

# Liquid authority in global governance

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Authority is a key concept in politics and law, and it has found greater attention in the global context in recent years. Most accounts, however, employ a model of ‘solid’ authority borrowed from the domestic realm and focus primarily on commands issued by single institutions. This framing paper argues that such approaches tend to underestimate the extent of authority in global governance and misunderstand its nature, leading to skewed accounts of the emergence of authority and the challenges it poses. Building on an alternative conception – the deference model – the paper calls for including in analyses of global authority also liquid forms, characterized by a higher level of dynamism and typically driven by informality and institutional multiplicity. Such a broader account can help us to redirect empirical inquiries and reframe central questions about authority, relating in particular to the way in which it is produced, the mechanisms through which it might be made accountable and legitimate, and its relation to law.

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Authority is a key concept in politics. Its interpretation affects ‘the very question of what politics is and what the field of political study consists in’ (Friedman 1990, 56), and it has ample repercussions in political science, political theory, and law. In international relations, the concept has traditionally had mainly a negative function – ‘authority’ was seen as the antithesis of the anarchic structure of the international order (Milner 1991). Yet this has changed in recent years, largely because international organizations have risen to greater prominence. Their increasing ‘authority’ is seen as consequential for the degree of public contestation around them, for growing demands for legitimation, and for changing forms of law-making in the international sphere (Lake 2010; Zürn *et al.* 2012).

The notion of authority used in many of these recent accounts is a relatively narrow one. The focus is on a command model of authority: the exercise of binding powers to create formal obligations. This focus builds upon a common image of political authority in the domestic realm, and it

usefully highlights the emergence of a new kind of international organization – one equipped with tools reminiscent of domestic governments, realizing (in small measure) hopes associated with the creation of international institutions since the League of Nations. Yet just as this narrow focus helps to illuminate some issues, it obscures many others. It draws our attention to the most ‘solid’ forms of authority but leaves large parts of contemporary global governance out of view. This downplays the degree to which ‘authority’ is actually present in international politics and, by focusing primarily on formal delegation, misreads the ways in which authority is created and maintained. Moreover, it provides a framing for follow-on problems – legitimacy, accountability, and legality – that hides key challenges deriving from the particular character of governance on the global level.

In this symposium, we build upon an alternative understanding of authority – one based on deference rather than commands. Widely used in domestic theorizing about authority beyond governmental institutions, this deference model has found increasing attention in the study of global politics in recent years. The implications of this broader understanding have, however, not been fully appreciated so far. We argue that one key implication is the need to broaden our view to include ‘liquid’ forms of authority – those characterized by a lower degree of consolidation and a significant dynamism in the configuration of authority structures, often spurred by the informality and multiplicity of governance institutions and tools. Such liquid authority, widely present in global governance, presents particular challenges as regards its sources, its dynamics, and especially its consequences for normative theorizing. Existing scholarship on related issues – informal governance, private authority, and regime complexity above all – deals with these challenges only in part, and it often continues to understand authority structures through a ‘solid’ lens.

This framing paper begins, in the first section, by contrasting the different models of authority in use in scholarship on global governance. In the second section, it employs the deference model to develop an account that goes beyond solid forms of authority to include liquid ones as well – forms characterized primarily by a high degree of dynamism, which makes authority hard to locate and grasp. In the third section, the paper turns to the implications of liquid authority for the analysis of authority structures and for questions of legitimation, legitimacy, accountability, and law, and it develops a number of conjectures that should help to structure a research programme into the causes and consequences of liquid authority. The other contributions to this symposium – briefly outlined in section IV – take up these questions with a focus on specific aspects. They address the dynamics behind the production of liquid authority (Sending 2017; Zürn 2017),

institutional strategies for coping with (and reducing) liquidity (Black 2017), and the implications of liquidity for questions of accountability and legitimacy (Macdonald and Macdonald 2017). All of them suggest ways in which an appraisal of the more liquid features of authority in the global realm can help us to tackle central questions which the focus on solidity obscures.

## Authority in international thought: between command and deference

### *Authority as command*

The traditional contrast between (international) anarchy and (domestic) authority relied on a conception of authority built around a central ‘government’ equipped with binding powers and enforcement tools (Milner 1991). Many of those who today advocate greater attention to authority in the international realm share the main traits of this approach, even if they point to a changing empirical landscape (or a changing understanding of that landscape) in which we can observe growing similarities with governmental structures.

This is best reflected in David Lake’s recent, influential account of authority in the global realm. While aiming to extend the range of governance practices covered, he ultimately remains bound up with a notion that focuses on command and obligation. He sums his conception up as follows:

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 (Lake 2010, 591).

Lake’s notion of authority thus remains focused on a command model – on ‘solid’ expressions of authority, typically expressed through binding rules issued by an identifiable governor (or governing institution) over those subject to his or her rule. Similar approaches are common among students of authority in international politics. Cooper *et al.* (2008, 505), for example, see international institutions as having authority ‘when states recognize, in principle or in practice, their ability to make legally binding decisions’. Hooghe and Marks (2015), in their broad attempt to measure and explain international authority, draw explicitly on Lake for their conceptualization and then focus solely on *legal* authority – the formal delegation or pooling of decision-making powers.

Similar understandings dominate also in related disciplines. International law, rather naturally, focuses on binding rules issued in an authoritative process. Besson (2009, 351), for example, sees authority as exercised

through ‘directives [that] are (i) content-independent and (ii) exclusionary reasons for action’ for a subject. From a perspective of political philosophy and international relations alike, Buchanan and Keohane (2006, 411, 406) formulate their approach in similar terms: ‘[i]f I acknowledge an institution as having authority, I thereby acknowledge that there are content-independent reasons to comply with its rules or at least to not interfere with their operation’. The institutions they have in mind are ‘like governments in that they issue rules and publicly attach significant consequences to compliance or failure to comply with them’.

This solid imagery of authority has roots in traditional imaginations of the modern state and owes much to Max Weber. For Weber (1980, 544), both *Herrschaft* and *Autorität* were tightly connected to hierarchical relations of superiors and subordinates and to commands and rules that are intended to trigger compliance. This general focus has influenced thinking not only in political science and sociology but also in legal and political philosophy. For Christiano (2013, 4), for example, political *de facto* authority requires the ability of the state to ‘compel’ those who do not wish to go along with its directives, and his three alternative conceptions of political authority – as justified coercion, the capacity to create duties of subjects, and a right to rule – all imply clear hierarchies and typically a reliance on commands. In Joseph Raz’s influential account, authority (both in law and beyond) centers on the imposition of duties which are meant to operate preemptively, thus displacing alternative reasons for action the subjects might have (Raz 1985, 12–13). Proper authority, in this reading, is singular and absolute.

In world politics, this emphasis leads to a narrow focus on a particular set of ‘solid’ institutions, characterized by legal powers to take binding decisions, a basis in formal delegation, and ideally the ability to use enforcement tools. Aspects of this are present in many international organizations, yet most accounts of authority in the global sphere revolve around a small number of bodies with particularly strong formal powers, typically the UN Security Council, the WTO Dispute Settlement Body, and the International Criminal Court (Hurd 1999, 401–2; Buchanan and Keohane 2006; Cooper *et al.* 2008; Christiano 2013).

### *The turn to deference*

Thinking about authority in a solid vein thus makes us see (and study) an important but small and particular part of the landscape of global governance. With its formal focus, however, it tends to overstate the analogy with traditional domestic government, and at the same time it obscures from view the many forms of institutional influence which, though

highly consequential, do not operate through formal, legal tools. Yet attempts at reaching further – such as that of Lake (2010, 596) who seeks to ‘recognize the diverse forms of authority in world politics today’ – run into inconsistencies if they fail to broaden their conceptual framework.

The prominence of the command model in the global context is all the more surprising as it contrasts with a much broader approach to authority widespread in domestic accounts of authority – the ‘deference model’. This approach, often sociologically inspired, seeks to capture authorities in a wide variety of settings, public and private, beyond the formal governmental institutions of the modern state (Flathman 1980; Friedman 1990). In that, it encompasses not only historical phenomena, such as the gradual consolidation of authority structures or the multiple, often overlapping and competing institutions of medieval and early modern societies. It has also been able to shift the focus toward the plurality of authority structures emerging, in the contemporary world, from social processes without an anchor in formal or legal powers and operating through informal tools (Rosenblum 1987; Furedi 2013). And it is able to integrate forms of theoretical authority, which – unlike practical authority – make claims on the beliefs, rather than the conduct, of their addressees (Friedman 1990, 59).

The deference model has recently begun to find reception in the global governance context, following on from earlier attempts at a broader conceptualization of authority which began soon after the end of the Cold War (Rosenau 1992). These attempts remained isolated and gathered pace only around the turn of the millennium, mainly in reaction to the rise of private structures of governance in the global economy. By highlighting the ‘authoritative’ nature of these structures in their respective spheres of operation, these accounts challenged the typical public associations of the notion of authority as well as its hierarchical implications (Cutler *et al.* 1999; Hall and Biersteker 2002; Grande and Pauly 2005; Sassen 2006). Other approaches included informal norms, ‘moral’ authority as well as epistemic, ideational or discursive tools – used by private as well as public institutions – into their authority framework (Bogdandy and Goldmann 2008; Ecker-Ehrhardt 2012; Venzke 2013). These initiatives paved the way for more recent, broader attempts at recasting the notion of authority beyond coercion and commands (Enroth 2013; Peters and Schaffer 2013). Thus, in a legal project, authority has been redefined as ‘the legal capacity to determine others and to reduce their freedom, i.e. to unilaterally shape their legal or factual situation’ (von Bogdandy *et al.* 2008, 1381–82). International relations scholars have focused more on the relational aspect and have drawn upon the deference model, thus understanding authority as ‘the ability to induce deference in others’ (Avant *et al.* 2010a, 9) or as ‘deference

of one's own judgment and choice to a recognized authority without being necessarily forced or persuaded to do so' (Zürn *et al.* 2012, 86).

The emphasis in these approaches – domestic as well as global – on the 'ability to induce deference' has kept the concept broad yet distinct from other forms of power or influence, thus heeding Hannah Arendt's call for authority to be defined 'in contradistinction to both coercion by force and persuasion through arguments' (Arendt 1968, 93). Deference presupposes a certain degree of freedom to act otherwise and excludes open coercion as well as forms of structural or productive power that shape subjectivities on a deeper level. Deference also implies a certain content-independence – a 'surrender of judgment' – that contrasts with acts that result from substantive persuasion. And it suggests a relation that is broader than a mere one-off exercise of power in that it assumes that the ability to induce deference rests on a (logically prior) recognition of an actor or process as authoritative (Friedman 1990, 63–71). Authority then is not merely an *ad hoc* relation but is characterized by its systemic character (Marmor 2011).

The recognition of authority can flow from many sources: it can result from rational calculus, normative internalization or a mere acceptance as 'normal'. Michael Zürn and Ole Jacob Sending trace the processes of recognition in this issue in greater detail, and from different perspectives. Recognition may be based on an attitude or act of the individual subject, such as delegation or reflexive acceptance, as stressed in Zürn's account, but it will often also bear a social dimension. Authorities are typically recognized as such through a social practice that does not necessarily reflect the particular attitude of each of their addressees (Blau 1963, 312; Venzke 2013, 366). For an individual actor, deference to an authority may thus seem involuntary if the authority is based on a recognition by other social actors who impose costs (or withhold benefits) in cases of non-compliance. And as Sending's contribution highlights, the terms on which recognition is based are the result of social interaction and will often not be at the disposal of (or even seen as contestable by) the individual actor (see also Sending 2015, 18–29). The result is a triangular structure as shown in Figure 1.

### **From solid to liquid authority**

Understanding authority on the deference, rather than the command, model has the potential to broaden our view significantly. It allows softer forms to enter the picture; it makes it easier to conceive of authority in degrees, rather than in absolutes; and it shifts our view to sources of recognition that are not based on formal legal empowerment. In many contexts, this will lead us to diagnose a greater extent of authority; in others, where formal delegation suggests solid authority, we may actually find

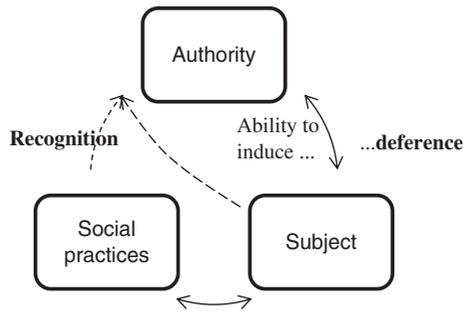


Figure 1 Authority relations.

a lesser extent if societal recognition is absent or weak. The resulting picture is thus bound to become far more complex than in classical accounts.

This complexity is, however, only partially reflected in the literature on global authority, even in those accounts that have come to employ the deference model. Some approaches, such as that of Zürn *et al.* (2012), turn to deference for their theoretical framework but then insist, at least for political (as opposed to epistemic) authority, on an institution's 'right to make collectively binding decisions'. This comes close to the command model again, and it suggests a focus on solid institutions with formal powers, such as the UN Security Council or international judicial bodies (see also Onderco *et al.* 2013). Other accounts emphasize particular implications of the deference model, especially its ability to capture private and informal institutions, but they often treat these institutions as if they were of a solid kind. They focus on single institutions and their ability to 'govern' a certain issue area or social context – for example, the setting of technical standards in the contributions of Büthe (2010) and Prakash and Potoski (2010) to a volume that is conceptually built around the deference model (Avant *et al.* 2010a).

### *The notion of liquidity*

With this symposium, we seek to direct attention to the potentially more radical implications of understanding authority on the deference model. If authority is detached from ideas of command, delegation, and formally binding obligations, it may appear in gradations, be dispersed over multiple actors, and its recognition based on a variety of sources, procedural or substantive. Instead of being concentrated in a single, solid and commanding institution, authority might then be spread out over a process in which it is hard to locate, and which is in constant flux (Finnemore 2014, 222). Authority might thus be 'liquid' – liquid in the sense that it is able to flow, does not have a fixed shape, and is thus more difficult to grasp, though

not for that matter necessarily less weighty or impacting (Wikipedia 2014). Liquidity here appears as a matter of degrees – just as in physics, it is not a binary opposite of solidity, but both are points on a continuum with different degrees of ‘viscosity’ in between (see Drezner 2013).

The distinctive feature of liquidity is its *dynamism*. The more liquid an authority structure is, the more its elements are in motion and the more difficult it is to pinpoint a site of authoritative decision making. The actual degree of dynamism depends on the stability and extent of social recognition practices. For example, sustainable forestry regulation has long been characterized by competition and contestation between different sites of non-state market-driven certification schemes and their shifting relations with audiences in the public as well as the private sector (Meidinger 2006; Overdevest and Zeitlin 2012). While the overall authority structure in this area was able to induce deference on the part of market actors – producers and consumers of forestry products – the processes and sites of decision making, and the weights between them, have been shifting heavily.

The possibility of such authority without consolidation can be better understood in the context of the triangular model of authority outlined in the previous section. If we understand the recognition of authority as emanating from social practices that may be independent from an individual addressee’s attitude, we will often find different such practices coexisting. In the case of forestry, different actors began to recognize different bodies as authorities – some the Forest Stewardship Council, some the Sustainable Forestry Initiative, others the Pan-European Forest Certification Council, as well as other actors, such as governments and environmental groups for aspects of the overall setting (Meidinger 2006, 53–60). Many consumers, producers and retailers of timber products will have deferred to those authorities (by giving weight to their certification and labels) not necessarily because of an own active act of recognition but because they looked toward others’ practices of recognition. With different kinds and degrees of recognition present in this issue area, the authority structure was highly ‘liquid’, but nevertheless ‘authority’.

### *The production of liquid authority*

Broadening the picture of authority to include liquid forms allows us to capture some of the more peculiar features of global governance – the ones that actually distinguish it from ‘government’ (Rosenau and Czempiel 1992) – such as a host of informal and private institutions, the use of non-binding, often ideational tools, forms of cooperative governance, or interactions of multiple institutions in an issue area without a clearly defined center. From the perspective of the addressees – be they governments,

regulators, companies or consumers – governance in these forms often has significant weight and provokes ‘deference’, even if not through the unconditional submission to a command (see the examples in Avant *et al.* 2010b).

A significant degree of liquidity is, by most accounts, characteristic of many areas of global governance in which different actors compete or cooperate without strong formal powers and in constant need of readjustment. It reflects the absence of formally established, ‘solid’ governmental powers in international affairs and is linked to related phenomena, such as the strength of informal norms and institutions (Abbott and Snidal 2000; Pauwelyn *et al.* 2012; Vabulas and Snidal 2013) or the emergence of (intergovernmental as well as transnational) regime complexes (Raustiala and Victor 2004; Alter and Meunier 2009; Abbott 2011).

The prominence of such features in the global realm is conditioned by the fact that solid authority on a formal–legal basis is difficult to create, as it typically depends on the consensual action of governments (often a great number of them) and entails significant sovereignty costs. Authority is nevertheless in high demand: actors – governmental, economic, and societal ones – need it to further their substantive goals and tackle transboundary problems, and we can thus expect a turn to alternative forms (Jupille *et al.* 2013; Krisch 2014). Governments often choose informal institutions and soft law; regulators create networks and define best practices, sometimes competing with already existing ones; and private actors seek to establish and implement norms where public regulation is missing or regarded as insufficient. As the sites of governance multiply, the overall authority structure tends to become highly complex, decentered and subject to recurrent shifts.

In this context, solidity – or a high degree of consolidation – will be the exception rather than the rule. It may emerge in technical areas where coordination has limited distributive implications, such as in the early technical unions or in some areas of contemporary standard setting. In more politically salient areas, convergence on the formal empowerment of central institutions will be favoured by hegemonic action and/or crises that make governments set aside concerns about sovereignty costs (Ikenberry 2009). The creation of bodies such as the UN Security Council or the World Trade Organization’s Appellate Body are cases in point. And even here the formally solid setting conceals rather liquid authority structures, in which authority over issues is often contested and has to be regained in competition and cooperation with other sites (Shaffer *et al.* 2015; Sending 2017).

In most other areas of global governance, authority will be yet more liquid. In global institutions, the formal–legal delegation of significant powers is limited (Hooghe and Marks 2015), and even where it exists it is frequently

undermined by a lack of actual recognition or by institutional competition (Morse and Keohane 2014). In the absence of legal powers, authority is constituted informally, through governmental or private actors. Informality does not rule out consolidation, as can be seen in the example of the International Standardization Organization, a private body with significant clout in global standard setting, built up over decades of work (Prakash and Potoski 2010). Yet informality makes it more difficult to claim deference from addressees, and it tends to lower the entry costs for challengers. In many contexts, then, informality goes hand in hand with institutional multiplicity, and a high dynamism in the distribution of authority. Islands of relative solidity in this context are likely to emerge only when a favourable social constellation – a relative convergence of interests and ideas, or at least a preference for coordinated action, among the relevant social actors – meets institutions which are able to achieve and sustain recognition as focal points because of their expertise, principled leadership, or capacity (Avant *et al.* 2010a). Authority built on these grounds may become perpetuated through path dependence and normalization (see Zürn 2017), but potential challenges from influential actors and rival institutions are likely to leave it in a vulnerable state, at risk of being liquefied rapidly.

### *Liquidity, domestic, and international*

Liquid authority may be widespread in global governance, but it is certainly not limited to this context. On the domestic level, much authority before the consolidation of the modern state was highly liquid, and similar images continue to be prominent in accounts of contemporary society and politics which highlight complexity, contestation, and negotiation (Tully 2009; Fligstein and McAdam 2012; Furedi 2013).

In this light, the modern state has never produced authority of an entirely solid kind. Even if it evinced a particularly high degree of consolidation in some places and periods, elements of societal challenge and institutional competition were never absent. The difference is here, again, a gradual one – one concerning the level of dynamism, the level of vulnerability of authority (and especially of individual institutions, as opposed to a rule apparatus as a whole) to social and institutional challenge. The relatively high level of systemic consolidation in the modern state has allowed for a *representation* of its authority in solid terms: of ‘the state’ as the focus of attention, with no immediate rivals in sight; as the ‘monopolist’ of legitimate physical and symbolic violence (Bourdieu 2014). Political struggles could then be seen as struggles over the control of state institutions, not about the site of authority as such, and most theorizing about politics and law came to treat state institutions in this solid vein and built on that image.

Recent decades have, on many accounts, seen a turn to greater liquidity also in domestic settings, especially as a consequence of the rise of ‘governance’ in contemporary states in which cooperation and informality has overtaken ‘command authority’ in many areas (Rhodes 2012). This may reflect a broader trend toward a ‘liquid modernity’, a ‘world in motion’ characterized by mobility, instability, constant change and reconfiguration, the absence of firm boundaries and constraints, and the blurring of responsibility as social structures keep being reassembled (Bauman 2000). It certainly has led to greater engagement with questions about shared, cooperative, and networked authority across different fields, including among lawyers and political theorists (De Búrca and Scott 2007; Papadopoulos 2007). However, in a global sphere without central, monopolistic institutions, the liquidity of authority structures is likely to be particularly high. This does not imply that liquid authority is everywhere in global governance, or that authority is everywhere equally liquid. We can anticipate a significant degree of variation across issue areas, but we should expect the phenomenon to be especially strong in this context. This suggests that, even more so than in the contemporary domestic context, representing authority as ‘solid’ is likely to provide a picture that is either too limited or misleading.

If authority in the global sphere is often liquid, it is not necessarily weak. Just as liquids may be as dense and heavy as solids, authority may be liquid *and* weighty. Consider, for example, the case of credit rating agencies which have long been recognized by investors as central to the determination of risk and whose assessments have a major impact on financial markets and, consequently, on governments and other credit seekers. Even if initially based (at least in part) on empowerment by state institutions (Kruck 2011), much of the rating agencies’ authority is informal, expertise-based, and gained in constant competition with each other – thus highly dynamic and liquid (see also Lake 2010, 604–07). The *shape* of authority is thus not necessarily an indicator of its *strength*. Both shape and strength need to be determined empirically for the different issue areas of global governance – something this symposium does not aim to do systematically, though the following papers provide insights into significant variation in liquidity across actors and contexts.

### **The turn to liquidity and its implications**

Broadening our account of authority beyond the command to the deference model, and recognizing the liquid character much authority in global governance takes as a result, has significant implications. As I outline below, the liquid authority lens helps us to formulate conjectures about the creation and design, the accountability and legitimacy, as well as the legal

framework of authority in global governance that stand in contrast with dominant discourses in the literature.

Work on liquid features in global governance can build upon different existing areas of scholarship, especially those around informal institutions and soft law, around regime complexes and multiplicity, and around private authority in international affairs. Each of these captures part of the phenomenon of liquidity, but their connections have not been sufficiently explored and much of the literature continues to operate with a solid imagery of authority. Informal institutions and norms are often treated in an isolated fashion, as if they represented central and solid authorities, without a focused inquiry into how their position depends on their relations with other institutions and recognition by social actors (Pauwelyn *et al.* 2012; Vabulas and Snidal 2013). Work on private authority frequently takes a similar direction, analyzing non-state institutions in a frame borrowed from formal regulatory organizations (Büthe and Mattli 2011). And much of the work on regime complexes focuses primarily on formal law and institutions and the relations between different ‘solid’ authorities (Raustiala and Victor 2004; Alter and Meunier 2009). This misses out on important aspects, for example when forum shopping in regime complexes is framed on domestic analogues that center on choices between institutions which, if selected, have the final say on a matter. The fact that forum shopping in the global context is often about strengthening the authority of one site relative to that of others – rather than determining the one avenue of dispute resolution – tends to be downplayed by this framing.

The exceptions to this narrow focus – work such as that on network governance (Kahler 2009), transnational regime complexes (Abbott 2011), transnational business governance interactions (Eberlein *et al.* 2013), orchestration in the international sphere (Abbott *et al.* 2015) or, on the legal side, global legal pluralism (Zumbansen 2010; Berman 2012) – have begun to explore certain aspects of the interconnection, without however placing the dynamism of the authority structure at the center of their inquiry. Moreover, most of this work has focused on positive theory and has largely left out normative issues. In this symposium, we place particular emphasis on the latter – on questions of accountability, legitimacy, and law. For these, the notion of authority plays a particular role – it often appears as a trigger, suggesting greater urgency for accountability and legitimacy issues in contexts with than without ‘authority’ (Hurrell and Macdonald 2012, 556; Enroth 2013, 350–51).

In the following, we formulate a number of conjectures about the implications of a liquid authority structure which, we hope, will help to redirect work on authority in the global realm and stimulate new avenues of research.

*The location and extent of authority*

Much of the existing work on international authority focuses on delegation from states to identify, map and explain authority (Hooghe and Marks 2015), as well as for framing questions of accountability and legitimacy (Buchanan and Keohane 2006). This focus is designed to capture the most consequential institutions in the international sphere, and to help us understand the mechanisms behind their creation (Koremenos *et al.* 2001). Yet if authority may be liquid as well as solid, the focus on delegation is likely to be misleading. It might suggest that there is no authority when there is actually authority to be found – for example, in the area of sustainable forestry mentioned before – or it might locate authority in one place when, in fact, it resides elsewhere (or is distributed more broadly) – as perhaps in the oversight of countries' economic and financial stability, where formal institutions such as the International Monetary Fund compete for authority with informal as well as private bodies, such as credit rating agencies. Where global authority lies and what shape it has is an empirical question, and it may be more solid in some areas and more liquid in others; strong in some places, weaker elsewhere; sometimes more, sometimes less tightly linked to the state (Genschel and Zangl 2014).

The empirical investigation into the location of authority then cannot rest on a focus on delegation and formal legal powers; it needs to center on the practices of recognition and deference that sustain authority. Ole Jacob Sending's paper in this symposium nicely pushes us to do so by taking a critical look at liquid authority relations in the seemingly solid setting of the UN Security Council. We may thus conjecture that if authority can be liquid, we need to study social processes rather than formal delegation to identify, situate, and understand it. This implies that we need to shift the focus from the initial act of delegation to the development of authority over time, its perpetuation or challenge through social and institutional interactions.

This shift is also likely to point us toward explanations beyond those for the formal–legal authority in international organizations. An institution's membership and policy scope, suggested by some as key factors for the latter (Hooghe and Marks 2015), are likely to play a lesser role when we analyze the social recognition of institutions. Factors such as the proximity to key actors, problem-solving capacity or legitimation strategies on a basis other than delegation (e.g. Avant *et al.* 2010, a,b; Black 2017; Zürn 2017) as well as power relations in the making of societal belief structures (Sending 2017) may well be more relevant here. Understanding authority will also require focusing not so much on discrete institutions as on their interplay – for example, the conditions under which rival institutions may emerge and succeed in challenging existing structures; or the factors that

favour the convergence of actors on one authority as opposed to the maintenance of competing ones.

### *Accountability*

Accountability mechanisms in the global sphere are typically conceptualized through the extension of domestic frames, taking inspiration from an imagery of solid authority and institutions with strong formal powers in a governmental vein. One example is the ‘global administrative law’ project that seeks to enhance accountability in global regulatory governance through such tools as public participation, transparency, and judicial review (Kingsbury *et al.* 2005). Other influential approaches, too, focus on individual powerful actors that can be subjected to forms of supervisory, budgetary, or legal accountability on the domestic model (Grant and Keohane 2005).

These frames may, however, be unsuitable when the locus of authority is no longer clearly defined, when it is in flux, informal and relational – shaped by the interaction of a multiplicity of institutions and actors – as in liquid authority. As Kate and Terry Macdonald elaborate in their paper in this symposium, standard accountability mechanisms may be ineffective because they do not find an anchor, or because they only relate to part of the authority structure and may even drive actors into other, less accountable fora. We may thus expect that the more an authority structure is liquid, the more limited the effectiveness of standard accountability mechanisms is likely to be.

As a result, accountability may have ‘to be understood and practised ... in a dispersed and shared fashion’ (Scholte 2011, 20). In order to implement this call, we may look to responses to liquidity in the domestic context. There, however, holding informal and collaborative governance accountable is often seen to depend on a certain degree of public ‘metagovernance’ (Sørensen and Torfing 2009; Börzel and Risse 2010), which is typically unavailable in the global realm, except for (relatively weak) efforts at orchestration (Abbott *et al.* 2015). In many global approaches, genuinely *public* accountability is replaced by the inclusion of stakeholders at different stages in the process, direct participation gives way to accountability-by-proxy, and broader input from the citizenry is reduced to forms of *ex post* contestation and irritation in visions of spontaneous or experimentalist accountability (Brassett *et al.* 2012; Ladeur 2012; Koenig-Archibugi and Macdonald 2013; De Búrca *et al.* 2014; see also Steffek 2010). Confronting the challenge of liquidity means that inquiries into the potential and limits of such alternative accountability mechanisms need to become more sustained and sensitive to the institutional context. Terry and Kate Macdonald’s paper in this symposium explicitly undertakes this attempt.

*Legitimation and legitimacy*

Even more than analytical and empirical debates, much of the normative debate about the legitimacy of global authority continues to employ a solid idea of authority. Many of its participants, whether they favour consent-based (Christiano 2012) or more complex standards (Buchanan and Keohane 2006), see legitimacy as a foundation for an ability to command, for powers akin to those of a domestic government in the classical image. This erects a high threshold – mostly an exaggerated one as little of the authority we can observe in the global sphere approximates that of governments, but instead tends to depend on an interplay of different actors, notably including state institutions (Genschel and Zangl 2014).

Using the deference model of authority, and taking its liquidity implications seriously, should help us to frame the requirements for a more appropriate conception of legitimacy for the global sphere. Such a conception would need to be responsive to the degree of dynamism, of informality and multiplicity in a given authority structure, and it would especially have to take into account that analyzing the legitimacy of a particular institution will always only capture a part – often a shifting part – of the overall authority structure. Individual institutions alone may not need to bear the burden of providing legitimacy for the entire structure, but their own legitimacy can also be assessed only as relative to the other parts and the interaction with them (Roughan 2013). We can thus formulate a third conjecture: the more liquid global authority is, the more its legitimacy needs to be conceived as pertaining to a process of interaction of different bodies (domestic, transnational, international) rather than to a single, commanding institution.

The paper by Kate and Terry Macdonald in this symposium seeks to develop a normative conception of legitimacy that responds to this need and is sensitive to the institutional structures in which it is deployed. It connects with attempts to reframe legitimacy in global governance through the exploration of novel tools, sometimes grouped together under headings such as democratic polycentrism or experimentalist governance (Archibugi *et al.* 2011; De Búrca *et al.* 2014). Other approaches have advocated a turn from *ex ante* to *ex post* mechanisms and a focus on forms of irritation and contestation to ensure links with, and responsiveness to, a broader public (Pettit 2006; Bartelson 2010). These avenues may bear some promise under conditions of liquidity, yet both their normative adequacy and their practical potential and limitations require much further attention.

The liquid authority lens can also help us to understand sociological aspects of legitimacy better. This relates first to the social demand for legitimation, typically triggered by the politicization of institutional action (Zürn *et al.* 2012). We can expect liquid authority to provoke such demands to a lesser

extent than concentrated, commanding authority – being informal and dispersed, often without a clearly identifiable site or moment of decision making, it is likely to draw less attention and consequently lead to less public mobilization. In this way, liquidity will often conceal the fact that authority is exercised, and will help to mute political contestation.

On the other hand, as Julia Black argues in her contribution, in the absence of a formal–legal anchor and faced with competition from others, institutions will often be highly vulnerable and in need of constant legitimation through the invocation of legitimacy sources other than traditional, democracy-based ones. Sources such as expertise, moral principle, or problem-solving capacity are likely to move to the foreground when formal, delegated powers are unavailable. We may thus hypothesize that legitimacy discourses around liquid authority are likely to emphasize the *quality* of decision makers, rather than procedural, democratic foundations, more strongly than those around solid authority. In this symposium, Michael Zürn places this conjecture into perspective by drawing analogies between the rise of ‘reflexive’ authority in the domestic and in the global realm. His contribution also suggests that the greater availability of technocratic, expertise-based legitimacy over the last few decades may have facilitated the expansion of liquid authority structures in global governance.

### *Law*

For law, liquidity represents a particular challenge. More than other institutions, law depends on a high degree of formality, and it is typically distinguished from other (social, moral) norms on the basis of formal sources which, as part of a legal system, ground the validity of individual norms and determine their reach. The liquefaction of authority undercuts this structure. Not only does it blur the boundaries between the domestic and the international and the public and the private; it also blurs the boundaries between formally binding norms and others. Many informal norms produced in global governance enjoy a significant amount of authority – actors habitually defer to them – even if they do not come with a claim to be binding (Pauwelyn *et al.* 2012).

To the extent that global authority is not only characterized by informality but also by multiplicity and dynamism, however, normative orders face particular difficulties. The resulting fluidity sits uneasily with their aim of controlling behaviour and with law’s frequently stated aspiration to ‘stabilize normative expectations’ (Luhmann 1993). Just as liquid authority, liquid law is difficult to identify with precision. We can thus expect that, under conditions of liquidity, institutional normative orders will invest significant resources into the stabilization and clarification of

meaning. Julia Black, in her contribution to this symposium, traces such attempts in different transnational regulatory regimes and highlights the increasingly law-like institutional structures some of them have built in order to cope with, and counteract, liquidity.

Liquid norms also present a significant challenge for the formal legal orders confronted with them. Formal law may relate to them in different ways: through rejection, formal reception or informal enmeshment. Where liquid authority shows significant strength, we may expect one of the latter strategies, but existing case studies on relations of formal law with informal international norms suggest a variety of approaches (Kingsbury 2009), and much more work will be necessary to understand these dynamics and the factors behind them. However, insofar as the solid authority structure that underpinned the hierarchical notion of law in the modern state gives way to greater liquidity, we can anticipate a transformation of law's image in practice. We may conjecture that, in areas where liquid authority is strong, law itself will become more liquid: less integrated, with a greater number of sources and norm-production processes, and less clearly delineated hierarchies. The rise of legal pluralist analysis in the global context indicates a trend in this direction (Krisch forthcoming), yet identifying the strength and shape of this development remains a work in progress.

### **The point of liquidity: a roadmap to the symposium**

This framing paper has outlined the conceptual basis for thinking about authority not only in solid, but also in liquid terms, and it has tried to sketch potential implications of such a broader understanding for the analysis of authority in the global realm, for designing accountability mechanisms, for conceiving questions of legitimacy, and for understanding transformations of the legal order. In this small symposium, we cannot pursue all the conjectures developed above, nor can we provide a systematic empirical picture of liquid authority in global governance. Instead, the different contributions explore the phenomenon of liquid authority in different directions, trying to shed light on its relevance and implications.

*Michael Zürn* links liquid authority, as a conceptual tool focusing on authority structures, to a particular way in which authority is produced – reflexive authority. On this account, actors recognize authorities as necessary to deal with a complex environment, but do so conditionally and with a tendency to monitor them continuously. For Zürn, this reason-based mode of authority production has been on the rise for some decades and has led to the strengthening of institutions such as constitutional courts and central banks in the domestic context. Yet the implications of the reflexive turn are amplified in the global sphere, where in the absence of

a constitutional frame, reflexivity drives toward the establishment of a multiplicity of spheres of authority, only loosely coupled. The institutions in this constellation tend to be more vulnerable, however – being constantly monitored and typically reliant on technocratic rather than democratic forms of legitimation, they are subject to contestation and challenge to a high degree, and the resulting authority structure will tend to be relatively liquid.

*Julia Black* tackles global authority less from a broader historical perspective than from the analysis of particular institutions in transnational regulatory governance, but the resulting picture is remarkably similar. Connecting at various points with Zürn's reflexive account, Black sees transnational regulators as faced with a particular need for legitimation: unlike their domestic counterparts, who are protected by the umbrella of state law and its general legitimacy base, they need to constantly regain allegiance from their legitimacy constituencies, and they have to deploy particular strategies to this aim. In the liquid authority structure they find themselves in, they have to jockey for advantage over potential or actual challengers and to strive for a consolidation of their position. One particular consequence of this need is the assertion of interpretive control, geared toward reducing liquidity by fixing the meaning of their regulatory output – a goal which, in more solid settings, tends to be achieved through linkages with the legal system. Black traces attempts at gaining interpretive control in three transnational regulatory institutions, and her analysis reveals significant variation in the form and success of these attempts. It also shows how, for some of these institutions, the exercise of interpretive control conflicts with other legitimacy demands, which limits the prospects of further reducing liquidity.

*Ole Jacob Sending* also inquires into the ways in which global institutions establish and maintain authority through a constant struggle for recognition by societal actors, but his take on liquidity differs from both Zürn's and Black's in that it starts from a more structural account. Drawing on Bourdieu, Sending shifts the focus to the ways in which hierarchies in social fields are created and maintained, and how existing hierarchies contribute to the definition of the very terms on which actors seek and award recognition. This highlights the social, political and ideational foundations of the recognition of authority, but it also forces us to acknowledge how contingent solid authority is. If the terms of recognition in a social field are always in play, the consolidation of authority – as in the modern state – is an exceptional achievement, but one in which the more liquid, contested foundations always threaten to reemerge. Sending illustrates this for the global context through the analysis of two cases – the World Health Organization and the UN Security Council – in which the formal–legal frames tell us little about the shifting extent and scope of actual authority, and where apparent solidity rests on more liquid foundations than meets the eye.

These three papers, for all their differences, paint a picture of authority in global governance that is strikingly different from the picture we would expect on the basis of the command model. Authority emerges in places such as credit rating agencies or the Forest Stewardship Council, where solidity is largely absent; and, compared with a more formal account, it appears weaker in places like the UN Security Council. And in all of these contexts, it does not rest in a single institution but is spread out in an interactive process between various actors and institutions. This forces us to shift our focus considerably when we want to understand the dynamics behind the creation of authority, and the three papers all take into view this interactive dimension as well as the ideological context and resources that shape these interactions. Whether one emphasizes a more actor-centric or a more structural account and whether one privileges interests or ideas, this shift is highly significant and will lead to explanations quite at odds with a more formal account – explanations that take into view the particular constituencies in question, the institutional strategies through which they are engaged, and the resources through which different institutions link up and compete with one another. The multiplicity of relations that come into view certainly distinguishes liquid authority but also presents a particular challenge for its analysis.

This latter point is also taken up, albeit from a normative perspective, in the final paper in the symposium, by *Kate and Terry Macdonald*. They explore the implications of liquidity for institutional mechanisms of legitimization and focus on two prominent, competing approaches to legitimacy in transnational governance – public accountability and pragmatic experimentalism. Their case study of company–community land conflicts in the palm oil sector reflects the different constituencies at play in the production of transnational authority – governments, regulators, industry and civil society groups – and shows what limits the public accountability approach, modelled on traditional forms of legitimating state institutions, faces in a context of liquid authority. The alternative of pragmatic experimentalism is shown to be more suited for liquid structures, but it also has significant deficiencies, which leads Macdonald and Macdonald to diagnose a continuing tension between the liquidity and the legitimacy of transnational governance. In this context, too, the particular challenges of global governance would hardly have come into view had we looked for solid authority – which is mostly absent from this issue area.

## Conclusion

Authority is increasingly widespread in global politics and international relations, but much of its analysis remains wedded to a particular, solid understanding – based on commands. This paper seeks to shift our

conceptual frame, following an understanding of authority on an alternative, domestically widely used model – the deference model – and broadening our view to include liquid as well as solid forms. Liquid authority, on this account, is characterized by a high degree of dynamism, with actors, sites and weights constantly shifting, making it difficult to pinpoint, to grasp, and to control.

Liquid authority is not everywhere in global governance, but given the prominence of related features – informality and multiplicity in particular – we can expect it to play a significant role across different issue areas. Recognizing that authority may be liquid should reorient a number of central inquiries in debates about global governance which are traditionally dominated by a solid imagery – debates about the location and extent of authority in the global realm, mechanisms to hold it accountable, global legitimacy frameworks, as well as the structure of the global legal order. In this framing paper, and in the symposium that follows, we seek to chart some of the directions of this reorientation, interrogate the relevance of the phenomenon and seek to sharpen the contrast between actual governance practices and our traditional frames, in the hope to reconfigure the mental maps with which we approach the study of law, institutions and politics in the global realm.

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