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Rightful Rules: Authority, Order, and the Foundations of Global Governance

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Global governance is an important and increasingly popular topic of inquiry. Nonetheless, existing research remains too statist, privileging states and limiting other forms of governance to the interstices of state power. Drawing on social contract theory, I offer an alternative approach that begins with the central role of authority in political life and develops a synthetic understanding of governance that applies equally to its myriad forms. I argue that we have, as a discipline, relied on a formal-legal conception of authority that is inappropriate to an international setting and has unduly limited enforcement to violence. I propose that global governance and its many forms can be understood and unified by a concept of relational authority, which treats authority as a social contract in which a governor provides a political order of value to a community in exchange for compliance by the governed with the rules necessary to produce that order. This conception of relational authority is followed by three illustrations of its central logic in (i) state-to-state hierarchy by the United States over Caribbean states, (ii) supranational authority by the World Trade Organization over member states, and (iii) private authority by credit rating agencies over corporations and sovereign borrowers. The conclusion outlines the research agenda that follows from this approach.

World politics is commonly understood to be anarchic, a system devoid of authority. This is one of the foundational assumptions of the discipline of international relations (IR).² Yet, imagine a world of international authority and global governance. What empirical patterns would we expect? What should we observe? Among other regularities, we would anticipate at least five recurring behaviors that are inconsistent with traditional IR theory.

¹ Presidential Address, 51st Annual Convention of the International Studies Association, New Orleans, LA, February 18, 2010. I am indebted to the thoughtful and constructive comments on a earlier draft of this paper from my colleagues at UCSD, especially J. Lawrence Broz, Erik Gartzke, Emilie Hafner-Burton, Stephan Haggard, Miles Kahler, Megumi Naoi, Philip Roeder, Christina Schneider, Branislav Slantchev, and David Victor, as well as my graduate students, including Cameron Brown, Mark Culyba, Ming-Cheih Kuo, Yonathan Lupu, and Brigitte Zimmerman, who provided helpful written comments. The penultimate version of the paper was presented at Concordia University in March 2010 and Florida State University in April 2010. I am grateful to the participants in these seminars for their comments and criticisms and, especially, to Norrin Ripsman and Courtenay Conrad who provided detailed commentary.

² See, among others, Bull (1977), Waltz (1979), Keohane (1984), and Oye (1985). For a historical overview of this assumption, see Schmidt (1998). The assumption that the international system is anarchic is shared by all of the “isms.” Constructivists differ in seeing anarchy as a social construct, rather than an innate characteristic of the international system, but not on the pervasive quality of anarchy in IR (see Wendt 1992). For a critique of the assumption of anarchy, see Milner (1991).

(1) *Zones of peace and commerce among states subject to a common authority.* Scholars recognize a democratic peace and the possibility of pluralistic security communities, but they are still regarded as somewhat anomalous—oddities that need a special explanation.³ Just as domestic hierarchies create a civil society in which violence is regulated and specialization and exchange are encouraged, states under a common authority would also enter an international civil society with similar effects.

(2) *Binding rules and compliance from duty or obligation.* Many studies of IR assume that compliance is a function of raw power, defined in terms of coercive capabilities. Others argue that high rates of compliance with international agreements are merely the by-product of states only entering agreements with which they already intend to comply (Downs, Rocke, and Barsoom 1996). By definition, authority carries an obligation for the governed to comply with the legitimate commands of a governor. In a world of global governance, states may comply with rules even when it is not in their immediate interests to do so.

(3) *Coercion used legitimately to create order and discipline wayward states.* Explicit in some and implicit in many theories of IR is the assumption that coercion is normatively undesirable.⁴ A focus on authority, however, suggests that coercion can be useful—even necessary—to the production of international order. Discipline, the enforcement of rules, is an inherent part of authority and may improve the welfare of the community as a whole by sustaining political order. Distinct from simple coercion, however, discipline is typically supported by the relevant community of subordinates.

(4) *Authorities, including states, limiting their power to preserve their legitimacy.* In a wholly anarchic world, self-restraint is an oxymoron. In a Hobbesian state of nature, the failure to acquire as much power as possible places an actor's security at risk. Yet, in a world of authority and global governance, governors must demonstrate that they cannot or will not abuse the authority that subordinates have entrusted to them. Subordinates will not enter or remain within a social contract unless they are assured that the authority they grant to the governor will not be used against them. As a result, some mechanism for restricting opportunism and predatory behavior by the governor is necessary. This requires that governors tie their hands (North and Weingast 1989), giving up policies or options they would otherwise have enjoyed or send costly signals of their benign intent and willingness to act only within the bounds of what their subordinates regard as legitimate.

(5) *Social actors defending private and supranational authorities from state encroachment.* In a world of anarchy, states are supreme, the ultimate authority in any given territorial realm and formal equals on the international stage. They set the terms on which other actors—individuals, private firms, non-governmental organizations, and international organizations—compete.⁵ Political authority, on the other hand, is always the product of political struggle between individuals, who seek autonomy, and competing authorities, who check and balance one another. In a world of global governance, states have no special authoritative status. Like all authorities, they negotiate their rights. Other authorities, in turn, actively constrain the authority of states and limit their reach.

³ The literature on the democratic peace is substantial. For an overview, see Russett and Oneal (2001). The primary challenger is that the correlation between democracies and war is spurious, the product of democracies ending up on the same side in the bipolar postwar system. See Farber and Gowa (1995). Both interpretations of the empirical pattern are consistent with the expected effects of American-led spheres of influence below. On pluralistic security communities, see Deutsch (1957) and Adler and Barnett (1998).

⁴ Modern theories of war, for instance, conceive of fighting as a failure of bargaining that would always be avoided if information were sufficiently available, commitments were sufficiently credible, and issues were sufficiently divisible. See Fearon (1995).

⁵ For an early statement of this position relative to transnational actors, see Gilpin (1972).

These are not, I submit, mirages on some distant horizon, but real, empirical patterns produced by global governance in today's world. America's postwar spheres-of-influence in Europe, Northeast Asia, and Latin America have enjoyed remarkable peace and international commerce. As Louis Henkin (1979:47) concludes, almost all nations observe "almost all of their obligations almost all of the time." Discipline is not, as we shall see, uncommon. Powerful states do restrain their power (Ikenberry 2001; Deudney 2007). As explored below, both international organizations and private firms exert authority over states and limit their powers. Nonetheless, international authority and global governance are not pervasive. Anarchy does exist in a wide range of relations and issue areas. But there is also authority in the world system, it conditions behavior, and it matters in consequential ways—if only we have the vision to see it.

By analogy, international politics is like a Gestalt picture, the best known of which depicts a goblet or vase that, when we switch our cognitive frame, becomes two faces in profile. In IR, scholars have focused too long on the goblet—anarchy and the state of nature. But if we alter our focus only slightly, we can see the faces—hierarchy and global governance. In the first vision, we look at world politics and see compliance, and assume it follows from either threats of punishment or self-selection into agreements that states would honor anyways. If we refocus our view, however, we also see states complying with rightful rules from duty or obligation. Embedded in the same pattern of compliance, we observe states capitulating to superior power because they must and states following legitimate rules because they should—we see both goblet and faces. Likewise, in the first vision, we look at world politics and see coercion, and assume it is being used by states seeking advantage over one another. But if we adjust our point of view, again, we see coercion as a form of discipline that sustains international order of benefit to many countries. From the same pattern of behavior, we see coercion as both a weapon and a legitimate tool for enforcing broadly accepted rules. At present, we attribute all compliance or all coercion to politics within the state of nature. Some portion of these behaviors, however, follow from international authority and global governance. We will understand IR better if we open our eyes.

Global governance is an important and increasingly popular topic of inquiry.⁶ Nonetheless, existing research remains too statist, in my view, privileging states and limiting other forms of governance to the interstices of state power. Drawing on social contract theory, I offer an alternative approach that begins with the central role of authority in political life and, while acknowledging the unique attributes of states, develops a synthetic understanding of governance that applies equally to its myriad forms. After drawing a somewhat narrower definition of global governance than is common, I explore the concept of authority in IR and why it has gone unrecognized for so long. I argue that we have, as a discipline, relied on a formal-legal conception of authority that is inappropriate to an international setting, and unduly limited enforcement to violence. In the heart of the paper, I propose that global governance and its many forms can be understood and unified by a concept of relational authority, which treats authority as a social contract in which a governor provides a political order of value to a community in exchange for compliance by the governed with the rules necessary to produce that order. The nature of the order and the rules that support it matter. They are more or less biased toward the governor and toward different groups within society. As a result, this contract is continuously contested and open to renegotiation by both the governor and governed; authority is not static, but a dynamic, almost living thing. Authority is robust and institutionalized, in turn,

⁶ In addition to other works cited in this paper, see Hewson and Sinclair (1999), Prakash and Hart (1999), Abbott and Snidal (2000), Nye and Donahue (2000), Held and McGrew (2002), Barnett and Duvall (2005), Pauly and Coleman (2008), and Avant, Finnemore, and Sell (2010).

when social groups invest in assets specific to that contract and the rules specific to a particular order. These vested interests not only bolster the contract and the political order it creates, but also induce a degree of path dependence in the dynamic relationship. Any proposals for reform, it follows, must take these vested interests into account. This outline of relational authority is followed by three illustrations of its central logic in (i) state-to-state hierarchy by the United States over Caribbean states, (ii) supranational authority by the World Trade Organization (WTO) over member states, and (iii) private authority by credit rating agencies (CRAs) over corporations and sovereign borrowers. The conclusion outlines the research agenda that follows from this approach.

Global Governance

As a concept, global governance has been used in many different ways. For my purposes, governance is the exercise of authority by an actor over some limited community. Authority can be wielded by governments, of course, but also by families, clans, religious orders, professional associations, and a host of other actors. Public authorities in the form of modern states are unique in that they create obligations for the community over which they rule that are rendered into law and enforced by a monopoly over the legitimate use of violence, although that is not the only form of enforcement applied. Supranational authorities take a similar public form in that they create law, even when they rely on national governments to enforce it. Yet, private authorities also create obligations that—though they lack the status of law—are equally binding on members of a community and enforced by exclusion (see below). Governance thus subsumes and is broader than mere government (public or legal authority), a characteristic on which nearly all definitions agree (Young 1994:15–16). Global governance, in turn, is the set of actors that wield authority across national borders, including states that exercise authority over other states (hierarchy), international organizations that possess authority over their member states (supranationalism), and non-governmental organizations and corporations that exert authority over communities located in two or more states (private authority).

This definition of global governance differs from others in two key ways. First, it limits governance to authority relationships. Some definitions are considerably broader and nearly synonymous with all of international politics. The Commission on Global Governance, for instance, defines its purview as “the sum of many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest” (Commission on Global Governance 1995:4). If the concept is to be useful, in my view, it should be limited to actors and relationships that possess at least a measure of authority than spans national borders.⁷ Non-authoritative relations are already better described through the analytic constructs of cooperation and conflict, transnational relations, and intergovernmentalism. We gain little by lumping these disparate interactions under the label of global governance.

Second, global governance and authority more specifically need not be Pareto-improving. Some definitions restrict global governance to collective action that aims and ideally succeeds in resolving common problems. The Commission on Global Governance, as above, defines cooperation as the goal of governance. Similarly, in another widely cited definition, Young (1994:15–16) limits governance to “the establishment and operation of social institutions (in the sense of

⁷ Rosenau (2002:72) captures the centrality of authority.

rules of the game that serve to define social practices assign roles, and guide interactions among the occupants of these roles) capable of resolving conflicts, facilitating cooperation, or, more generally, alleviating collective-action problems in a world of interdependent actors, reducing conflict, and facilitating cooperation.” Some forms of governance may be observed more frequently in interactions that are Pareto-improving, although this is speculative since we currently lack metrics for governance and cooperation. But authority can also be used to benefit a governor or her supporters at the expense of others in the relevant community. Authority is always wielded by someone for some purpose: sometimes it is used to increase the welfare of everyone in a community, sometimes to redistribute welfare from the governed to the governor (and her supporters), and sometimes for both ends simultaneously (Krasner 1991). We should not presume that authority is always exercised nobly, fairly, or in the interests of all within a community subject to its obligations.

Scholars of global governance have been reluctant to highlight the concept of authority, I suspect, for fear of being dismissed by others committed to the assumption that IR is always and everywhere a system of anarchy. If governance is the exercise of authority, and international politics is anarchic or devoid of authority, then there can be no such thing as global governance. As a result, even those who see global governance as central to contemporary international politics often cloak their analyses in euphemisms, as above, that describe it more generally as cooperation so as to open a space in which we can observe its effects. As a discipline, however, we have been wearing blinders that mask the possibility of authority between and over states. Shedding these blinders is an important step in seeing global governance for what it is, a set of authority relationships. To recognize that we are, in fact, wearing blinders requires an analysis of the concept of authority, its sources, and the implicit assumptions that were made very early in the history of our discipline.

Authority and International Relations

Current conceptions of authority in IR are too statist. By taking the state, still the most developed form of authority, as the *only* form of authority, analysts ignore other possibilities. Properly understood, authority can exist outside of states as presently constituted in families, clans, religious orders, NGOs, and a variety of other political actors—including private transnational firms and international organizations. “Seeing” authority opens the door analytically to a wider scope for global governance.

The Concept of Authority

At its core, political authority is rightful or legitimate rule.⁸ When political authority is exercised, the governor, A, commands a set of subordinates, or the governed, B, to alter their actions, where command implies that A has the *right* to issue such orders.⁹ This right, in turn, implies a correlative obligation or *duty* by B to comply, if possible, with A’s order. As Richard Flathman (1980:35) observes, “If A has authority X, those persons (B) who are in A’s jurisdiction therefore have an obligation or obligations Y.” In short, B “surrenders judgment” and accepts the force of A’s command.

⁸ The literature on authority is substantial. For an introduction to the various approaches and debates, see Simons (2002). Many of the most useful pieces are reprinted in Raz (1990).

⁹ Throughout, A will be used to refer to the governor, B to the governed or subordinates. Although B is used in the singular, it is always a set of subordinates. Where otherwise unavoidable, I use the gendered pronouns of “she” for A and “he” for B.

B's obligation implies a further correlative right by A to *enforce* her commands in the event of B's noncompliance. As John Day (1963:260) notes, "those who possess authority in political life, the rulers, are authorized not only to make laws and take decisions, but also to use coercive power when necessary to ensure obedience to those laws and acquiescence in those decisions." In an authority relationship, individuals choose whether to comply with a governor's commands but are bound by the right of the governor to discipline or punish their noncompliance. Many drivers exceed the speed limit, for instance, but if caught they accept the right of the state to issue fines or other punishments for breaking the law.

Authority and, specifically the right to punish noncompliance, ultimately rests on the collective acceptance or legitimacy of the governor's right to rule. As Thomas Hobbes himself recognized, "the power of the mighty (the Leviathan) hath no foundation but in the opinion and belief of the people" (quoted in Williams 2006:265). Flathman (1980:29) develops this point more fully, arguing that enforcement "is impossible without substantial agreement among the members of the association about those very propositions whose rejection commonly brings coercion into play." If recognized as legitimate, the governor acquires the ability to punish individuals because of the broad backing of others. In extremis, an individual may deny any obligation to comply with A's laws, but if the larger community of which he is part recognizes the force of A's commands and supports A's right to punish him for violating these commands, then that individual can still be regarded as subordinate to and bound by A's authority (Flathman 1980:30). Similarly, governors can enforce specific edicts even in the face of opposition if the general body of commands is accepted as legitimate by a sufficiently large number of the governed. In both cases, A's capacity to enforce her rule rests on the collective affirmation and possibly active consent of her subjects (Lasswell and Kaplan 1950:133; Bernard 1962:169).¹⁰ Because a sufficient portion of the governed accept the governor and her edicts as rightful, the governor can enforce her will against individual free riders and even dissidents. Knowing that a sufficient number of others support the governor, in turn, potential free riders and dissidents are deterred from violating the rules, and overt enforcement is rendered unnecessary or, at least, unusual. In this sense, political authority is never a dyadic trait between a governor and a single subject, but rather derives from a collective that confers rights upon the governor. Recognizing this helps resolve the apparent contradiction that, from the perspective of a collectivity, compliance with legitimate authority is voluntary, but from the standpoint of any particular individual, compliance is mandatory. Even as individuals obligate themselves to follow the commands of A, they choose collectively whether to accept A's authority (Day 1963:268).

Understood in this way, authority is but one form of power, defined itself by Robert Dahl (1957) as the ability of A to get B to do something he would otherwise not do. In an authority relationship, A commands B, and B responds at least in part from obligation, but B still does something he would otherwise not. Coercion, through which A threatens or imposes costs on B to alter his actions, is the most closely related form of power. The difference between (pure) coercion and authority is that between a mugger and the state. The mugger demands "your money or your life," and we typically comply but do not recognize any obligation to part with our wallets. The state likewise demands some share of our income as taxes, but we accept a duty to comply with this command and, further, accept

¹⁰ Consent-based theories of authority have been criticized on the grounds that no individual or even no community can reasonably be considered as having "consented" to rule by an on-going and long-lived state. See Green (1990). In my view, however, authority (and legitimacy) is an equilibrium that is produced and reproduced by the actions of governor and governed. This need not be the product of conscious intent or consent, of course, but can nonetheless be considered as a form of collective affirmation of the governor's rights to rule.

that the state has the legitimate right to punish us if we shirk. Although distinct, authority and coercion are intimately related in the use of the latter to enforce legitimate commands by recognized governors. Even as he recognizes that he should comply with A's edicts, any individual B may choose to violate any rule. A duty creates only an expectation of compliance, but this does not produce or require perfect obedience. Given incentives by subordinates not to comply in specific instances, the governor must enforce rules to deter future violations. Especially in large groups where free riding is likely, enforcement may be necessary to prevent widespread defiance and, thus, the erosion of authority. Despite their clear analytic differences, authority and coercion are hard to distinguish in practice. They are deeply intertwined, making it difficult for analysts to conclude whether, in any given instance, a subordinate followed a rule out of duty or compulsion. This is not a failure of analysis or operationalization, but a reflection of the deep connection between authority and other forms of power.

Finally, authority is institutionalized as social interests—the governed—invest in assets specific to that authority and the rules it produces.¹¹ Institutionalization follows not from authority itself, which is contingent, but from the social interests vested in any particular social contract. As a negotiated compact, authority must benefit on average the members of the relevant society.¹² Debates over authority are contentious, however, because members may possess different views of the appropriate counterfactual. That is, in judging an authority, actors must estimate the benefits from civil society against their next best alternative, plausibly argued in IR to be the state of nature. Given differing estimates of the unobserved alternative, individuals can reasonably disagree on the benefits of the civil society of which they are part (Gourevitch 1999). At the same time, authority always creates distributional effects. Authority is never neutral. Rules matter. The governor, her minimum winning coalition, or her selectorate typically benefit more than others in society (Bueno de Mesquita, Smith, Siverson, and Morrow 2003), creating social interests with disproportionate interests in preserving authority and defending it from challengers. Some individuals and groups may even lose absolutely relative to some feasible alternative set of rules. But even if everyone in society benefits from having a social order in general, some always benefit more than others. These beneficiaries, in turn, have incentives to support the creation of particular authorities in the first place and, once vested in that authority, have especially strong preferences for supporting the governor and its corresponding political order (Kahler and Lake 2003:20–24).¹³

The US Congress, for example, is formally an anarchic institution. Its role in policy making and some of its leadership positions are specified in the Constitution, but its internal procedures are entirely of its own making, enormously consequential, and occasionally revised in some of the most epic battles in legislative

¹¹ Like most basic concepts in political science, “institution” is still an ambiguously defined and contested term. I follow Douglass North (1990:3–4) and define institutions as the “rules of the game.” North, Wallis, and Weingast (2009:15) extend this definition as “patterns of interaction that govern and constrain the relationships of individuals” and include “formal rules, written laws, formal social conventions, informal norms of behavior, and shared beliefs about the world, as well as the means of enforcement.” Importantly, institutions not only shape an individual's own behavior, but also the way individuals form beliefs and opinions about how other people will behave. It is this latter amendment, the notion that “I know that you know that I know...” this is the rule, that renders a particular social contract an institution.

¹² The “on average” clause is important here. Not all members of a society need to benefit, but a large enough group within that society must do so to empower the authority to enforce the rules. Highly skewed distributions of benefits may meet this on average condition but will likely be unstable.

¹³ This effect is dynamic. Relative losers from specific policy initiatives will adjust their behavior and may eventually become defenders of the status quo authority. Home mortgage interest deductions, for instance, reduced the welfare of renters and owners of rental properties relative to home owners. As more people who would otherwise have rented bought homes, however, they became vested in and supportive of the deduction. This tax benefit is now virtually “untouchable” because of the large number of beneficiaries and how deeply it has been instilled into consumer behavior.

history (Cox and McCubbins 1993). What makes Congress stable or an “institution,” however, are the vested interests inside and outside the legislature that are affected by its procedures and who, as currently powerful and politically favored interests, fight to preserve the rules. American farmers are disproportionately represented in the Senate and on crucial agenda-setting committees in both houses. Long dependent on agricultural subsidies, for instance, the farm block fights hard to maintain those subsidies and, in turn, would fight even harder to protect the procedural rules that permit its members to disproportionately influence agricultural policy. Similarly, in international politics, NATO has become institutionalized as its member states have, over time, invested in assets contingent on its perseverance, including a division of labor in security and, indeed, fewer defense capabilities than otherwise would have been required (Lake 1999:chapter 5; Wallander and Keohane 1999).¹⁴

Vested interests and institutionalized authority render politics “sticky” and path dependent, as long argued by historical sociologists.¹⁵ When many possible sets of rules exist, interests vested in one particular set can induce an equilibrium that might otherwise be lacking.¹⁶ As an equilibrium, in turn, no actor has an incentive to deviate from its current choice. This creates a status quo bias in policy and governance. Equally, having invested assets contingent on a particular set of rules, vested interests will be a force in any process of changing those rules. Options that might be superior on average may be blocked by powerful vested interests. To avoid their informal veto, concessions are made that satisfy their interests. Politics are never completely plastic, and are always conditioned by the shadow of the past. In this way, vested interests not only constrain which authorities govern—and how they do so—but also shape the feasible paths available to any society in the future.

Authority and International Relations

Nothing in this conception of authority requires a state or limits authority to state-like entities. Scholars of IR—and political scientists more generally—typically make two assumptions that needlessly limit the scope and domain of authority. Relaxing these assumptions allows us to see more clearly the variety and breadth of authority and global governance in the international system.

First, analysts adopt a formal-legal conception of authority. In formal-legal authority, A’s ability to command B, the community of subordinates, and the willingness of B to comply follows from the lawful position or office that A holds. In this conception, rooted in the work of Weber (1978:215–226), A possesses the right to issue laws and rules due to the office that A occupies and not to any personal qualities that A may possess. Authority does not inhere in A as a person, but in A as an duly appointed officer. The formal-legal approach implies that “authority can be correctly predicated of A only if there are established rules by virtue of which A has authority” (Flathman 1980:35). This view of authority

¹⁴ By contrast, the classic 19th century alliances, a set of agreements disproportionately important in structuring balance of power and IR theory, were intended to be fleeting and transient treaties of convenience (see Snyder 1997). Indeed, states made—and expected others to make—secret codicils that contravened their public agreements or statements. Because these agreements were generally not expected to endure long, few social actors took advantage of pledges of friendship and cooperation to invest in or trade with their allies more intensively, and thus failed to develop strong commitments to each other’s security. The exception was France and Russia in the Triple Alliance, who did see Germany as an enduring threat, developed deep economic relationships with one another, and therefore enjoyed an alliance that was credible and strong (Papayouanou 1999).

¹⁵ On path dependence and institutions, see Pierson (2000).

¹⁶ Societal interests are an explanation for the apparent lack of cycling in “institutionalized” polities. Riker (1980) posed a fundamental critique of the structure-induced equilibrium approach of Shepsle (1979) and others. Riker’s (1984) own solution to the problem of cycling of heresthetics focused more on rhetoric than the vested interest approach outlined here.

resonates with common experience in institutionalized polities, reflected in expressions of support by citizens for their political leaders even though they may not respect them as individuals. Modern states, in turn, are the epitome of formal-legal authority.

Although perhaps useful for analyzing established domestic hierarchies, a formal-legal conception of authority is of dubious utility for the study of IR (Onuf and Klink 1989; Milner 1991). Despite its debt to Hobbes, formal-legal theory founders on how authority emerges from the state of nature. If political authority derives from lawful office, law must precede authority. But if political authority creates law, then authority must precede lawful office. In building the preconditions necessary to transcend the state of nature, we cannot conceive of law without authority or authority without law. Even if a formal-legal conception is useful once authority is created, such an approach cannot explain its own founding. The origins of authority, therefore, must rest on something other than a formal-legal order, and it must be possible for authority to exist independently from any formal-legal structure. This has significant repercussions for the prevailing view of anarchy in IR and global governance. In the standard argument, since there is no international formal-legal order to confer authority on any state, there can be no authority between units—the system, therefore, must be anarchic, as are all the relationships between units within it. But if authority cannot derive from a formal-legal order in the first instance, it must be that authority is compatible with or at least can arise in the state of nature with or before the formal-legal order.

Weber (1978:31–38, 215–254) identified three other forms of authority—tradition, religion, and charisma—all of which can potentially support public or private authority. Many traditional forms of authority, discussed in more detail below, continue to be important, especially in families, clans, and other identity groups. Indeed, these traditional forms are sufficiently robust that even today many states must accommodate their special places in society and, sometimes, explicitly appeal to them to bolster their own legitimacy. Religious authority has ebbed and flowed over the centuries but is today on center stage because of the fundamentalist revival now underway in the Muslim world as well as the United States. Long thought to have been purged from international politics with the Peace of Westphalia (Philpott 2001), religious authority was never wholly eliminated and, in fact, is now one of the prime competitors to public authority in many countries. Charismatic authority is also robust, not only at the individual level but at the national level as well through appeals to “soft power” and other forms of prestige (Nye 2002). Beyond Weber, legitimacy has also been found to rest on norms of fairness or democracy and civic participation (Cohen 1989; Tyler 1990).

More generally, authority derives from a social contract between ruler and ruled. Relational authority arises from an exchange between governor and governed in which A provides a political order of value to B sufficient to offset the loss of freedom incurred in his subordination to A, and B confers the right on A to exert the restraints on his behavior necessary to provide that order (see Lake 2009). In equilibrium, a governor provides just enough of the political order to gain the compliance of the governed to the constraints on behavior required to sustain it, and B complies just enough to induce A to actually provide it. A gets a sufficient return on effort to make the provision of order worthwhile, and B gets sufficient order to offset the loss of freedom entailed in consenting to A’s authority. If A extracts too much or provides too little, B can withdraw his compliance, and A’s authority evaporates.¹⁷ In this way, relational authority,

¹⁷ Although all authority entails bargaining of this sort, not all bargaining is over authority or necessarily authoritative. This is equivalent to the distinction between authoritative and predatory states. See Levi (1988) and Olson (2000).

contingent on the actions of both the governor and governed, is an equilibrium produced and reproduced through on-going interactions.

All forms of authority rest on a social contract that exchanges order for compliance. Relational authority, therefore, forms a foundation on which more specific types of authorities build. What is just, right, or legitimate—how much order is necessary in return for how much compliance on what issues—is undoubtedly shaped by charisma, religion, tradition, norms of fairness and so on. Any specific authority relationship will depend on how the governor and governed come to understand their exchange and its attendant rights and duties. How these mutual understandings arise and evolve in particular cases is undoubtedly important. Relational authority may even be enshrined in law. However, common to all such relationships—and thus the focus of attention here—is the underlying exchange of order for compliance necessary to all social contracts.

Second, in addition to limiting authority to its formal-legal variant, analysts assume that enforcement requires violence, which when legitimate limits authority, again following Weber, to the state. Enforcement is critical to all authority; in its absence, subordinates will flout commands and the authority of the governor will be revealed as hollow. Yet, although coercion or at least a coercive capability may be essential to enforce rules, it does not follow that enforcement is limited to violence.¹⁸ Enforcement can take many forms.

Exclusion from the governed community is one common tool. Hunter-gather societies ostracize individuals who cannot or will not obey the elders (Boehm 1999). Parents threaten to disown their unruly children. Religions shun or excommunicate sinners, and threaten apostates and non-believers with eternal damnation. Professional associations disbar, decertify, or discharge incompetents and transgressors. Even states deny or revoke citizenship and deport undesirables. Indeed, so common is exclusion as a means of enforcement that we have developed a rich vocabulary to describe this practice. In turn, many governors seek to deepen their subordinate's dependence on the community so as to raise the costs of exclusion to individuals and thereby enhance their authority. Many groups like the Orthodox Jews provide crucial social services to their members (typically mutual aid) while insisting on costly practices that have little value in the "outside" world (for example, learning Talmud) or that mark members as "different" in some obvious way (for example, styles of dress, hair and beards, language) (Iannaccone and Berman 2006). The more individuals get from being part of the community, or the greater the costs of defecting from the community to the larger society, the greater is the enforcement power of the authority. Exclusion from a group can be an enforcement mechanism equal in power to the legitimate violence wielded by a state.

In world politics, exclusion is also a commonly used tool of enforcement. Declaring a state to be a "rogue" isolates it from normal diplomatic and economic intercourse. Sanctions bar a violator from some benefit provided by the governor or the community, such as the ability to trade with other members. Naming and shaming violators harms the offending party's reputation and often has the same effect as more formal sanctions in limiting it from enjoying the benefits of participation in the international community. Looking beyond coercive violence, even in IR, exclusion is a powerful tool for enforcing edicts.

Broadening the concept of authority to include non-formal-legal foundations of legitimacy and non-violent means of enforcement reveals multiple forms of global governance. The failure to recognize the diverse forms of authority in

¹⁸ Even Day (1963) and Flathman (1980), among the most perceptive authorities on authority, make this mistake. Analysts of global governance (Cutler, Haufler, and Porter 1999:340), and especially critics skeptical of its importance, also fall into this trap.

world politics today suggests more about the theoretical blinders we have been collectively wearing than anything about the real world in which we live.

Sovereignty as Contingent Authority

Scholars traditionally understand sovereignty as implying that states are the ultimate authorities within their exclusive territorial realms (see Bodin in Brown, Nardin, and Rengger 2002:273). Revisionist scholars have demonstrated that this understanding is often violated in practice, and that states regularly intervene in one another's affairs (Krasner 1999). But this revisionist view is still incomplete. Authority is always contingent and negotiated and does not stand apart as the judge of its own superiority. To see the contingent nature of sovereignty, it is easiest to start with the scope of individual freedom or, for philosophers, natural rights.¹⁹

As Robert Wolff (1998) famously argued, all individuals in civil society face an inherent tradeoff between autonomy, in which they are governed only by free will, and authority, in which they are governed by obligations. In the state of nature or an anarchist utopia, an individual is completely autonomous, entirely free from the authority of any other and bound only by the demands of his own reason. In a civil society, on the other hand, authority inevitably encroaches on autonomy. Rather than exercising free will, an individual under authority is obligated to follow the commands of another and, indeed, to substitute another's reason for his own. In all real civil societies, all individuals possess some range of autonomy on which no authority can impinge—minimally the right to life, but covering potentially a broad range of “private rights” now embodied in the twin United Nations covenants on human rights. They also possess an inverse range of authority—the civil sphere—in which they are subject to rights held by legitimate governors.

It follows that all authority is always contested and, at the level of community, negotiated. Individuals typically want to maximize their autonomy, subject to the benefits of participating in civil society, and the authority usually wants to maximize the range of individual actions it can legitimately regulate, both to ease the burden of producing political order and for its own self-seeking ends. Where the line between autonomy and authority is ultimately drawn is subject to many factors, including how well those subject to an authority can resolve their collective action problems independent of that authority. Dense social networks, high levels of interpersonal trust, individualist cultures, and so on are all likely to enhance the collective's ability to win greater autonomy. But since collectives are themselves always fluid, and authorities are more or less skilled in dividing and conquering their subjects, the border between autonomy and authority is subject to constant struggle. The still evolving contest over reproductive freedom in many countries today is but one of many examples where the boundary between autonomy and public authority is still actively and vigorously contested. As any parent knows too well, defining the rights of a child versus the authority of the parent is a constant struggle that, appropriately, evolves over time as the child matures. The ability of religious authorities to regulate legitimately otherwise private behavior ebbs and flows over time, and is especially contingent on the presence of competing religious authorities and their relative attractiveness to possible adherents. All authority is political, and much of politics is actually about striking the “right” balance between autonomy and authority.

As this suggests, even the realm of state authority is not fixed across countries or time but is highly variable. State authority obligates individuals to follow the law, and entails a right of punishment for those who violate it. In a totalitarian

¹⁹ For a view of public and private domains in domestic and international politics similar to the one developed here, see Lu (2006).

state, nearly every action by every individual is regulated at least in principle by the state. The realm of private rights (autonomy) in other words is very small or, at an extreme, practically nil. In a liberal state, on the other hand, the authority of the state is constrained and the realm of private rights is very large. The boundary between private rights and public rights is, indeed, the dominant trait of different regime types in comparative politics.

Likewise, individuals are also subject to various private authorities, including their families, religions, clans, friends and other peer groups, professions, and a range of other private associations. Families set rules legitimately for their children and, in more hierarchical and traditional societies, adults as well, especially women. Religions issue edicts and command obedience over a range of behaviors for their followers: what foods to eat and clothes to wear, when and how to have sex, and many other aspects of daily and communal life. Clans similarly command their members to follow certain practices, including blood feuds that can persist for generations. Groups of friends or peers, especially during adolescence, often command conformity, sometimes as in gangs requiring individually costly and self-defeating behaviors. Professions require their members to perform certain tasks in certain ways, to meet collectively set standards, and to meet ethical standards even in their “private” lives otherwise beyond their purview. Each of these private forms of authority encroach on an individual’s autonomy, reducing further the exercise of free will and reason and replacing it with obligations. As noted above, these private authorities sometimes enforce their commands through violence—as in religious sects or clans that “stone” adulterers—but more often punish defectors through whole or partial exclusion through ostracism, sanctions, and naming and shaming. Private authorities are more clearly voluntary than state authority. But like states, individuals are born into families, religions, clans, and other authoritative social groups that require an act of will to leave. Similarly, one cannot be a lawyer, doctor, or other “professional” in many societies without joining and adhering to the standards of an existing professional association. Even membership in civil associations may be required to advance in some careers or cities. Members are not entirely free to choose which private authorities to which they are subordinate.

We can now return to the concept of sovereignty. As noted, analysts have attributed to sovereignty the notion that, given these myriad authorities, the state is the *ultimate* authority within any territorial community. But if the private and public realms are, as I have argued, negotiated and simply a transient equilibrium, then the state’s authority—even what it means to be sovereign—is not ultimate but contingent. What authority is exercised in the private realm—if any—and by whom is part of the struggle over state authority itself. Indeed, private authorities are likely important determinants of the collective’s ability to constrain the state. At an extreme, in fragile or failed states, state authority seldom extends beyond the capital city, if there (Herbst 2000; Boone 2003). The state is weak, however, because private authorities are strong and serve to constrain state authority, as witnessed in both Somalia and Afghanistan, where clans predominate at the expense of state consolidation. Less dramatically, but no less important, even though the United States is recognized as a reasonably capable state it lacks the authority to regulate speech, religion and religious practices, assembly, and so on. Its authority is limited and does not extend to the substantial private realm or, importantly, to the private authorities that exist within it. Its authority is not ultimate in any sense of the word, but negotiated and limited in all domains.

Global Governance

That all authority is negotiated crystallizes the most important difference between traditional approaches to global governance and the approach I am

suggesting here. Traditional approaches see states as supreme in principle, and any authority possessed by others as merely delegated authority. In this view, states may allow private or supranational authorities to flourish for a time, but they always reserve the right and ability to retract that authority and impose their legitimate control instead (see Gilpin 1972). But in a relational view, even sovereign states have no special status. They negotiate a realm of authority, but are limited by individuals and other authorities that are themselves autonomous and rightful. The same holds at the global level. If authority is contingent and sovereignty is endogenous, it follows that global authorities do not exist at the sufferance of states, or simply in the interstices of state power, but are themselves independent authorities bound by their own social contracts with their communities. Moreover, insofar as global authorities mobilize individuals and help solve collective action problems, they actually participate in the struggle over the authority of the state and shape the meaning of sovereignty. Global governance is not delegated from states, but is as real as the authority possessed by any state.

Like states and private authorities, global governance comes in both legal or public (supranational) and non-legal or private forms, and is continuously negotiated between individuals, national-level state and private authorities, and global authorities. Yet, without a mapping of patterns (see final section below), it is difficult to draw any general conclusions about the level of global governance in the world today for three reasons.

Some private authorities already discussed are actually transnational in nature. Extended families exert authority wherever their members reside. Clans may extend across national borders, especially where borders are arbitrary and strong “national” identities have not taken root. Professional associations may be international in scope. Religions nearly always unite members from different nations. Globalization has likely facilitated communication and exchange within traditional transnational private authorities, perhaps giving them new scope and powers, and led to the formation of new private authorities to deal with transnational problems. At the very least, globalization has given new salience to transnational private authorities. But the extent to which private authority has actually expanded remains unclear.

Global authorities, whether or not they are themselves law-making entities, may restrict state authority. This is most evident in the area of human rights where the community of states and NGOs have created strong norms of civil and political rights, nearly all of which serve to enhance individual autonomy at the expense of the state. These norms, in turn, are enforced by economic sanctions and threats of exclusion from other international regimes. More indirectly, neoliberalism or “market” authority in Strange’s (1996) terms—manifested in the WTO and International Monetary Fund—have rolled back the role of the state in the economy, reducing the actions of individuals (and firms) it can legitimately regulate. In this way, global governance may actually reduce the authority of the state and increase the realm of personal autonomy, reducing the overall level of governance and increasing the level of personal freedom.

New global authorities have emerged that exert new authority over practices previously excluded from the purview of states. The European Union, of course, but also other supranational entities like the WTO (see below), are exerting new authority over previously unregulated areas of private rights.²⁰ If new supranational environmental rules emerge, this will pose a very substantial expansion of global authority into areas where liberal states at least previously possessed few rights.

Without detailed analyses, we cannot conclude that global governance has expanded, contracted, or remained essentially unchanged in recent decades.

²⁰ On the European Union, see Moravcsik (1998) and Hooghe and Marks (2001). On the WTO, see below.

Nor is it clear that the autonomy possessed by individuals has grown or shrunk, on average. At the same time that global authorities have acquired new rights over individuals, they have also likely constrained and reduced the authority of their states. The net effect on individual autonomy is hardly clear. Moreover, these effects will have differed dramatically. Liberal states have likely contracted less than formerly totalitarian states. In countries with large transnational religious movements, private governance has probably expanded relative to more secular societies. Global governance is a patchwork that does not lend itself to simple generalizations. It is negotiated between authorities and communities, multiple in forms, and continuously contested. Most authority in the world today likely still originates at the national level, but this is possibly changing as globalization progresses.

Global Governance in Action

Global governance today arises in three primary forms: state-to-state hierarchies, supranational authorities, and private transnational authorities. I illustrate the approach and specific points from the analysis above in three cases: US hierarchy over states on the Caribbean littoral, supranational authority by the WTO over member states, and private authority by the CRAs over corporations and sovereign borrowers. These brief sketches are not intended as tests of any theory. Rather, my aim is only to demonstrate that authority and global governance exist in some unlikely places and are rendered legible by the tools sketched above.

Interstate Hierarchy

The United States has governed an informal empire over states on the Caribbean littoral since the Spanish-American War.²¹ Indeed, in 1895, Secretary of State Richard Olney warned Britain during the Venezuela crisis that “Today the United States is practically sovereign on this continent, and its fiat is law” (quoted in Hendrickson 2009). Nine years later, President Teddy Roosevelt, in his famous corollary to the Monroe Doctrine, assumed an “international police power” over the region. By providing external defense and limiting internal political instability, the United States produces a political order of some value to its subordinates. The extensive aid and leadership provided by the United States in Haiti after the 2010 earthquake is but one example of how political order is provided in the region. More generally, the United States keeps the peace within and between Caribbean states; it is significantly more likely to come to the aid of its clients by joining interstate crises in which they are original disputants, either taking the side of the victim or serving as an arbitrator. As a result of this order, Caribbean states spend approximately 26% of the global average on their own defense, except in the 1980s when spending rose to 58% of the global average. Caribbean states also trade more overall and trade more with each other than other states, especially under the so-called “Washington consensus” on economic liberalism. These are the fruits of the authority to which they are subordinate.

In return, Caribbean states generally comply with rules set in Washington. Most importantly, they do not form alliances or other security relationships or enter preferential economic relationships with external powers. They are locked-in, in other words, to an exclusive American-led sphere. They also follow the United States into wars around the globe, joining World Wars I and II—on which they could easily have free ridden on the efforts of the great

²¹ This section is drawn from Lake 2009. For all empirical claims not otherwise cited, see Chapters 4 and 5. For a discussion of the case of the Dominican Republic, see pp. 4–7.

powers—within days after Washington's entry into both conflagrations. Caribbean states also disproportionately join "coalitions of the willing," although they typically provide only token or symbolic forces. Even in the face of broad international opposition to the Iraq War, for instance US-led, every state in Central America and the Dominican Republic joined Operation Iraqi Freedom in 2003.

Finally, the United States disciplines subordinates who violate its rules and, especially, those who challenge its authority. In the case of the Dominican Republic, the United States assassinated then President Rafael Leonidas Trujillo y Molina, once referred to by Franklin Delano Roosevelt as "our S.O.B.," when he initiated relations with the Soviet Union in 1961, and then invaded the country when political instability threatened to bring a leftist regime to power in 1965. The long-term sanctions against Cuba, first approved by the OAS in 1962, and counter-productive in so many other ways, are perhaps Washington's most visible attempt to punish and ostracize a defiant member of its informal empire. The hostility of the United States toward the communist regime appears out of proportion to any security or economic incentive. Not only do American businesses forgo profitable trade and investment opportunities in Cuba now enjoyed by entrepreneurs from other countries, but the embargo arguably forced Castro's regime to forge tighter relations with Russia, at least in the early decades after the revolution. It is unlikely that the regime would have survived politically at first if it had not found in the Soviet Union an alternative market for its sugar and a source of oil. Rather, the hostility of Washington toward Cuba makes sense only when understood as an attempt to discipline a defiant subordinate and to deter others in the region from challenging its authority (Lake 2009:119–121).

In turn, the United States exhibits a measure of self-restraint in an area acknowledged by others to be an "American lake." In perhaps no other area of the world is the power disparity between the dominant and subordinate states so extreme, especially when the costs of projecting force over distance are included. The United States could easily get its way within the region. Yet, it self-consciously limits its power, especially by working through regional organizations that exert a measure of multilateral control and, thus, produce a degree of legitimacy for its policies. In the 1965 Dominican intervention, for instance, US troops were quickly replaced by an Inter-American Peace Force approved by the Organization of American States and eventually led by Brazil. The 1983 intervention in Grenada, in turn, was carefully orchestrated to originate as a request from the Organization of Eastern Caribbean States, which in turn asked for assistance from Washington. The United States could throw its "weight" around in the region, and it occasionally does, but more often than not it restrains its capacity for opportunism by acting through multilateral organizations that, at least, have the ability to oversee its interventions and cry "foul" should they exceed what states in the region consider legitimate.

In short, US-Caribbean relations exemplify what is in the contemporary international system a relatively hierarchical form of state-to-state relations. The United States does not directly govern Caribbean states, as in the classic European empires, but it exerts substantial authority over their political and economic policies, expects and receives compliance, and legitimately disciplines states that challenge its rule. This creates a significantly different picture of interstate relations than does a traditional model of international anarchy. What is distinct about the authoritative nature of regional relations, and at odds with traditional views of anarchy, is the expectation of compliance held by both the United States and Caribbean states, the support by subordinates for disciplinary actions against those who violate the regional order, the symbolic obeisance inherent in joining US-led wars around the world, and the self-restraint exercised by Washington.

Supranational Authority

The WTO today exercises substantial authority over states and their economic relations. It now has an extensively articulated body of rules regulating the types, levels, and uses of barriers to trade that reach far into what were previously regarded as “domestic” economic practices. These rules are now obligatory for all members, and rates of compliance are generally high. It also has an autonomous judiciary, the Appellate Body (AB), that hears disputes, reaches decisions that often find against the immediate interests of the largest states, and authorizes states to punish noncompliance. In short, the WTO legitimately issues binding rules, expects and receives broad compliance from member states, and authorizes punishment against violators.

The General Agreement on Tariffs and Trade (GATT), replaced by the WTO in 1995, was closer to a negotiating forum than an authoritative actor. Under GATT auspices, countries came together to negotiate trade liberalization but undertook differential obligations. Although all accepted general responsibilities as conditions for membership, countries participated to varying degrees in negotiations to reduce trade barriers, with those offering few concessions of their own still receiving the benefits granted by others through the unconditional Most-Favored-Nation (MFN) principle. As the organization developed, a hodgepodge of expectations and obligations arose as countries selectively participated in negotiations, and then selectively decided which rules they would obligate themselves to follow. A two-tiered system formally emerged when Part IV of the GATT was added during the Kennedy Round negotiations, exempting developing countries from even the norm of reciprocity in trade concessions (Barton, Goldstein, Josling, and Steinberg 2006:40). As the trade agenda expanded to new issues in the Tokyo Round, including non-tariff barriers to trade, government procurement, customs valuations, and technical standards, the disparities grew more severe as countries opted in or out of separate agreements on each of these topics. In this way, the rules of the GATT in practice were not obligatory but discretionary, more the product of extensive state-to-state negotiations rather than rules rightfully imposed by an authority. GATT was important because it created a mechanism through which smaller countries could band together to constrain potentially predatory behavior by larger states and bundled together many small agreements, thereby raising the stakes for defection and increasing the credibility of all members (Barton et al. 2006:32–33). As such, the forum was integral to the process of trade liberalization, the deepening of the division of labor between countries, and the dramatic expansion of the gains from trade since 1947. Throughout its history, however, the GATT remained more a multilateral agreement than an authoritative actor.

The nature of the organization and, importantly, its authority changed substantially with the formation of the WTO. As the trade agenda expanded to include trade-related intellectual property issues (TRIPS), trade in services (GATS), international investment (TRIMS), and more, the ability of states to pick-and-choose among their obligations threatened the entire edifice of the GATT, and especially the benefits of the agreements for the United States and Europe. These two major parties to the GATT, as a result, arranged to close the Uruguay Round negotiations in 1994 with a final act that created the WTO as a “single undertaking” that contains as “integral parts” and “binding on all members” the GATT 1994 reductions, GATS, TRIPS, TRIMS, and all other Uruguay Round agreements (Barton et al. 2006:65–66). This single undertaking also created the WTO as a separate legal entity. The United States and Europe then withdrew from the GATT, ended their obligations under that agreement, and joined the WTO. To continue to receive the benefits extended by the two trading powers under the GATT and generalized through MFN, other countries also

had to join the new WTO. The effect of this diplomatic maneuver was to render all of the agreements under the GATT obligatory for all states. This had highly unequal consequences, especially for developing countries who were now uniformly bound under agreements that they had previously adhered to selectively. Many developing countries assumed a large range of new obligations but “gained nothing of significance” from the transition to the WTO (Barton et al. 2006:66). Nonetheless, as expected by a relational authority approach, these developing states accepted these obligations because of the still larger benefits produced by the WTO as a whole. The new obligations, however biased they might be toward the United States and Europe, were still better for previous GATT members than opting out of the trade regime entirely. This movement toward universal and binding rules for all members embodied the transformation of the GATT from an interstate agreement to the WTO as an authoritative actor.

A similar evolution occurred in the judicial and enforcement provisions of the GATT/WTO. Under the GATT, a dispute settlement procedure (DSP) existed to resolve disagreements between members but it was not authoritative. In all disputes, member states had to agree by consensus to establish a review panel to hear the case, to accept the panel’s report, and to authorize retaliation. With each member possessing a veto, states accused of violating a GATT provision could and sometimes did block the consensus necessary to proceed, especially at the second and third steps. As a unit-veto system, this toothless mechanism remained close to an interstate agreement in which each state retained full sovereignty. Faced with this unsatisfactory process, the United States increasingly turned to unilateral enforcement measures through Section 301 of its Trade Act of 1974 (Barton et al. 2006:68–69).

Along with the single undertaking, the WTO also created a new and substantially more authoritative DSP. Revising the old rule, a consensus is now necessary to block the creation of a review panel, the adoption of its report, or the authorization of retaliation (Barton et al. 2006:71). The WTO also created an autonomous AB to review appeals of panel judgments. The AB, in turn, has created important new international trade law by filling gaps and clarifying ambiguities in earlier agreements even when they were purposely included by member states unable to resolve their own disagreements. As Barton et al. (2006:75) observe, “substantial judicial lawmaking is taking place at the WTO.”

The new procedure was designed and remains in place for two contrasting reasons. Despite its now being a target of complaints before the WTO, the United States believes it is far more likely to be in compliance with the rules than many of its trading partners. On average, it expects to benefit from holding others to account, and has accordingly accepted decisions by the AB that find against it. Conversely, other countries see the new DSP as a means of restraining US unilateralism in the enforcement of trade law (Barton et al. 2006:71). Members tolerate the judicial lawmaking of the AB because of the larger benefits of rule enforcement.

Through both the single undertaking and the new DSP, the WTO now exerts substantial authority over states in the trade issue area. That states are members of the WTO does not mean that they are still sovereign or that the organization is not authoritative. As a body, the WTO is similar to a legislature in which citizens grant that assembly the right to enact laws that govern their behavior. Through the single undertaking and the AB, states are now bound by uniform and compulsory rules adopted by the organization as a whole, subject to enforcement actions approved and supported by the community of member states.

Nor does the disproportionate influence of the United States and Europe within the WTO imply that the organization reflects and perhaps masks only the “power” of these states. It is the legitimacy of the rules and the right of

enforcement that makes a set of rules authoritative, not their content or sponsors. Again, by comparison, not all states or provinces are represented equally within or are equally influential in national legislatures. Large trading states will always exert disproportionate influence on the substance of WTO rules, but this does not necessarily mean that those rules are illegitimate. The “push back” by developing countries within the Doha Round of the WTO, however, suggests that the United States and Europe may have reached the limits of how far they can manipulate the WTO without undermining the organization’s legitimacy. This remains to be seen.

Despite its short tenure as an authoritative governor of trade, the WTO is already highly institutionalized by 50 years of GATT agreements and practice and, more important, interests vested in continued liberalization. Economic liberalization has, over time, created strong social interests in further liberalization. As liberalization has progressed, uncompetitive industries within each country have been purged and export competitive industries have grown and become dependent on access to foreign markets. The weight of social interests and, in turn, national policy has shifted in favor of liberalization (Hathaway 1998). The trade controversies of the 1970s, when previously protected industries were first exposed to the full force of the Kennedy Round tariff cuts and ignited a rear-guard action, have given way to the Washington Consensus, at least in the developed states who began this process earliest. Similar battles are now being fought out in Latin American between populist-nationalist coalitions and liberals. As industry slowly reallocates resources along the lines of comparative advantage, resistance to liberalization eventually wanes.²² National coalitions then support further and strengthened liberalization, and support administrative provisions like the DSP to lock-in their gains, thereby creating real authority for the WTO. Even today, in the worst economic recession since the 1930s, which destroyed a less vested international economy, there have been amazingly few challenges to liberalization in the developed and most vested countries. By creating ever more interests dependent on international openness and its attendant authority structures, globalization is in fact a key driver of the deepening global governance and authority within the WTO.

Private Authority

Credit rating agencies, and especially the big two—Standard and Poor’s and Moody’s—now also wield considerable private authority within and increasingly over states (Sinclair 2005:63–68). With the growth of international capital markets, CRAs not only grade corporate financial instruments and municipal and state bonds but increasingly, since the 1990s, sovereign debt.²³ This ability to rate instruments gives the CRAs significant but still limited authority over corporate borrowers and countries seeking to raise capital.

As in all forms of relational authority, CRAs provide a useful service and value to those they govern. Most important, by evaluating and standardizing the risk inherent in different financial instruments, CRAs permit an arms length market for securities to arise and function effectively. By taking a complex and subjective risk assessment and making it readily interpretable (in symbols: AAA, AA, etc.),

²² Specific institutional provisions of the GATT/WTO have helped this process. By the principal supplier rule and reciprocity, liberalization has focused on those countries with the most to gain and explicitly linked concessions in other markets to reform in each home market. See Barton et al. (2006).

²³ Credit ratings for firms first arose in the early 1900s but did not become standard until the 1930s. Ratings for sovereign debt began in 1927 but become important only in the 1990s. (Sinclair 2005:139; Langohr and Langohr 2008:134). For a general historical introduction, see Olegario (2003). Today, more than 745,000 securities from over 42,000 issuers representing at least \$30 trillion are rated by 150 CRAs spanning 100 countries (Langohr and Langohr 2008:23). There are, however, only 2.5 “big” CRAs: S&P, Moody’s, and the French firm Fitch.

the CRAs allow anomic investors to buy and sell assets with standardized qualities. This system of rating securities greatly reduces transactions costs in financial markets, allowing such markets to broaden and deepen (Langohr and Langohr 2008:111–126). The rated entities—be they firms, municipalities, or countries—can thus borrow more cheaply than otherwise possible and escape dependence on banks, who often exert monopoly or oligopoly power over borrowers. Both investors, who enjoy a more liquid market, and credit issuers subject to the private authority of the CRAs benefit.

The benefits to credit issuers are sufficiently large that they have been (since the late-1960s) willing to pay substantial fees to the CRAs for their services (typically 2% on sovereign debt issues) (Sinclair 2005:139) and, more important, subject themselves to and comply with standards set by the raters. Ratings come in different levels, largely defined by risk (Langohr and Langohr 2008:chapter 2). To earn better ratings, which allow the issuers to borrow money at lower rates, the credit issuers must meet ever stricter standards that the raters and, in turn, the financial markets associate with less risk for investors. These standards and what it takes to earn any particular rating are subjective. Although drawing on quantitative information, the ratings are not probabilities of default nor necessarily predictive. Rather, drawing on all available information, the ratings are merely summary (ranked) descriptions of benchmark measures of risk (Langohr and Langohr 2008:78–84).

For corporations, the standards set by the CRAs include acceptable debt-equity ratios, cash flow-to-interest ratios, accounting practices, business models and practices, expectations of future earnings, and more (Sinclair 2005:34; Langohr and Langohr 2008:257–273). Developed in the context of publicly traded shares on independent financial markets, prevalent in the Anglo-American model of corporate governance, these same standards are now being applied broadly to companies in many different countries. The often criticized homogenization of “corporate” America and now the world is heavily influenced by the requirements for different rating levels set by the CRAs (Sinclair 2005:121).²⁴

For sovereign states, CRAs look especially at GDP per capita, real GDP growth, the inflation rate, external debt relative to export earnings, level of economic development (industrialized or not), and default history.²⁵ More subjective but key factors include the stability and legitimacy of political institutions, popular participation in the political process, orderliness of leadership succession, transparency in economic policy, security, geopolitical risk, market orientation, income distribution, competitiveness of private sector, goods and capital market openness, unionization, fiscal policy, government debt burden, and other economic indicators (Langohr and Langohr 2008:288–289). Central is the strict separation of economic and financial institutions from “political” institutions (for example, central bank autonomy) (Sinclair 2005:137). As with local governments, the CRAs also take quality of government and leadership into consideration in assessing overall risk (Sinclair 2005:33–34, 136–137). These indicators are obviously weighted toward liberal, market-oriented democracies, and push borrowers to adopt policies and procedures that conform with this political model in order to earn better ratings.

It is in setting conditions for their ratings, and insisting on certain practices to meet those conditions, that the CRAs exercise their authority over credit issuers. Issuers have to meet these standards if they are to readily sell their securities to investors. This market condition, moreover, has become increasingly binding as

²⁴ For an alternative that emphasizes the resilience of different models of corporate governance, see Gourevitch and Shinn (2005).

²⁵ Ninety percent of the variance in sovereign debt ratings can be accounted for by these six factors (Langohr and Langohr 2008:287).

governments require major investors like banks, insurance firms, pension funds, and others, to hold certain classes of securities in certain proportions.²⁶ This is not public law subsuming private authority, as the CRAs still set the standards for different risk classes, but rather public law building on and reinforcing existing private authority for state ends.

Like all authority, the private authority wielded by the CRAs is negotiated between the governor—the agencies—and the governed—the credit issuers who are their clients (Langohr and Langohr 2008:14–15). On the one hand, the issuers need for a rating and the limited number of rating agencies means that issuers have little choice but to comply with rating standards. On the other hand, the increasing dependence of the CRAs on fees from the rated entities give the latter substantial leverage.²⁷ The CRAs are sufficiently diversified that no issue or issuer is decisive. And all raters must be attentive to their reputations, their only real asset (Sinclair 2005:52).²⁸ Nonetheless, their dependence on fees means that they cannot be unresponsive to the concerns and demands of issuers. As the recent meltdown in mortgage-backed securities made plain, the actual rating of any single investment is often the product of give-and-take between the issuer who wants the highest possible rating and the CRAs that need to maintain some standard, with the exact proportion of sub-prime mortgages in any given package subject to negotiation and revision. Although the standards may be (relatively) fixed, how any single financial instrument is crafted to meet those standards is clearly open to negotiation.²⁹

The CRAs enforce their authority by exclusion, including the outright refusal to rate certain investments. The rating agencies also enforce standards by penalizing issuers with a low rating, a form of partial exclusion of “naming and shaming.” Both unrated instruments and low-rated instruments cost the issuer more in terms of higher interest rates. The CRAs also guard against ex post opportunism by constant surveillance of previously rated credit instruments and revisions of their ratings. “Downgrading” a bond can impose considerable costs on investors, who now hold a less valuable instrument, and the ultimate issuer, largely in the form of higher interest rates. For instance, when Canada in 1995 was placed on a “watch list” by Moody’s for a possible downgrade, a fairly mild rebuke, the value of the Canadian dollar fell and interest rates on Government of Canada bonds sold in domestic and foreign markets increased substantially (Sinclair 2005:141). Likewise, Moody’s caused a stir in financial markets in early 2010 when it merely hinted that growing US government debt might someday threaten its AAA rating.³⁰ The rating agencies can impose large and costly punishments on issuers who fail to comply with their standards.

²⁶ State governments began incorporating rating standards into their prudential rules for investments by pension funds in the Great Depression (Sinclair 2005:26). Federal regulations from the same period required that banks could list as assets bonds rated BBB or better at face value, but had to list bonds with lower ratings at market value (“mark to market”). Note that the CRAs were well established as private authorities within the United States prior to their incorporation into banking and securities regulations.

²⁷ Today, at least 75% of the CRA’s income is generated by such fees (Sinclair 2005:29).

²⁸ On the credibility of monitoring agents, see Gourevitch and Lake (2009).

²⁹ See Roger Lowenstein, “Triple-A Failure,” *New York Times*, April 27, 2008. Available at: <http://query.nytimes.com/gst/fullpage.html?res=9900EFDE143DF934A15757C0A96E9C8B63&sec=&spon=&pagewanted=1> (accessed January 22, 2009). See also Elliot Blair Smith, “‘Race to the Bottom’ at Moody’s, S&P Secured Subprime’s Boom, Bust,” *Bloomberg.com*, September 25, 2008. Available at: http://www.bloomberg.com/apps/news?pid=20601109&sid=ax3vfya_Vtdo (accessed January 22, 2009). More recently, it appears that the CRAs were willing to negotiate even over the standards they were using. See Sewell Chan, “Documents Show Internal Qualms at Rating Agencies,” *New York Times*, April 22, 2010. Available at: <http://www.nytimes.com/2010/04/23/business/23ratings.html?fta=y>. See also Sewell Chan, “Former Employees Criticize Culture of Rating Firms,” *New York Times*, April 23, 2010. Available at <http://www.nytimes.com/2010/04/24/business/24testify.html> (accessed May 10, 2010).

³⁰ David Jolly and Catherine Rampell, “Moody’s Says U.S. Debt Could Test Triple-A Rating,” *New York Times*, March 15, 2010. Available at: <http://www.nytimes.com/2010/03/16/business/global/16rating.html?scp=1&sq=moody’s%20downgrade%20U.S.&st=cse> (accessed May 10, 2010).

The private authority of the CRAs, like all authority, is inherently social (Sinclair 2005:52–53).³¹ The enforcement mechanisms just described do not themselves directly punish issuers. Rather, it is the collective reaction of investors—the vaunted “market”—that imposes costs on issuers who fail to meet standards at the time of issue (getting a lower rating) or later (leading to a downgrading in the rating). Any single investor may not be influenced by a rating; she may know enough about the company or country, for instance, to make an informed and independent assessment of risk—indeed, it is precisely such private information that drives movement in the market price for individual securities at any given time. But this same investor nonetheless knows that if she desires to liquidate an investment in the future, others will be influenced by its rating. Thus, all investors, whether they themselves use the ratings, will prefer credit instruments with (higher) ratings over equivalent instruments without (or with lower) ratings. Knowing this, all credit issuers have incentives to obtain a rating and comply with the demands of the raters. Even though the CRAs themselves have little direct “power” over borrowers, they exercise enormous authority over them through the predictable actions of the investors who rely on their assessments. The system is remarkably robust, in turn, because of the interests of investors, the CRAs, and even borrowers in the ratings. Real value is vested in the particular set of rules imposed by the CRAs. Most important, once holding rated assets, and knowing that issuers are deterred from acting opportunistically for fear of being downgraded, investors have strong interests in preserving the authority of the CRAs. Like all governors, the authority of the CRAs is institutionalized only when social actors have strong incentives to support that authority.³²

Finally, the CRAs do not just exercise authority delegated from states, but earn their authority through their own social contracts with credit issuers. Liberal states are prohibited by their own societies from controlling authoritatively everyday business practices. Under the neoliberal model, private firms are granted substantial leeway in how they operate, except when they engage in obviously corrupt or illegal practices. Rating agencies, in turn, act authoritatively within this range, regulating practice in ways that states cannot under their larger social contracts with their societies. Sovereign states, in turn, typically lack the ability to control each other’s economic policies. Private rating agencies, along with the international financial institutions and especially the IMF, have stepped into the breach, regulating that which states themselves cannot regulate over each other. In this way, private authority is robust, deeply institutionalized, and unlikely to be challenged. If states were to try to regulate practices that the credit agencies now supervise, they would meet tremendous pushback not only from the CRA themselves but also from investors dependent on the information they provide and fearful of a politicized system of ratings that would serve them less well over the long run.

Conclusion

As these brief examples indicate, states, supranational organizations, and private firms all exercise authority over other actors, including states. In each case, the governor’s authority rests on a social contract in which it provides order to the governed in exchange for compliance. This social contract and its attendant benefits, in turn, create real authority for these governors. The authority exercised

³¹ Raters consider themselves to be an epistemic community, given the technical nature of their profession. Their authority, however, appears not to rest principally or even largely on knowledge. Independent verification finds that Moody’s, for instance, actually describes bonds inaccurately 21% of the time (Sinclair 2005:32–33).

³² This may explain why, despite their central role in the financial market collapse of 2008, the CRAs have largely escaped greater regulation. See David Segal, “Despite Crisis, Rates of Debt Skirt Overhaul.” *New York Times* (National Edition), Tuesday, December 8, 2009: A1 and 20.

by states over other states, by supranational authorities, and by private authorities is not just derivative, nor limited to areas where states have abdicated their responsibilities. Rather, global authority arises over—and sometimes in opposition to—supposedly sovereign states. Global authority is not just found in the interstices of state power but, in fact, shapes and limits that power. Substantial international authority is being wielded in some unlikely places, if only we have the eyes to see it.

A Research Agenda for Global Governance

The framework above suggests a new research agenda on global governance. At the broadest level, we must rethink international studies as a distinct area of scholarly inquiry. The distinction between domestic and international politics as now construed is untenable. IR is supposedly different from domestic politics in being a realm of anarchy, whereas the latter is a realm of hierarchy. But if state authority is ultimately endogenous, and if states, supranational organizations, and private actors all exercise authority even over other states, the distinction between international and domestic politics dissolves. To put this another way, in a world of vibrant global governance and failed states, the absence or presence of authority cannot be the dividing line between the international and domestic realms. We ought to be seeking a unified theory of governance, not artificially segmenting realms of politics by arbitrary assumptions. As already suggested, to understand the WTO it may be more helpful to compare it to domestic legislatures than many other less authoritative international organizations. By extension, the closest analogs for global governance may not be between but within states. Conversely, to explain failed states, we might profitably begin with traditional balance of power theory and the security dilemma. Such states are more akin to the state of nature than is, for instance, the WTO. This has important implications for how and where we test our theories, how and what we teach our students, how we specialize within the discipline, and even how we organize our professional associations. As we come to see authority and global governance more completely, many of the analytic distinctions we now take for granted will eventually fall by the wayside. We should be discussing what progressive assumptions should replace those that, I have argued, now unduly limit our vision.

More immediately and practically, there are four necessary steps toward a better understanding of global governance. A first step is to map and make legible current and, ideally, past patterns of global governance. Without a mapping of the international governance terrain, theory-building is idle speculation. In any such mapping, three questions are central. First: *who legitimately regulates what range of action?* Private domestic authorities, states over their own affairs, states over other states, supranational organizations, private international authorities, a mix of two or more? In any issue area, what is the extent of individual autonomy versus authoritative regulation? How large and constraining is the civil sphere? A key problem, which will require greater specificity, is how we differentiate between authority and other forms of power exercised by any actor. This requires developing indicators of authority, investigating the motives behind compliance by subordinates, analyzing “out of equilibrium” events when governors overreach in their commands or subordinates challenge authority, probing counterfactuals, and more.³³ Given that any one event is likely to be ambiguous on all these dimensions, analysis will have to take history seriously and trace patterns of interactions over time to get more accurate estimates of who has authority over what.

³³ On the measurement of authority in state-to-state hierarchies, see Lake (2009:chapter 3).

Second: *what is the relationship between the multiple authorities likely in any issue area?* Do they possess exclusive or overlapping responsibilities? Do they compete or collude? Third: *what is the basis of each actor's authority?* Who legitimates its authority? What is the nature of the social contract, and how is it influenced by other sources of authority including charisma, tradition, and social norms? There is no substitute at this stage for an accurate rendering of the pattern of global governance.

The next step is to deduce and then test the implications of global governance. I referred to some of these implications in the Introduction. If we accept global governance as a form of authority based on a social contract and independent from states, what other patterns of behavior follow? A full range of implications needs to be derived from systematic theories, and then assessed empirically against patterns of real behavior. This is, I believe, the most promising direction to not only show that global governance matters, but that it actually exists. We will ultimately see authority most clearly not by directly measuring legitimacy but through its behavioral manifestations.

A third step, of course, is to explain observed patterns of variation in governance. In my view, we should start with the question of *cui bono*, who benefits? If governance is endogenous, one possible explanation of its forms is to begin with individuals (possibly aggregated into groups) who pursue governance structures likely to produce and lock in their favored policies (Kahler and Lake 2003:20–24). These individuals and groups, in turn, recognize that they are in a strategic setting filled with other individuals and groups pursuing their interests as well. The policies and governance structures that emerge are likely to be a function of the goals of different actors, the nature of the strategic environment, the current resource endowments of the opposing factions, existing governance institutions at both the domestic and international levels, norms of legitimacy, and more. Exactly which factors are likely to shape how individuals define their interests, as well as the outcomes of their interactions, remains open. Even within this broad approach, different theories can profitably focus on different facets. In all cases, however, the alternative theories must be weighed against the actual pattern of governance.

A final step—and perhaps the most important—is to consider the prospects and strategies for reform of the global architecture. The current system of global governance has arisen incrementally, spontaneously, and organically over a long period of time. It is highly unlikely that this system is anywhere near efficient or optimal even for current actors. Given path dependencies and the disproportionate influence of vested interests, we are likely to be far from the Pareto frontier.

Moreover, existing forms of global governance have been appropriately criticized for being undemocratic and unequal. State-to-state hierarchies in which subordinates cede authority over more or less of their foreign policy to dominant states are inherently undemocratic. Even if the dominant state is itself democratic, citizens in the subordinate are not represented within its decision-making bodies. Supranational institutions, with the exception of the European Parliament, are at best indirectly democratic, with representatives to various international organizations being appointed by, in some cases, democratically elected leaders and, in many others, by authoritarian rulers. Private authorities vary widely. Some, like the CRAs, are purposely insulated from popular politics, and might not be able to provide the services they do without such independence. Democracy remains most firmly embedded in public, state-level authorities, and even then only in the approximately 20% of countries normally classified as such.³⁴ Critics correctly point out that we allow authority to become vested in

³⁴ From the Economist Intelligence Unit's Index of Democracy 2008. Available at <http://a330.g.akamai.net/7/330/25828/20081021185552/graphics.eiu.com/PDF/Democracy%20Index%202008.pdf> (accessed January 6, 2010). Approximately 50% of all countries are democracies or flawed democracies.

supranational and especially private actors only at some peril to principles of democracy (see Bickerton, Cunliffe, and Gourevitch 2006). Likewise, global governance as practiced today creates and reinforces political and economic inequality. As noted above, governors write rules that favor themselves, constrained only by what the governed will accept. Whether in authority relations between states, supranational organizations, or private authorities, equality is rarely itself a goal and is more often the unintentional by-product of policies designed for some other purpose. The case for reforming the global architecture is strong. To update a bumper sticker from the 1960s, global authorities should be questioned.

Our primary duty as scholars is to describe and explain the world around us. A second duty, however, is to propose and examine realistically prospects for progressive reform. Based on what we know about the pattern of governance, and its causes, can current authorities, rules, and orders be changed to promote greater democracy, equality, and other socially desirable ends? If so, how? What levers exist that can be turned by policy makers? How can vested interests be prompted to accept change? If reform is blocked or inadequate, in turn, how can revolutionary changes in global governance be managed to ensure a better order replaces the current one? Although our empirical and theoretical tools do not allow us to see into the future, they can help us identify more or less promising routes to more participatory, equal, and hopefully just world orders. Before starting down the route to reform, however, we must first open our eyes, alter our current vision, and see the authority that now exists within the international system.

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