004).

In this paper three organisations fitting to all of the four aspects are taken as case studies. First, the Joint United Nations Programme on HIV/AIDS, (UNAIDS) which was formed in 1996 and replaced the WHO's Global Programme on AIDS; second, the Global Alliance for Vaccines and Immunisation (GAVI), which was formed in 2000 in response to the waning of UNICEF's and the WHO's Expanded Programme on Immunisation; and third The Global Fund to Fight AIDS, Tuberculosis and Malaria (henceforth The Global Fund), which was formed in 2001 as a alternative to a World Bank Trust Fund which was intermediately created by UN Congressional Action in April 2000.
The constitutive analysis has been developed in part by looking at the ways that legitimacy is to be addressed specifically with reference to these organisations. However, in most cases throughout the paper references to GHG organisations can also be substituted for other forms of non-traditional (non-state) governance in other issue areas.

Theoretical underpinnings of the paper

The paper takes the concept of legitimacy as not only useful for examining GHG organisations, but also as an important theoretical concept in itself, albeit one lacking clarity.

In the Social Sciences, legitimacy is used to explain behaviour patterns in all facets of society from criminal behaviour and civil disobedience to the stability of the state and the very make-up of the state-citizen relationship. In International Relations, however, balance-of-power, self-interests, mutual interests and coercion are used to explain patterns of behaviour.
Legitimacy has been considered too weak a concept to empirically verify and too obscure to theoretically define (Zelditch 2001: 33; Hurd 1999: 380). Legitimacy as an aspect of global governance however, should not be ignored and indeed has gained considerable acceptance amongst IR scholars in recent years especially in those cases where rational arguments have proved unable to explain new developments in global politics. This is because, addressees, donors, NGOs and other actors that are asked to respond to the rules for action of GHG organisations, must, at least in part, feel that the organisations has a right to engage in the type of governance that they do, before they change their preferences and decide to pledge funds, or create new policies which align with the organisation's rules for action. Amongst constructivist scholars it has increasingly become accepted, that actors other than states, such as international organisations have the ability to act autonomously and influence the social environment within which they exist and influence the behaviour of states and other actors. Critical for this school of thought is the role of the normative pull towards compliance, for which legitimacy is crucial. GHG organisations normally lack the capacity to offer material incentives or use coercion (forms of punishment) to gain compliance with rules. Of course, internal factors, (such as domestic politics, or an organisation's staff) also play a role in determining whether stakeholders change their preferences and decide to support a GHG organisation (James 2000: 17; Kickbusch 2003: 195-197). This these does not rule out this possibility, but rather presumes that legitimacy plays an important role also.

Social kinds (according to Wendt) are *constituted* by internal and external structures and a social kind must take **both** of these elements into account.
Internal structures are the properties that define the social kind; for GHG organisations these are the properties that provide the sources for legitimacy. Almost all scholars looking at legitimacy address these properties in some way.
External structures refer to the logical and necessary link of that social kind to specific external conditions such as the opinions of stakeholders, in the case of GHG organisations this is the acceptance on the part of stakeholders that the internal properties make the organisation legitimate. Increasingly scholars taking an empirical-analytical approach to legitimacy recognise the importance of external structures but hardly any proceed to actually define or analyse them.
Scholars looking for the constitutive make-up of an organisation's legitimacy, or wanting to operationalise legitimacy for use as an explanatory variable, need to analyse legitimacy in two steps, the first identifying which properties might provide the source of legitimacy, and second identifying which stakeholders provide the necessary external conditions for legitimacy to exist.

The second and third questions (repeated from section 1.1) are designed to provide the basis for each of these steps:

> On what grounds might actors such as donors, addressees and watchers accept GHG organisations as having the right to govern? (Which properties might make an organisation legitimate?)
>
> Which actors must perceive the organisation as legitimate? What are their positions to the properties identified by answering question 2? (ie.Whose perception counts?)

The method for a constitutive analysis of the legitimacy of GHG organisations presented in this paper is therefore developed in two stages. In the first stage different properties that *may* provide the sources for an organisation's legitimacy are systematised and explained. In the second stage stakeholders are systematised and explained.

What is Global Health Governance?

Global Health Governance is a sub-field of study which lies at the cross section of Global Governance and Public Health.

Public Health is a field of study which examines the 'health of societies' rather than the health of individuals, as in the case of medicine. Within Public Health, subfields are epidemiology, environmental health, biostatistics, culture, society and health, and public policy (governance). Global Public Health has an emphasis on determinants and consequences of health with a global scope (Baum 2002: 7).

Global Governance is a field of study which has emerged in reaction to a large number of non-traditional actors which have taken on roles of governance due to changes in global contexts and (either related or non-related) changes in the capacity of traditional actors such as states to govern. The study of Global Governance concerns itself with this new global environment and looks specifically at the framework of rules emerging within it that are governed by institutions, including among others international organisations.

Until recently, almost all literature on the evolution of cooperation in public health stems from scholars of Public Health, rather than scholars of Global Governance. For this reason, the transformation from old to new forms of governance are mainly treated in a descriptive manner and their consequences in terms of accountability, legitimacy and political acceptance are rarely discussed.

For example, Dodgson et. al. state that the development of international health co-operation is commonly considered in relation to three periods. First, the nineteenth century, characterised in particular by the first international sanitary conferences; second, the inter-war period characterised by the establishment of international organisations such as the League of Nations; and third the post war era, dominated by the history of the World Health Organisation (Dodgson 2002 3-4; Loughlin/Berridge 2002, 8-9). However the significance of these changes for public health practise and for the evolution of global governance as a whole are not addressed. Looking at these changes in terms of governance structures, these

transitions represent not just different channels through which health problems are addressed, but a continuum moving from state-centred international governance to the beginnings of global governance steered not only by states but also by partly-autonomous transnational bureaucracies. Here decision-making is separated from the state to a certain degree, which could have implications for the long term support of the organisation. Decision-making separated from the state needs to be able to ensure compliance with recommendations and rules as well as acceptance of their decision-making authority *per se*. While the WHO has arguably managed to gain this level of acceptance, this issue becomes critical during the current fourth phase, which I identify below.

A fourth period, which should be added to the three identified by Dodgson et. al. began around the mid 1990s and has brought about new modes of cooperation that are as innovative now as the international conferences were in the late 1980s. This fourth period can be characterised as stemming from a decline in the capacity of, and will of, states and state based organisations to effectively manage issues of global public health and an increasing awareness of the effect that trade and trade organisations have had on health policy and health outcomes. This led to the perceived need for innovative governance forms (Price-Smith 2002). This phase is also characterised by competition and in some cases conflict between international organisations, which have come to act as entities in their own right.[1] Buse and Walt refer to three contextual changes in the beginning of this era that strengthened the perceived need for new governance forms, first, ideological shifts towards neo-corporatism; second, growing disillusionment with the UN and its agencies as well as chronic funding shortages within those agencies; and finally, recognition that "emerging health problems require a range of responses beyond the capacity of either public or private sectors working independently" (Buse/Walt 2000b, p. 550-551).

In reaction to these real problems, alternative governance forms, such as public-private partnerships, business coalitions and new GHG organisations have increasingly taken on governance roles in the issue area of public health by declaring which problems must be addressed, determining new policy and demanding compliance (Kickbusch 2003: 195-197). The significance of these historical developments for the lies in the questions they raise concerning whether the new forms of governance (GHG organisations) really have the potential to achieve greater acceptance, in the form of legitimacy.

Generally however, three factors have made the issue area of health particularly open to innovative governance forms and the involvement of non-state actors in international institutions:

> First, the aim of providing all people with a life free of disease and pain is an aim that is relatively undisputed. This is partly because the envisaged 'causes' of poor health having traditionally been de-politicised and presented on a micro-biological level by medical experts. This had led to problem-oriented politics and a willingness on behalf

[1] Examples are the conflicts between structural adjustment programmes and investment in health; between intellectual property rights and access to medicines; and the debate between the WHO and UNICEF over comprehensive vs. selective health care (Basch 1999, 216; Beigbeder 2002, 61).

of many different types of actors to cooperate to combat infectious diseases is an attractive cause.

Second, within states, public health projects have a long history of being led by prominent individuals, churches or community groups, long before health care was standardised within welfare states. For example early public health actions in the 19th century to clean up American cities were led by civil leaders and women's groups, (WHO, p.5) and in England the pre WWII national health service was a mix of public and private actors working together. In many countries, hospital services run by churches pre-date state those run by the state.

Third, positive 'results' in this issue area are, in their final form, both relatively observable and measurable. As the health sector can rely on epidemiological statistics on mortality and morbidity, both aims, pathways and results of international institutions tend to be taken seriously and made attractive.

These three factors demonstrate the unique relationship that exists between various parties to global health governance, the differences in expectations of responsibilities and a unique position of a politics intertwined with faith in medical science.

Legitimacy: definition, significance and problems

Legitimacy has long been a debated concept in political philosophy; even so it has remained an arguable term which is difficult to define and virtually impossible to measure. Unlike power or coercion, which are based at least partially on foundations of material resources, legitimacy is an essentially normative concept of ideas and perceptions (Frank 1990). As alluded to by Schmitter, in the international realm legitimacy is usually only discussed when it is absent.

> Only when a regime or arrangement is being manifestly challenged by its citizens/subjects/victims/beneficiaries do political scientists tend to invoke lack of legitimacy as a cause for the crisis. When it is functioning well, legitimacy recedes into the background and persons seem to take for granted that the actions of their authorities are "proper," "normal" or "justified"(Schmitter 2001: 1).

Common definitions of legitimacy refer to some kind of lawful rule; 'by decree, enactment or proof' according to the Oxford Dictionary. A definition based on legal status alone, however, is oversimplified and definitely too narrow for the international political context. These definitions are made for and influenced by the western 'rule of law' society, where rule of law coincides at least to a large extent with the legitimising factors of those laws such as democratic government and norms of common identity. Such definitions, however, leave a lot of open questions such as whether a law can be legitimate, even if it is seen as unjust?

Therefore in order to find a definition of legitimacy suitable for GHG organisations, where it is not possible to speak of a 'rule of law' society, it is firstly necessary to retreat to a definition of legitimacy at its most basic level, before it can be built upon to create a definition suitable for the GHG and other global governance organisations.

According to Kelman legitimacy at its most basic level legitimacy exists within a social relationship and '…refers to the *moral basis* for interaction.'[2] Legitimacy is '…an issue that arises in an interaction or relationship between two individuals, or between one or more individuals and a group, organisation, or larger social system, in which one party makes a certain claim, which the other may accept or reject. Acceptance or rejection depends on whether that claim is seen as just or rightful' (Kelman 2001: 55). Therefore on the most basic level in a social relationship legitimacy is defined in that it: creates an obligation to accept a claim, because it is seen as just or appropriate according to certain social norms.

In order to build on this most basic explanation of legitimacy develop a definition suitable for global governance research, it is first necessary to clarify the way in which the concept of legitimacy is to be approached. Two vital distinctions need to be made, first, whether legitimacy will be approached from an empirical-analytical or normative-prescriptive perspective and second whether it is the legitimacy of rules, or of the rule-makers that is to be examined.

Empirical-analytical vs. normative-prescriptive approaches.

The distinction between philosophical-prescriptive approaches and empirical-analytical approaches is vital, both are valid approaches but they differ greatly in terms of the presumptions made, and how research is conducted. By philosophising about whether certain claims and claim-makers are fair or appropriate, a writer places their own perspective at the centre of the interpretation of legitimacy. Such texts may draw on long standing concepts of justice, but in the end attempt to *prescribe* what organisations or rules ought to be obeyed and what moral judgements should be made. The alternative to this approach is to undertake positive research in order to *observe* whether a claim is taken as legitimate or not and then ask why (Steffek 2003: 249-251). In other words, empirically analyse legitimacy following the definition put forward by Max Weber who took legitimacy as being the same as *Legitimitätsglaube*, i.e. legitimacy can be defined by its own acceptance or success in holding political stability (Weber 1968: 213). According to this approach a stakeholder believing that a rule or organisation is legitimate is what makes it legitimate.[3]

The normative-prescriptive approach ignores the differing opinions different stakeholders have when granting legitimacy. This makes the prescriptive approach a lot less demanding in terms or research, but limits its relevance in explaining reality.

A large number of texts dealing with legitimacy begin with the claim to take an empirical-analytical approach recognising legitimacy as an empirical fact, the key to which lies in the opinions of stakeholders. Junne for example states that "…some will regard a government as legitimate, while others will deny the legitimacy of the same government" (2002: 191). However, almost all texts, including Junne's, then proceed to identify properties of an organisation which may provide the sources of legitimacy without referring to the ways in which stakeholders perceive the importance of these properties. This usually comes with the realisation that identifying the relevant stakeholders of a global governance organisation is

[2] Emphasis in original text
[3] See also Crandall and Beasley 2001, and Hegtvedt and Johnson 2000.

considerably more difficult than identifying stakeholders in a national context, who are, in all effect, the citizens (see also Gelpi 2003: 9).
It is possible to take an empirical approach to legitimacy simply by discussing the properties that *might* provide the source of legitimacy in the eyes of stakeholders. However, without actually identifying the opinions of the stakeholders themselves this always needs to be qualified as an incomplete analysis of legitimacy.
This paper takes an empirical-analytical approach to legitimacy, and therefore a definition of legitimacy that recognises the importance of stakeholders.

Legitimacy of rules or the legitimacy of rule-makers.
Taking Kelman's basic definition, it is possible to discern that any claim made may be judged on two different criteria. Either, based on the content of the claim itself, or based on who it is that makes the claim.

Within dominance relationships, which are to be observed in the case studies here, claims made are not between equals in a social relationship. The subject of the relationship (the dominant: or rule-making organisation) makes claims to the object of the relationship (subordinate). Claims come in the form of rules. For example GHG organisations make their claims in the form of rules that require action, (such as pledges, changes in policy and operational support).
The real claim made here is that the GHG organisation has the right to lay down these rules.
This therefore seeks a definition of legitimacy that recongnises the role of the rule-maker.

For studies of global (health) governance therefore, legitimacy is best defined as –"a perception or assumption on behalf of relevant stakeholders that the actions of *an entity* are desirable, proper, or appropriate" (adapted from Suchman 1995: 574).

Towards a Constitutive Understanding of Legitimacy

This section lays down step one of constitutive analysis of legitimacy, namely identifying the properties of the organisation which may prove to be sources for its legitimacy are listed. Each of the properties refer to certain values, beliefs or norms that the stakeholders may hold when judging the GHG organisation as legitimate. At this stage the role of stakeholders is left aside, but at all times it should be kept in mind, that it is not the author's opinions towards these properties which count, but rather how they will be considered by the stakeholders which are introduced in step two of the operationalisation. Thus, the aspects listed here are *possible* grounds on which a particular stakeholder might consider a GHG organisation to be legitimate.

Sources of legitimacy
Increasingly scholars of political science have recognised that legitimacy is constituted of many elements (or has many sources) and have proceeded to give different names to different 'legitimacies' (Coicaud 2001b: 523.533). The most commonly cited source of legitimacy is

that of democratic processes based on the norm of democratic representation. On a state level norms of democratic representation provide the source of legitimacy as it implies an acceptance by a minority that the will of the people is correctly determined through a rightful system and creates an obligation to accept the rules of the system (Easton and Dennis 1980: 35-46). For a GHG organisation, democracy can only partly suffice as a basis for legitimacy. Some members of GHG organisations are democratically elected states, or organisations made up of democratically elected states. However the distance of GHG organisations from affected individuals, and the fact that many of the states which hold membership can themselves hardly be called democratic, indicate that international organisations can only weakly base their legitimacy on the same premises as governments of states. Therefore, it is generally accepted that legitimacy on a global level must be based on something other than democratic representation (Scharpf 1999; Coicaud 2001a).

In *Legitimacy and the EU,* Beetham and Lord (1998) made progress in addressing the problem of distinguishing between legitimisation on a supra-state level from that on a domestic level. Fritz Scharpf fervently emphasised the distinction between state and supra-state legitimisation even further. For example, he gives little hope to the future of the European Union ever being able to govern with a democracy-based legitimisation. He does not, however, say that this is necessarily bad. Scharpf distinguishes between two types of legitimacy and therefore two types of norms that can make up legitimacy. He states that legitimacy is made up of two complementary yet distinct elements, that which is 'by' the people, (also referred to as input legitimacy) and that which is 'for' the people (also referred to as output legitimacy) (Scharpf 1999: 14-15). Over the past few years new categorisations adding to, or re-shuffling this model have been presented making considerable progress in determining different aspects of legitimacy that Scharpf neglects or fails to distinguish clearly. Zürn for example emphasised a source of legitimacy that comes through right processes. Other scholars have seen Scharpf's output as too simplistic and draw on the study of effectiveness to break outputs down into three elements, 'first' outputs, outcomes and impacts (Eston 1965). Some studies have also reshuffled the input – output concept, systematising sources of legitimacy along other lines. Barnett and Finnemore for example refer to substantive and procedural legitimacy, roughly relating to 'inputs' and 'outputs' respectively, but focusing the input side on procedures rather than the 'who' part of governance by the people (2004: 167-168). Others have adopted approaches in which democratic representation is re-packaged for global governance as accountable representation (Keohane/Nye 2003: 386-411). All of these advancements are important and refer to real sources of legitimacy, still the distinction between 'by' the people and 'for' the people is still the clearest method for the analysis of different components that provide the sources of the legitimacy of an organisation. It allows for a systematic a breakdown of the different sources of legitimacy and at the same time connects them with 'norms, values and beliefs' that underpin them.

The diverse literature described above, as well as empirical observations on how GHG organisations deliberately go about increasing their political and financial support have been

used to break governance 'for' the people and 'by' the people down into eight components. This schema could provide the basis for step one of a constitutive analysis of legitimacy.

Governance 'by' the people

Governance 'by' the people can be divided into four components.

The first component refers to who has membership (or decision-making powers) and importantly who the members represent and to whom they are accountable. This is a substantive element looking at the scope of representation. The values which underpin this source of legitimacy are those of representation and accountability. If the decision-makers are representative of their constituencies and can be held accountable for their actions then it would be expected that they increase the legitimacy of an organisation in the eyes of most stakeholders. Importantly on a global level, if the decision-makers are seen to contribute to a widening of the number of interests represented within the organisation (as possibly NGOs do), they might also contribute the perceived legitimacy of an organisation. On the other hand, the decision-makers are not representative of a constituency and do not suffer negative consequences for making bad decisions, (are not accountable), then might be expected that they lower they legitimacy of the organisation.

Accountability and Representation are not the same. Accountability refers to the ability of stakeholders incur costs on the organisation for not fulfilling responsibilities, and can be seen as a retrospective element (Grant/Keohane 2005). Representation is a true input element in which stakeholders are in some way present in decision making.

The second component of governance 'by' the people is the procedures through which representatives are selected. The values that underpin this component are those of right process. NGOs that go through a process of nomination and are elected amongst peers might be seen to contribute to the legitimacy of an organisation. Rotating membership might also be seen to increase the legitimacy of an organisation.

The third component of governance 'by' the people is the procedural aspects of decision-making. The values that underpin this component are those relating to separation of powers. Voting by consensus rather than majority might be seen as weighted towards powerful members and might reduce the legitimacy of the organisation. Procedures which have a degree of legality (laid down in by-laws) may be regarded as more legitimate than ad hoc decision making.

The fourth component of governance 'by' the people is transparency, or openness to external assessment. An organisation which is open about its operations and decision-making procedures subjects itself to external scrutiny and increases the audience to which it is accountable (indirect participation). An organisation which discloses little about its operations may therefore be seen as less legitimate. The value that underpins this component is accountability.

4.4 Governance 'for' the people

Governance 'for' the people refers to what the organisation achieves and aims to achieve. It is also divided into four components.

The first component of governance 'for' the people refers to the aims of the organisation. For example, an organisation that aims to provide anti-retroviral drugs to people living with

AIDS should be seen as legitimate in the eyes of stakeholders that view this aim as important and just. The values that underline this source of legitimacy vary greatly depending on the stakeholder, they might be principles such as human rights, justice or the right to Health for All.

The second component refers to the operations of the organisation, or how it goes about achieving its aims. If the aims of an organisation are seen as legitimate, but achieved in an inappropriate manner, this might detract from the legitimacy of the organisation. An extreme example would be an organisation with the same aims as those mentioned above, but goes about it by smuggling drugs over borders and administering them in secret. The operations of the organisation is a particularly crucial component of the legitimacy of GHG organisations as there are two competing operational modes for achieving Health for All. The first is selective health care, which targets specific diseases or problems with quick results. The second is comprehensive health care which builds a broad base for long term sustainable health care capable of tackling existing health problems and preventing new health problems. Another aspect of operations relevant for GHG organisations are overhead costs. The fulfilment of legitimate aims through a large and costly secretariat could detract from the legitimacy of an organisation in the eyes of some stakeholders.

The third component refers to an organisation's outcomes. Within GHG organisations these are referred to as procedural indicators of success. For example, the distribution of mosquito nets to a certain project might be a procedural indicator.

The fourth and final component is the organisations impact. For GHG organisations this refers to concrete substantive evidence that the organisation has been effective in improving health, eliminating disease, and decreasing mortality. This component is the most difficult to trace back to the actions of any one organisation.

Finally, other aspects that don't falls into any of these categories may also need to be taken into account, such as the role of leadership and the role of expert knowledge, both of which can be important in the health sector.

The eight properties identified are summarised below:

Type	Component	Questions
'by' the people	***Membership/Representation***	Who is involved in decision-making?
	Accountability	Who can incur costs on the organisation? Is the organisation separated from the effects of its actions?
	Election Processes	How is membership granted/achieved?
	Decision-Making processes	How are decisions made?
	Transparency	Is the organisation open to 'indirect participation' via public scrutiny?
'for' the people	***Aims***	What does the organisation aim to do 'for' the people?
	Operations	How does the organisation go about achieving its aims? Does the organisation work in a lean and efficient manner?
	Outcomes	What effect did the organisation have on the actions on other stakeholders? What procedural indicators of success are there?
	Impact	Has the level of health increased? Rates of the disease decreased?

Table 1.0: Sources of Legitimacy

The first step of a constitutive analysis of the legitimacy of an organisation consists of relating each of these aspects to the organisation to be researched. It is also possible to take a select few of the eight components for a simplified constitutive analysis. However, it would be important to justify why certain aspects are taken while others are not.

Identifying critical actors and perceptions

The first step of the constitutive analysis merely suggests what properties *might* be sources of legitimacy. At this stage, no objective assessment of those sources has been possible and there are few differences between what is achieved in stage one of the empirical-analytical approach to legitimacy and normative-prescriptive one. The crucial part of an empirical-analytical approach to legitimacy comes with the recognition and assessment of the perceptions of stakeholders. A normative-prescriptive approach would now proceed to assess each of the eight properties identified in stage one according the authors own values, beliefs and norms or established philosophical works on values and norms. An constitutive analysis suitable for empirical studies must now ask which actors perceive the organisation as legitimate (or not)? And for what reasons?

As noted above, very few authors, even amongst those who recognise that it is the opinion of stakeholders that counts actually proceed to identify stakeholders and seek out their perceptions. This is because this is a difficult task to do even for small organisations, let

alone organisations of global governance. Still, there are methods that are used in applied political science/public policy that are aimed specifically at the identification, ranking and surveying of stakeholders of certain projects and reforms..

Introduction to stakeholder analysis

One of the very few studies into legitimacy which has proceeded beyond the seeking of sources of legitimacy to a recognition of the need to critically examine the role that stakeholders take, is that of Benjamin Cashore, who has studied the role of non-traditional governance forms in the logging industry. He states the need to identify who the objects of a dominance relationship are, and what role they play for compliance with rules. He differentiates between the dominant's immediate audience 'tier I' and general audience 'tier II' (Cashore 2002: 511). 'Tier I' actors have a direct interest in the policies and procedures of the organisations they legitimate whereas 'tier II' actors are less directly influenced by the policies, but have an equally important role in granting legitimacy (Cashore 2002: 511).

As Cashore explains the stakeholder aspect of legitimacy varies in two different ways.

First, different stakeholders can hold different core values and beliefs and therefore place different priorities on the different components of legitimacy. For example, a health NGO might prioritise the components transparency and decision-making procedures and assess a GHG organisation mainly on these aspects. A state with high disease prevalence might prioritise the components aims and operations. A donor-state may prioritise the component impact.

The second way in which the stakeholder aspect of legitimacy varies is in the importance the different stakeholders have for the successful functioning of the GHG organisation. For example, compliance from a state with low-disease prevalence may not be as crucial as from a state with high-disease prevalence. A watchdog NGO that focuses specifically on health with a high capacity to run smear campaigns might be more crucial than a multi-issue NGO that mainly occupies itself with lobbying states.

The purpose of step two of then, is to systematically categorise stakeholders and identify their roles and perceptions. Simply trying to name all stakeholders, or focus on the most vocal stakeholders, is both difficult and prone to provide an unbalanced picture of the role stakeholders play. Instead, the method of the stakeholder analysis should be used.

Stakeholders are defined as "actors with a vested interest in the policy being promoted" (Schmeer 2000: 7-8). A stakeholder analysis is defined as a process of systematically gathering and analysing information on the stakeholders to determine whose interest should be taken in account when developing and/or implementing a policy or program. Policymakers and managers can use a stakeholder analysis to identify the key actors and to assess their knowledge, interests positions, alliances and importance in relation to the policy or project (ODA 1995).

It is not within the scope of this paper to thoroughly describe the steps involved in a stakeholder analysis, still, the opinions of stakeholders will be taken into account in the case studies briefly presented below.

Case Studies

In this paper I will provide very brief introduction to each of the case studies showing how the GHG organisations are set up and what components of legitimacy might offer the most interesting results.

From WHO's Global Programme on AIDS to UNAIDS

Introduction to the organisation

The existence and early spread of HIV and AIDS first became evident in the early 1980s. The World Health Organisation established the Global Programme on AIDS (GPA) in 1986 with two objectives: first to establish a global framework for limiting HIV infectivity and second, to work with national governments and infected/affected people in the development and delivery of effective strategies against the spread of the virus (Altman 2003: 43-46). By the early 1990s progress had been made on the establishment of an international discourse around HIV/AIDS which emphasised the language of empowerment and participation (Poku 2004: 97). Increasingly, partnering with the non-governmental sector became a crucial part of operations and the mobilisation for donor countries to support a multilateral response to the epidemic became a focus. However, a number of significant failings concerning GPA's handling of the epidemic were also becoming clear. Existing knowledge about the underlying societal factors fanning the epidemic was limited and there was a growing dissatisfaction among donor governments with the working of the GPA which was seen as 'hamstrung' by its place within the WHO and unable to work effectively with other UN agencies. With waning effectiveness, the GPA formally ceased operation on the 31st December 1995 (WHO 1995).

In January 1996 The Joint United Nations Programme on HIV/AIDS was launched in Geneva, as a co-sponsored programme bringing together UNICEF, UNDP, UNFPA, UNESCO, WHO and the World Bank. It was formally established by a resolution from the ECOSOC in 1994.

UNAIDS took on as its aim, the role of coordinating the many initiatives within the UN system aimed at combating the spread of AIDS and to act as the 'main advocate for global action on the epidemic' (UNAIDS 2004). Its greater aims however, correspond to those of its predecessor the GPA. Compared with the GPA, UNAIDS appears to have considerable advantages in terms of the eight components which might provide sources of the organisation's legitimacy. In terms of material capacity however, its combined budget in the first years of operation were lower than that of the GPA.

Governance 'by' the people?

In terms of membership UNAIDS includes 22 states and 5 NGOs, as well as ten Co-Sponsoring UN Organisations. While the 10 UN Co-Sponsoring organisations all have renewable seats, state and NGO representatives rotate every two years and are elected through regulated process of nomination, review and voting. Decision-making procedures are stipulated in the Programme Coordinating Board guidelines. NGOs are not granted voting rights which might impair its legitimacy in the eyes of some stakeholders, (such as external NGOs), but increase it in the eyes of others, such as states in regions where the civil society

culture is not as well accepted. UNAIDS, as with most GHG organisations, has put great emphasis on transparency of decision-making and operations (UNAIDS 1999b).

Governance 'for' the people?

The overarching aims of UNAIDS are relatively uncontroversial, its operations more so. UNAIDS calls primarily on states to take responsibility for health care systems and the establishment of 'the three ones,' referring to one national AIDS action framework, one national AIDS co-ordinating authority and one agreed country-level monitoring and evaluation system (UNAIDS 2004). Some states must undertake considerable reforms to fit in with the policy guidelines of UNAIDS. In terms of outcomes and impact UNAIDS still relies on procedural indicators, such as changes in policy.

Stakeholders

In terms of stakeholders, UNAIDS relies considerably less on funding than other GHG organisations, therefore donors are not ranked as being of high importance. Of vital importance are those addressees of rules with a high prevalence of diseases.

Interviews with senior staff at UNAIDS emphasised the importance of operations as well as membership as sources of legitimacy. UNAIDS keeps a focus on states as decision-makers and states as the main actors which must implement the fight against the disease. Interviews also emphasised that UNAIDS is not as dependent on donors as some other GHG organisations. States which pledge funds to The Global Fund for example, usually donate to UNAIDS also (although much smaller amounts). This might indicate that peer organisations are important stakeholders.

From WHO's EPI to the Global Alliance on Vaccines and Immunisation.

Introduction to the organisation

In the 1960s vaccination programmes were rarely included in the activities of national health services. Especially in developing countries, there was no systematic vaccination coverage and many years lapsed between the development of new vaccines with the potential of relatively cheap widespread coverage and their actual widespread use in immunisation programmes. In 1972 the WHO declared the establishment of immunisation programmes a priority and in 1974 the World Health Assembly created the Expanded Programme on Immunisation, and made the recommendation that WHO member-states develop immunisation programmes against several diseases. UNICEF worked with the programme as an operational partner. By 1991, the WHO and UNICEF reported that the goal of immunising 80 percent of the world's children had been achieved.

Since then, rates of immunisation coverage fell dramatically. By 2000 both the WHO and UNICEF had considerably reduced the resources being put into immunisation programmes and donor-states had come to rely on bi-lateral programmes for immunisation, if the issue was given priority at all. Diseases previously thought to have been brought under control, or virtually eliminated re-emerged with new pandemics.

In 2000 The Global Alliance for Vaccines and Immunisation (GAVI) was launched with the aim of increasing immunisation rates and reversing widening global disparities in access to vaccines.

Governance 'by` the people?

Membership on the GAVI Board is very broad-based. Twelve rotating members represent: developing country governments, industrialised country governments, a technical health institute, the industrialised country vaccine industry, the developing country vaccine industry, non-government organisations, and a research institute. There are four renewable members: the Bill and Melinda Gates foundation, UNICEF, The World Bank Group, and the WHO. Originally the rotating members sat for a term of two years, this has now been changed to three years.

Governance 'for' the people?

As with most GHG organisations, the aims of GAVI are relatively uncontroversial. In terms of operations GAVI provides multi-year grants to those countries with a per capita Gross National Income (GNI) of less than US$1000 per year. Grants are made based on a rigorous application process in which country proposals are reviewed by a panel of independent experts drawn from a wide geographic base. GAVI uses a large number of progress indicators to publicise their success.

Stakeholders

In addition to substantial funding from the Bill & Melinda Gates Foundation, GAVI has been financed by ten governments to date – Canada, Denmark, France, Ireland, Luxembourg, the Netherlands, Norway, Sweden, the United Kingdom, and the United States as well as the European Union. These are all stakeholders of high importance.

Interviews with senior secretariat staff emphasised the importance of donors, primarily donor-states, and that European states generally have different demands on the organisation than the USA. European states generally put importance on membership and accountability for long term sustainability, while the USA demands a high impact. States with the capacity to mobilise funds, but who are not currently donors were also considered of high importance. It was also considered that support for GAVI lies in all of the eight components of legitimacy, but most important was operations. The allocation of funds are directed to promoting a broad base for long term immunisation capacities within states, rather than sending in already trained staff to administer vaccines, (as was the case with EPI programmes).

From the World Bank Trust Funds, to The Global Fund to Fight AIDS, Tuberculosis and Malaria

Introduction to the organisation

In April 2001, UN Secretary-General Kofi Annan called for the creation of the Global Fund to Fight AIDS, Tuberculosis and Malaria (henceforth Global Fund) in reaction to projections from UNAIDS and the World Health Organisation that the fight against these diseases will require funds of at least $10 billion US dollars per year and that existing bodies were unable

to effectively gather these required funds due (in part) to donor fatigue (Smith 2002: 3) Following commitments made at the General Assembly Special Session on HIV/AIDS (UNGASS), consultation with the G8, and pledges totalling over $US 600 million the Global Fund was formally established in January 2002. Although there was no direct organisation proceeding The Global Fund, an alternative fund had already been established by the US Congress in 2000. It was to function as one of the many World Bank Trust Funds and a least two major donors present at the founding of the Global Fund has expressed preference for maintaining the World Bank fund rather than creating a new organisation (Bezanson 2005: 13). The creation of the Global Fund entailed considerably higher costs than the establishment of a World Bank Trust Fund (Poku 2004: 104).

Governance 'by` the people?

The Global Fund is comprised of four bodies: the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Panel. The Foundation Board is the supreme governing body and has the power to determine eligibility criteria for projects and make funding decisions. The nineteen voting members consist of seven representatives from developing states, seven representatives from donor-states and four NGO representatives (one developed country NGO, one NGO representative of the communities living with the diseases,[4] one representative of the business sector, and one representative of a private foundation). There are also four non-voting members representing UNAIDS, WHO, World Bank, and a Swiss citizen as required by law. Still, it is stipulated that the Board will make decisions by consensus; only when negotiations are fully exhausted and no consensus is reached, can any member with voting rights call for a vote (The Global Fund By-Laws).

Governance `for` the people?

The Global Fund's aim is to attract, and disburse, additional resources to prevent and treat AIDS, Tuberculosis (TB) and Malaria. The Fund specifically states that its function is not the implementation of programs or policy advocacy, however, the influence that it has gained through its selection of programs that are eligible to receive funding has the ability to steer the direction of the fight against these diseases. In this sense acceptance of its operations is critical. The Global Fund demands the establishment of a country coordinating mechanism (CCM). Approved mechanisms almost always involve a ministry of health. NGOs and communities applications are often rejected which has caused some stakeholders to question whether the CCM principal of operations is a fair and just one considering that some countries don not have a functioning public sector (Bezanson 2005: 6).

Stakeholders

Interviews with senior staff emphasised the disappointment on behalf of donor states that business actors have pledged relatively little funds, and therefore may not deserve representation on the board. It was also considered that The Fund has experienced a `honeymoon period` during which procedural indicators of success were accepted, based for example on the amount of funds gained and distributed. Staff now consider this period to be

[4] This representative was originally intended to be a non-voting member.

over, and that donors as well as addressees are looking for impact before decided whether to pledge further funds or align policies with The Fund's demands in order to receive funding.

Conclusions

Importantly, in order for GHG organisations to maintain legitimacy they must recognise that different stakeholders have different priorities when it comes to how decisions should be made, how operations should be carried out and what outcomes are desirable.
It is unlikely that GHG organisations will be able to satisfy the requirements set by all stakeholders as some stakeholder preferences can actually conflict with each other. In these cases a stakeholder analysis might be able to show which stakeholder preferences are most vital for the long term success of the organisation. A large number of stakeholders, particularly those that are concerned specifically with public health, are of the opinion that it is the *operations* of an organisation that are most important for making a GHG organisation legitimate. It appears that 'operations' are particularly crucial in the health issue area because there are two competing operational modes for achieving health outcomes. The first is selective health care, which targets specific diseases with quick results. The second is comprehensive health care which builds a broad base for long term sustainable health care capable of tackling existing health problems and preventing new health problems.

At this stage is appears that in order for GHG organisations to maintain legitimacy they must recognise that different stakeholders have different priorities when it comes to how decisions should be made, how operations should be carried out and what outcomes are desirable. It is also unlikely that GHG organisations will be able satisfy the requirements set by all stakeholders as some stakeholder preferences can actually conflict with each other. In these cases a stakeholder analysis might be able to show which stakeholder preferences are most vital for the long term success of the organisation.
All stakeholders appear to recognise all eight elements as contributing to the legitimacy of an organisation and find it difficult to give priority to one or the other aspect. Still, at this stage stakeholders' perceptions as to what makes an organisation legitimate can be divided into three main groups.

- Those which prioritise the long-term sustainability of the organisation giving priority to representation, accountability and decision-making processes, ('by' the people is more important than 'for' the people)
- Those which prioritise quick results, (impact counts the most).
- Those which prioritise operations, (most likely those stakeholders which have the most inside knowledge of public health and underlying causes of disease).

The implications of the of international relations as a field of research are many. Studies choosing to analyse the constitution of an organisation's legitimacy, or use legitimacy as an explanatory variable need to make clear the ways in which they approach and define legitimacy. A constitutive analysis should be approached in two steps. Firstly, researches should stipulate which of the eight components they choose to take a possible sources of

legitimacy and why, (or, more specifically, why they choose not to take those components they leave out). Researchers should avoid neglecting step two of the analysis process, namely the stakeholder analysis, as it provides the necessary link to the 'real' perceptions which define *Legitimitätsglaube*.

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