CHAPTER 1

Introduction

Thucydides’ account of the negotiation between Athens and the Melians is one of the earliest known statements of the connection between legitimacy and power. Resisting an ultimatum from Athens, the Melians suggest that might does not make right: “in our view it is at any rate useful that you should not destroy a principle that is to the general good of all men—namely, that in the case of all who fall into danger there should be such a thing as fair play and just dealing.”1 The Melians put forward a case which differentiates between the justice that comes from superior power and the justice that comes from general rules and morals, arguing that these latter should be valued for both instrumental and normative reasons by the weak and strong alike. Some rules of war and diplomacy, they say, are legitimate and should be respected. They lose the argument, of course, and ultimately pay a high price for it, but in the process the Melians play their part in launching a long debate over the relationship between legitimacy, authority, and power. The debate has been continued in philosophic and sociological settings, carried forward by Aristotle to Machiavelli, Locke, and Rousseau, and on to Marx and the twentieth-century philosophers of modernity such as Weber. But although there is plenty of evidence that practitioners of international relations (IR) take seriously the power of international legitimacy and that academics make frequent reference to it in an ad hoc way, the concept itself only rarely receives sustained attention in analyses of the international system.

This book works on two levels. It raises important conceptual issues from the leading edge of IR theory and applies them to an understanding of the practical day-to-day operation of the UN Security Council. It can therefore be read as a work on IR theory or as a document of UN studies, as advancing theory or empirics. Better still, it might be seen as doing all of the above.

The central purpose of the book is to introduce a workable concept of legitimacy to the study of International Relations. Although the use of the term “legitimacy” is common in International Relations, very little attention is given to what it means or how it works. There is no available model of legitimacy for use in international relations that would allow serious inquiry into its causes, consequences, and implications. My first goal here is

1 Thucydides 1954, 402.
to provide such a model and show its worth by using it to explain empirical phenomena in world politics. The model itself, developed by borrowing from sociology, psychology, and management studies, fills a gap in International Relations that has been widening since the rise of constructivism in the late 1980s. Absent an account of legitimacy, much of constructivism’s empirical work on the “logic of appropriateness” remains ungrounded; legitimacy is inherent in the constructivist approach, and yet to date there has not been a full-fledged exploration of the concept and its operation.

The theory of legitimacy, then, contributes in two ways: first, by opening up the empirical study of the Security Council in ways previously not possible; and, second, by providing a bridge between rationalist and constructivist approaches. On the empirical contribution, my interpretation shows the importance of beginning with considerations about legitimacy and legitimation when trying to understand either the history or the current practice of the Council. From the earliest debates over the veto in 1945, to the current controversies over peace missions, new members, and the 2003 Iraq crisis, and into the future of Council reform, we can see the fundamental role played by the processes of legitimation and delegitimation in all that the Council does. It is not too much to say that the Council has power when it is seen as legitimate and loses power as that perception recedes. All Council decisions contain at least some concern for how the choices will help or hurt its legitimacy to various audiences. In some moments, as with the endgame of the Libyan sanctions in the 1990s, legitimacy concerns can come to dominate other considerations in the decision-making calculus of even the Great Powers at the Council. At such times the central role of legitimacy is made clearest; but it remains important even in the more mundane politics of day-to-day Council operation. The empirical cases in the book draw from both the moments of high-politics drama and the more commonplace “normal politics” of the Council.

The essential role legitimacy plays in international politics complicates the academic study of International Relations, because it means that at least some part of outcomes are influenced by this shifty, intersubjective quality which is only indirectly available for empirical study. The power of legitimacy to define actors’ goals and interests, as well as to construct what actors take for granted, means that observers of the international field need some way to monitor and decipher actors’ senses of the legitimate and illegitimate. To read international politics without paying attention to the competition over legitimacy would leave one with no way to understand such common acts as saving face, offering justifications, using

2 See Hurd 1999 for some of the theoretical foundations to the study of legitimacy in IR.
symbols, and being in a position of authority. One cannot be offended by another’s rejection of protocol, or by a rival being well treated by a third party, unless one shares a common definition of what appropriate protocol requires and what constitutes a step up or down on the ladder of status. Such acts make up a large proportion of the stuff of foreign policy and international politics, just as they are common in domestic and interpersonal politics, but they cannot be decoded without a prior sense on the part of the observer of what the actors accept as legitimate and what they define as illegitimate.

An institution that exercises legitimated power is in a position of authority. In international relations, this means that a legitimated international organization possesses sovereign authority. Sovereignty, understood as the “right to exercise final authority” over a people and territory, is distributed among various types of actors in the international system. This includes states, of course, but also, as is shown in the following chapters, any international institutions such as the Security Council which exercise legitimated power over states. The presence of sovereign authority in nonstate actors suggests that the common understanding of the term “international anarchy” is misleading. The international system comprises diverse actors with legitimated power and so has diverse locations of sovereign authority. State interactions occur in a social space that contains authoritative institutions like the Council, and this contradicts the “anarchic” premise of much contemporary IR scholarship.

This book explores these issues through the practical workings of the Security Council. It examines how the members of the United Nations approach the Council and how the Council responds in its daily operations. The practical role of the Council in international relations is not well understood, despite the great deal of reporting and analysis on its actions since 1945. Even simple questions about the behavior of the Council and its effects on states and on the international system have complicated answers. This complexity, I suggest, is due in part to an underappreciation of the role of legitimacy and legitimation in the routine business of the Council. Without understanding the peculiar nature of power based on legitimacy, one cannot understand the behavior and effects of the Council.

Consider, for example, what appears to be a simple question: What power does the Council have in international politics? Its most tangible products are its formal resolutions: the Council issued approximately 1,675 official resolutions as of May 1, 2006, as well as many hundreds of Presidential Statements. These are all carefully negotiated statements of

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4 The definition comes from Biersteker and Weber 1996, 2.
intent, resolve, concern, or action, and together they make up the Council’s most tangible contributions to world politics. Each is drafted, discussed, debated, and duly promulgated, after which it is published, publicized, and sent to research libraries worldwide. It is not entirely clear what happens after that. Some resolutions become famous because they relate to conflicts that are in the public consciousness, for instance, Resolutions 242 and 425 on the Israeli-Palestinian conflict and 660 and 678 on the Iraq-Gulf War. Most, however, do not. Moreover, the real impact on the world of even the “famous” resolutions is not easy to trace. They are generally seen as important documents in international politics, but this certainly does not mean they are automatically followed. Despite the legal obligations they might create, Council resolutions clearly do not necessarily elicit full and complete compliance by nation-states. States still seem to “pick and choose” from Council decisions those elements they respect while pretending other elements do not exist.

This obvious fact of international politics leads to a conundrum: if the most visible products of the work of the Security Council cannot be judged as clearly successful in shifting the policies of member states, then does the body really have the power it was intended to have under the UN Charter? Indeed, what actually is the power of the Security Council, and where does it come from? More broadly, where does any international organization get its power? In a world of formally independent nation-states, the answers to these questions are intrinsic to the claim that international organizations matter at all in the international system.

If we see states as sovereign bodies, legally free to make their own decisions, and international organizations as constraints on state freedom, then there is a contradiction at the heart of the most powerful organizations in international relations. The founding documents of many international organizations give them broad powers to supervise, regulate, and enforce activities throughout international politics and economics, and yet the rights of sovereign states are supposed to protect them from outside interference, including that of international organizations. States are supposed to be sovereign, and yet an effective international organization must, in some way, infringe on the freedom of states. Hardt and Negri describe the contradiction:

On the one hand, the entire U.N. conceptual structure is predicated on the recognition and legitimation of the sovereignty of individual states, and it is thus planted squarely within the old framework of international rights defined by pacts and treaties. On the other hand, however, this process of legitimation is effective only insofar as it transfers sovereign right to a real supranational center.5

5 Hardt and Negri 2000, 4–5.
Perhaps nowhere is this paradox more clearly exhibited than with respect to the UN Security Council. The Council is endowed with tremendous formal power by the UN Charter and with primary authority in the international system over questions of international peace and security. And yet it is apparent in the post–Cold War world that attempts by the Council to use that power generate enormous controversy. The Council’s power is spelled out explicitly in the Charter, but in practice its use is always problematic.

This contradiction between international commitment and state sovereignty is traditionally resolved in academic texts by noting that international obligations are generally binding only when a state chooses to be bound. A state could so choose either by joining an organization like the United Nations, and thus consenting to the authority of the Security Council as defined by the UN Charter, or by complying with or ignoring a particular decision of the Council on a case-by-case basis. Either way, the power of the Security Council and its decisions perpetually depends on the consent of states, either prior (when the state joined the UN) or contemporary (when the state responds to a particular requirement). In this way the institution can be seen as entirely consistent with, and indeed subordinate to, the independent desires of sovereign states.

The “consent” approach to resolving the contradiction is convenient but at odds with certain evidence about state behavior toward international rules. On the one hand, state decision makers often seem to take at least some international obligations extremely seriously, even when they might prefer to ignore them. National governments expend a great deal of energy in managing and interpreting international obligations, while also trying to influence what international organizations say and do. On the other hand, even when states violate international commitments, that violation is usually accompanied by an effort on the part of the state to present the violation as consistent with its obligations. In both cases, the free choice of states seems at least partially constrained by the existence of the organizations, even when they do not wish to be constrained and even when they choose

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6 This is generally the attitude taken regarding consent in the field of International Law. The capacity to conclude treaties, and so be bound by them, is enshrined in the Vienna Convention on the Law of Treaties (1969) as a right possessed by every state. See Harris 1991, chap. 10.

7 Realists and neorealists in IR theory tend to take this view of consent. International organizations are, in this tradition, the reflections of autonomous state decisions rather than independent actors in their own right. See Grieco 1993 and Mearsheimer 1994/95. For further discussion of consent in state commitments, see March and Olsen 1998; Martin and Simmons 1998; and Kahler 1998.

8 Van Oudenaren (2003) suggests that the legitimacy of an international rule is gauged by the degree to which it approaches universal consent among states. I define legitimacy in non-choice terms below.

9 See also Williams’s critique of the contractual model of IR (2005, 204–210).
to maneuver around an international obligation. States generally try to manage their relations with international organizations such as the UN and to influence their development rather than ignore them or pretend they do not exist. That some international organizations are taken for granted is important, for it means that the organization is in a position of power in international society, even if states sometimes choose not to comply.

In a notable article published in 1966, Inis L. Claude Jr. suggested a more satisfying way to resolve the conceptual conflict between state autonomy and international obligation. Claude argued that states sometimes perceive international organizations as legitimate and therefore view the obligations they embody as acceptable and correct. Singling out the Security Council, Claude pointed to the apparent power of some organizations to confer and withhold legitimacy from actors and decisions. The Security Council of the 1960s had power, he noted, because its statements and resolutions were recognized as representing the views of a large segment of the world’s states. The Council was authorized to speak and act on behalf of the “global community,” and thus its utterances and behavior carried more force than had they been carried out by individual Council members. Claude’s aim was to rebut those critics of the Security Council who saw it as “merely” a talking-shop not constituted to take meaningful action. He recognized that the Security Council was powerful precisely because its actions and pronouncements represented the collective sentiment of some respected part of the international community. This power of “collective legitimation” is one potential source of the Council’s influence over international relations which, significantly, does not rely on the choice or consent of individual states; its effects do not come from states choosing to recognize them. Rather, they come from processes of socialization and symbolism which operate on a different level than instrumental decision making.

In the decades since Claude’s contribution the field of International Relations as an academic discipline has changed dramatically, with a greater emphasis today on social phenomena of all kinds. His provocative thoughts on the UN Security Council’s powers of “collective legitimation” would seem to fit more comfortably in today’s IR universe, but the link between the new social theories of international relations and the question of the legitimacy of international organizations has not yet been drawn. The real world of international politics has also changed, with activity in

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11 On the connection between legitimacy and community, see also Clark 2005.

12 Slater’s (1969) response to Claude highlights the fact that states may grow “disenchanted” with IOs that associate themselves with positions the states are opposed to, and Slater treats this as “delegitimation.”
and around the Council greatly increased. The new atmosphere of cooperation among the Council’s permanent members since the late 1980s has meant that the body is better able to take meaningful action on a range of issues, including sanctions, enforcement, and “peace building.” These new possibilities for action in turn have caused an increase in political contestation at the Council, as states compete to use its power to serve their own strategic interests. The limits of this new freedom were made clear when the Great Powers presented competing versions of international legitimacy claims over the U.S.-Iraq issue in 2002 and 2003. At such moments the power of the Council is called into question by contests among the powerful states regarding how legitimacy should be interpreted. Yet these contests help to clarify the central place of legitimation in the politics of the Security Council.

**LEGITIMACY**

“Legitimacy,” as I use the term, refers to an actor’s normative belief that a rule or institution ought to be obeyed.\(^\text{13}\) It is a subjective quality, relational between actor and institution, and is defined by the actor’s *perception* of the institution. The actor’s perception may come from the substance of the rule or from the procedure or source by which it was constituted. Such a perception affects behavior, because it is internalized by the actor and comes to help define how the actor sees its interests. Once widely shared in society, this belief changes the decision environment for all actors, even those who have not been socialized to the rule, because it affects everyone’s expectations about the likely behavior of other players. I make no moral claim about the universal legitimacy, or, even less, the moral worth, of any particular international rule; I am interested strictly in the subjective feeling by a particular actor or set of actors that some rule is legitimate.\(^\text{14}\) In this sense, saying that a rule is accepted as legitimate by some actor says nothing about its justice in the eyes of an outside observer.\(^\text{15}\) Further, an actor’s belief in the legitimacy of a norm,\(^\text{13}\)

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\(^\text{13}\) The literature on legitimacy in political theory is large. Good introductions include Flathman 1993 and Beetham 1991. From the psychology literature, see the reviews in Tyler 2006 and Zelditch 2001.

\(^\text{14}\) Thus I am also making the working assumption that we can treat states as unitary actors with corporate identity and the capacity to “feel” the pull of a legitimate rule. This is a contentious assumption that glosses over many angles of social life, but I think it is appropriate for the present purposes.

\(^\text{15}\) Franck 1990; Buchanan 2003. How perceptions of legitimacy and justice are related within the individual remains an open question. Rawls (1971) and the contractarians generally make these one and the same.
and thus its following of that norm, need not correlate to the actor being “law-abiding” or submissive to official regulations. Often, precisely the opposite is true: a normative conviction about legitimacy might lead to noncompliance with laws when laws are seen as conflicting with the conviction. For instance, Nicholas Kittrie presents strong evidence and wide empirical illustration of the fact that people whom he calls “political offenders” are motivated to break laws in order to comply with their own normative (legitimate) convictions.16 Only when invested in the laws of the state does legitimacy contribute to state-supporting “law and order.”17

Legitimacy is a difficult concept to study. It is a phenomenon that is both internal to actors and intersubjective. Either way, it is not readily accessible to outside observers (or even to the actor itself); it is complicated and entangled in many other concepts, such as interests, habits, and cultural practices. It can also be contradictory in that it is entirely possible for an actor to feel a “compliance pull” of several competing and irreconcilable legitimate rules or institutions all at once. For this reason, I do not follow Habermas, among others, down the path of trying to discern whether individuals’ belief in the legitimacy of an institution is well founded.18 We lack the adequate tools, in my opinion, to make much progress on that road. Those who do go this way tend to end up relying on strong assumptions about the “true” interests and sentiments of others. This, I believe, leads to an unfortunate discrediting of studies of legitimacy in general, and thus even greater problems when one wants to explore the phenomenon and its consequences. None of these epistemological difficulties, however, should prevent a discussion of legitimacy; it is central to social life and needs to be taken seriously by International Relations. The absence of strictly satisfying methodological techniques for isolating and measuring the phenomenon means only that we need to be more creative and curious in how we approach it.

The question of legitimacy in a social system comes to the fore only when the system is accepted as “conventional” or “arbitrary” in the sense of being one possibility among many, rather than as natural or pre-given or inevitable.19 In European society the transition to “arbitrary” authority is generally seen as marking the shift to a “modern” mode of thought and authority; where political dominance came to be justified on grounds other

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16 Kittrie 2000.
17 Tom Tyler’s (1990) study of legitimacy and domestic laws emphasizes the contribution legitimacy makes to compliance rates. This is possible because his subjects agree that the laws are legitimate.
18 Habermas 1984.
19 Pierre Bourdieu (1991) provides an excellent discussion of the concept of “arbitrariness” in social institutions.
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than as God-given. The “arbitrariness” of political authority in an increasingly secular European world had to be justified, and this led to various contractarian, nationalist, and utilitarian theories of government that have competed for popular support and empirical justification since the Enlightenment. The consequent shift in international relations has been later in coming, but the same problem exists there also. Several recent works try to establish what might be called the moral foundations of international relations, either attempting to justify the existence of separate states or proposing an alternate model. In international relations, an emphasis on questions of legitimacy in international institutions is growing as the belief in the inevitability of a state-centered balance of power is in decline.

Legitimacy is a quality that might become attached to a formal organization, an informal institution or practice, or a particular role or individual. It is worth exploring in all these manifestations. However, in looking at the legitimacy of the Security Council, the present project is primarily concerned with a single formal organization and its complex of symbols, authority, and history, rather than with the legitimacy of particular decisions, processes, or individuals. The distinction between institution and organization is a tenuous one, and the category of institution, broadly understood, probably encompasses the category of formal organization. Moreover, I deal with the legitimacy of the Council among states, rather than its legitimacy in the eyes of the citizens of those states. Many interesting questions are thereby missed, including questions about the popular legitimacy of the UN (and its opposite: the belief in the threat from the UN’s “black helicopters”), and the “domestic effect” of governments using the UN’s symbols to win gains with domestic constituencies. The issue of the Council in domestic politics is important—and I allude to it briefly in chapter 5—but I am largely concerned with the ways that the legitimacy of the Council affects interstate politics.

Many scholars make use of the concept of legitimacy to explain international outcomes, though few have provided an account of how legitimation produces its effects. In fact, most traditions in IR theory find legiti-

21 A penetrating view of the complications to which such justifications lead is provided by Jacques Derrida (1986).
22 See, for instance, Beitz 1979; Held 1995; Walzer 1977; and Buchanan 2003.
23 One could draw the distinction the other way around and see institutions as the practices and rules that are derived from a given (formal) organization. I prefer to rest the distinction on the formal nature of organizations and the broader, informal nature of institutions. See Young 1994; and Powell and DiMaggio 1991.
24 For public opinion about international organizations, see, for instance, Gibson and Caldeira 1998.
25 This issue is fought over in the United States by writers such as Jesse Helms (1996) and Edward Luck (1999).
macy to be relevant to the central questions in their research programs. For instance, international lawyers have displayed an interest in what legitimacy might add to legality when considering the compliance pull of rules and institutions. Foremost among these writers is Thomas Franck, who, in a series of works on “the power of legitimacy among nations,” identifies the characteristics of international law that increase its compliance pull. He finds legitimacy to be one of these.26 Murphy and Weston each examine the legitimacy of individual acts of foreign policy and consider how this relates to their legality.27

Realists and liberals often find that legitimacy claims are useful as states attempt to defend their interests against opponents. Stephen Krasner in his history of Westphalia finds that “the idea of sovereignty was used to legitimate the right of the sovereign to collect taxes, and thereby to strengthen the position of the state,” and Goldstein and Keohane discuss more generally the view that powerful actors use ideas “to legitimize their interests.”28 E. H. Carr’s classic dissection of liberal “idealism” stands in part on the premise that a strong state can advance its interests by “so eagerly cloak[ing] itself in ideologies of a professedly international character.”29 Ikenberry notes that Great Powers have an “incentive to create a legitimate order after [major wars],” both to reduce enforcement costs and to lock in their favorable positions, and Keohane and Nye define a kind of “normal politics” that takes place within an “international regime [that] is accepted as legitimate.”30 In this tradition, scholars generally assume that state consent is the source of the legitimacy of international rules. Brilmayer asks, “How legitimate is international hegemony?” and answers that it is legitimate “so long as political arrangements are based on state consent.”31 Christopher Gelpi finds that interstate agreements have a greater effect on future behavior when parties view them as legitimate, and the distinguishing feature that lets us know they are seen as legitimate is explicit state consent.32

26 Franck 1990, 1992, 1995. Applying Franck’s framework, Fassbender (1998, 317) asks whether it might be used to predict how the Security Council should be reformed—and he answers no, concluding that “the concept of legitimacy adds nothing to what has already been considered.”

27 Murphy 1994; Weston 1991. That legitimacy should get more of a hearing from lawyers than from many IR scholars is curious, since the lawyers all begin by distinguishing between legitimacy and legality, and therefore immediately concede that by considering the effect of legitimacy they are operating outside the province of law itself.


29 Carr 1946, 145. Among realists, see also, for instance, Kissinger 1964; Morgenthau 1960, chap. 32.


31 Brilmayer 1994, 14, 193.

Among the interpretivist branches of IR theory, legitimacy is often connected to the existence of international society. Where scholars inquire into the constitution of states and their interests, attention is naturally drawn to the effects of legitimated ideas and institutions. The English School is a natural home for the study of legitimacy in that it sees the state as embedded in a social context. In Ian Clark’s book, legitimacy and international society are deeply related, and he traces the evolution of European ideas about “rightful membership” in that society developing alongside ideas about the legitimate behavior of modern states. Something similar is at work in the democratic peace literature, where the empirical regularity central to that research project is often explained as the result of democracies taking into account their views on the legitimacy of their rivals’ domestic constitutions before deciding to use force. Constructivism is equally amenable to studying the effects of legitimation, and Bukovansky, for instance, sees the power of legitimated international ideas on domestic would-be revolutionaries. She shows that internationally legitimated discourses, such as republicanism or absolute monarchy, can be important resources for groups attempting to redefine the nature of the sovereign state from the inside, as it were.

These references point to an enduring place for legitimacy in studies of international relations but at the same time a marginal one. Except for the recent interpretive literature, very few of the references to legitimacy as a cause of international outcomes include an explanation of how it functions. This leaves open a potentially productive research opportunity, since, as Thomas Franck suggests, the international system should be the best social system in which to observe a “normative” (i.e., legitimated) social order in its pure form precisely because of the absence of an international government to enforce international laws and contracts. The evidence of a recent turn toward “legitimacy language” in International Relations is valuable, but so far it lacks a discussion of how and why legitimacy operates among international institutions and organizations and what its implications are.

One might go about making this connection in many ways. The path I pursue here investigates the issue of the legitimacy of social institutions through a historical examination of the United Nations Security Council. The Security Council is a highly suggestive location in which to observe

33 For instance, Bull 1995.
34 Clark 2005.
36 Bukovansky 2002. See also Barnett 1997; Ruggie 1998, esp. chaps. 1 and 2; and Knight 1998. For a view from French political theory, see Coicaud’s (2002) theoretical introduction to legitimacy and his application to international organizations (2001).
37 Franck 1990.
the workings of legitimacy for the very reason that the Council ostensibly has at its disposal the greatest material power of any international organization in history and yet has great difficulty deploying that power. Two broad categories of research are presented: first, from the earliest efforts at legitimating the UN through (and before) the UN Conference at San Francisco in 1945; and, second, from states’ later efforts to benefit from and contest that legitimacy. We will see that legitimacy matters to social institutions (formal or informal, international or otherwise) because it affects the decision calculus of actors with respect to compliance; it empowers the symbols of the institution, which become political resources that can be appropriated by actors for their own purposes; and it is key to their being recognized by actors as “authoritative.” The possibility of international authority in international organizations (as opposed to that authority in the traditional form of the nation-state that we are accustomed to) creates a problem for theories of IR that start with the premise of “anarchy.”

THE SECURITY COUNCIL

The Council is potentially the most powerful international organization ever known to the world of states, which makes it a crucial test case for the operation of legitimacy in the international system: its peculiar combination of extensive powers and political limitations means that its effectiveness depends on its legitimation. This section gives a brief overview of the Security Council and explains why the institution is a useful place to see behavioral consequences from strategies of legitimation in international relations.

The Council is composed of fifteen member states, five of them permanent members and specified by name in the Charter. These are the United States, Russia (replacing the Soviet Union in 1991), China, the United Kingdom, and France. The rest are elected for two-year terms out of the general population of the UN General Assembly under a formula that ensures representation to five “regions” of the world.38 The Security Council

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38 These are Africa, Asia, Eastern Europe, Latin America, and “Western Europe and other.” Calling them “regions” is somewhat problematic, given the nongeographic character of this last category. The “Western Europe and other” category grew out of the “British Empire” category of earlier times, and recently saw the addition of Israel. It might be better to call these “groups of nations” rather than “regions.” Each group determines for itself which of its members will occupy a nonpermanent seat in the Council. The Secretary General’s High-Level Panel in 2004 recommended a new four-group regional system for Council elections. See http://www.un.org/secureworld/.
is the executive agency of the UN on matters of “international peace and
security”; thus concentrating my examination on the Council rather than
any other element of the UN system (or on the UN system as a whole)
provides a manageably sized subject of great consequence.\textsuperscript{39} The Charter
grants the Council wide latitude to “determine the existence of any threat
to the peace, breach of the peace, or act of aggression” (Art. 39) and the
authority to require—not merely allow or recommend—all kinds of sup-
porting action from the member states when such an international threat,
breach, or act has been found (Arts. 40, 41, 42, 36).\textsuperscript{40} These determina-
tions and requirements are made by the Council on behalf of the entire
organization and all its members (Art. 24). Council decisions are legally
binding on all 191 member states, they trump any conflicting domestic
law or treaty passed by member governments (Arts. 25, 103), and there is
little room for any kind of appeal from its decisions.\textsuperscript{41} The Charter may in
theory put all the resources of the member states at the disposal of the
Council in the enforcement of its decisions (Arts. 43, 45). This ability to
mobilize massive coercive resources is unprecedented among inter-
national organizations, and almost all states in the system have consented to
it in a highly public way.

Compare this to the security provisions of the League of Nations. Un-
der the covenant of the League, as described by Bowett:

A state resorting to war in violation of its undertaking with regard to pacific
settlement was deemed to have committed an act of war against all members.
Yet it was left to each member to decide whether a breach had occurred or an
act of war had been committed, so that even the obligation to apply eco-
nomic sanctions under Article 16 (1) [of the Covenant of the League] was
dependent on the member’s own view of the situation. Military sanctions
could be recommended by the Council [of the League], but the decision on
whether to apply them rested with each member.\textsuperscript{42}

In law, and probably also in practice, this left the League Council with
significantly less capacity to act effectively compared to the UN Council.

\textsuperscript{39} Trying to make generalizations about the entire UN system, as Rosenau (1992) ambi-
tiously does, is problematic because of the immense and highly varied character of the pro-
cesses and institutions that comprise the system.

\textsuperscript{40} Some of these provisions are moribund, because they depend on the prior negotiation
of military contribution agreements between the UN and individual states under Art. 43,
one of which have been made. See Harris 1991, 881–82.

\textsuperscript{41} On the issue of appeal to the International Court of Justice (ICJ), see Caron 1993, n.
35; and Bothe 1993, 80. The responsibilities of states to the international organizations of
which they are members are restated clearly in the Reparation for Injuries case at the ICJ.

\textsuperscript{42} Bowett 1982.
Despite the impressive formal powers of the UN Charter, clearly, as Michael Barnett says, “the UN’s power derives primarily from its ability to persuade rather than its ability to coerce.” Joseph Nye makes a similar point by linking the UN to his view of “soft power”:

The UN has a great deal of soft power of its own. In other words, it is attractive and that gives it a certain amount of power. What the UN can convey that is particularly important is legitimacy, an important part of soft power. Other countries, including the United States, should find it in their self-interest to work with and through the UN, because they need that legitimacy for their own soft power.

The scope of the Council’s official powers in the Charter is less relevant than the domain of its practical capacity to persuade, which is in part a function of states’ beliefs about its legitimacy. Even with both the formal powers granted to the Council in the Charter and the explicit consent of the UN membership, the Council has acted to the full extent of its coercive capability relatively infrequently, and, when it has, it has generally been criticized for acting illegitimately by some of the leading writers on international law. For instance, Burns Weston argues that several of the key resolutions around the 1990–91 Gulf War were illegitimate and thus should have been arranged differently, even though he agrees they were legally taken and probably directed toward an appropriate goal. Similarly Jose Alvarez lists several Security Council actions (on Iraq, Libya, and Haiti, among others) which he says failed to follow legitimate procedures and thus seriously threaten the Council’s credibility. The Council is charged with illegitimacy much more frequently than with illegality, indicating that what is at stake is not whether the Council is acting within the letter of the Charter (partly because the Charter is so broad and vague as to the limits of the Council’s powers) but something else. Being seen as illegitimate has a cost. Russett and Sutterlin make the point explicitly, concluding, with reference to the process the United States and the Security Council used in the Gulf War, that “the manner in which the gulf military action was executed by the United States and its coalition partners will likely limit the willingness of Council members to follow a similar procedure in the future.” These authors imply that repeated actions

45 Weston 1991.
47 Russett and Sutterlin 1991, 83.
which appear illegitimate will ultimately impair whatever ability the Coun-
cil might have to take credible action.

Those who worry that the Council acts in ways that are illegitimate are
presuming, as a start, that the Council needs to be seen as legitimate to
act effectively and that can squander that store by ill-considered decisions.
Inis Claude, for his part, highlights the other side of the equation: that
with legitimacy the Council has power. Both positions depend on an un-
stated theory of what legitimacy is and how it is created, used, and lost. If
the credibility and power of the Council are functions of legitimacy, then
this suggests a need to examine directly the workings and history of its
legitimation. States’ recognition that the Security Council is legitimate is
the product of a historical process that began with the conferences prior
to the end of World War II and has continued in various ways through the
recent spate of reform proposals motivated by the fiftieth anniversary of
the UN and on into the U.S.-Iraq crisis of 2003. This book seeks to pro-
vide an answer to the questions about legitimacy that underlie these posi-
tions. First, if wasting the organization’s “capital” of legitimacy makes ac-
tion more difficult, how does the presence of legitimacy make action
easier? Loss of legitimacy is of concern to organizations because the pres-
ence of legitimacy afforded power. But what kind of power? Claude said
that legitimacy is power, but he did not address how or why that power
works. Second, how is legitimacy used in the specific context of interna-
tional organizations? What are the limits of legitimacy as an instrument of
power? Finally, how can the power of legitimacy be challenged? The capac-
ity of legitimacy to provide order is inherently conservative, as it encourages
behavior which reinforces existing structures. How can delegitimization
be achieved by those pursuing change rather than the maintenance of the
status quo?

The following chapters offer provisional answers to these questions.
Case studies of aspects of the life of the Council are examined, illustrating
the operation of legitimation and delegitimation, and showing that legiti-
macy affects all kinds of states, although these effects differ among audi-
ences. Chapter 3 discusses the San Francisco Conference of 1945 and
looks at the Council’s legitimation with regard to small and medium
states; chapters 4 and 6 examine how strong states find their decision en-
vironments changed by legitimation of the Council; and chapter 5 ex-
plores how legitimation affects the strategic decisions of a country like
Libya which, in the early 1990s, was considered by many to be outside
the international community. These four empirical chapters, taken to-
gether, will enable us to draw generalizations about legitimacy and the
Council in the conclusion of the book.
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IMPORTANCE OF THE ARGUMENT

This book contributes to two of the leading controversies in IR theory: the relationship between constructivism and rational choice, and the relationship between states and international institutions. Much of the energy in IR theory today stems from the parallel rise of rationalism and constructivism and their ongoing conversation with each other and with their critics. Presented originally as two distinct answers to the problems and limits of neorealism, rationalism and constructivism increasingly turned their attention to each other through the 1990s. Their differences, both real and alleged, in the areas of methodology, ontology, and epistemology have come to define a new set of conventional debates in IR theory. This framing of the discipline was institutionalized in the fiftieth anniversary edition of the journal *International Organization* in 1998, where the editors presented a view of the field of IR based on a debate between rationalist and constructivist approaches.48

The present book demonstrates, by example, that the two traditions can be complementary rather than mutually exclusive.49 My approach takes rationally calculating actors (states) as a given but places them in a socially constructed context. Legitimacy, a socially constructed phenomenon, affects the strategic calculations and self-conceptions of these actors. The payoffs sought by actors through strategic behavior might be material or symbolic, and in either case they depend significantly on sociological processes related to legitimation. A symbol is a valued good—once it makes sense to attempt to acquire—by virtue of the process of legitimation that surrounds it. Strategic actors will spend energy and money to acquire symbolic goods. Unpacking this activity requires us to use tools from both the rational-choice and constructivist toolboxes. Thus part of the theoretical payoff to the present work is showing how to combine the strengths of rationalism and constructivism. I argue, for instance, against treating the logics of consequences and appropriateness as if they were discrete and mutually exclusive models of states.50

This book contributes to an emerging literature that attempts to capitalize on the convergence of the two approaches, but with significant differences depending on whether the argument is coming from the constructivist or rationalist side. For instance, Bukovansky, cited above, presents a complementary argument to that given here by showing how strategic leaders sought legitimacy in the (socially constructed) context of eighteenth-century European power politics.51 From the rationalist side,

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49 See Fearon and Wendt 2002.
50 March and Olsen 1998.
51 Bukovansky 2002.
INTRODUCTION

Dennis Chong attempts a “unifying theory” of individual choice in social contexts which, while not quite meeting with Bukovansky in the middle, takes seriously the function of normative concerns in strategic settings. At a meta-theoretical level, Fearon and Wendt stake out a principled defense of the “complementarity” position, though with important provisos.

A consideration of all these theories is important to the debate in IR about the relationship between IOs and states. The degree of influence of IOs on state decisions, and the sources of that influence, are generally thought to provide one way to distinguish between the main paradigms of IR. For realists, the practical power of international organizations comes from whatever power strong states are willing to invest in making the organization influential. Only when states apply their own resources do IOs have the capacity to exert power over other states. This conclusion seems inescapable given the realist presumption that material power, in military forms, moves world politics, and given that IOs lack military capacity of their own and are only likely to get such power when it is loaned by strong states under strict conditions. Without independent control of military capacity, IOs can only be conduits for the expression of underlying distributions of state power. For this reason Michael Glennon, upon finding that the Security Council is made up of states that disagree with one another, concludes that American unipolarity ultimately makes the Council immaterial. Where IOs do exist, realists suggest that they so closely reflect the distribution of material resources among the states they are comprised of that they add little that is significant to the outcomes of interstate conflicts. Strong states generally win out in the construction of international institutions, and so the interests of these states should be privileged in the IOs. Lloyd Gruber, for example, argues that medium-sized states can be pressured into participating in multilateral schemes when strong states show their willingness to “go it alone.” This, according to Gruber, is how Mexico ended up in the North American Free Trade Agreement (NAFTA), when its preference was to return to the status quo that existed before the Canada-U.S. trade agreement. It also explains why the European Monetary System (EMS) was accepted by some states (such as Britain and Italy) that strongly preferred other kinds

52 Chong 2000. The remaining gap between Chong and Bukovansky is approximately this: for Chong, norms can be treated as “investments” made by actors in the past and which they value, thus allowing them to be calculated into cost-benefit equations; for Bukovansky, norms (or the legitimated “political culture”) are internalized and so alter actors’ preferences (and thus their estimation of various payoffs).


54 Glennon 2003.
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Realists emphasize the power strong states have to influence the range of options open to weak states, and therefore to influence the kind of international organizations that come into being. Once in place, these organizations tend, by definition, to reflect the interests and desires of the powerful.

All approaches to international relations agree that state power is important and that the strong generally succeed in shaping the system to their interests. If there is a distinctive feature of the realist and neorealist traditions it is the assumption that military resources dominate states’ thinking about power and threat. Non-realists are equally concerned about power, but they conceive of power in different ways. For instance, neoliberal institutionalists similarly acknowledge that international organizations have little enforcement capacity, but they conclude that IOs can nevertheless have important effects on interstate outcomes. For neoliberals, international organizations begin life as solutions to coordination problems among states. Because states can be made better off by binding themselves to multilateral international commitments, both strong and weak states might find it beneficial to make such commitments. In this neoliberal view, a pareto-superior end point is available if states can find a credible way to commit themselves to collective solutions. The “formalness” of the organization and the “publicness” of the commitment are tools by which this credibility is created and demonstrated.

The neoliberal institutionalist school of IR measures the power of international organizations in terms of their ability to reduce the costs of transactions among individual state actors. This tradition derives its heritage from Ronald Coase’s work in “positive” political economy on the reasons for the existence of firms and contracts. Where individuals are seen in this way, it is logically required that institutions be seen “as nothing more than the set of processes, the machine, that allows . . . collective action” by individuals to take place. International organizations exist, therefore, and states choose to respect them, because IOs allow states to reach utility levels that they could not reach without them. Once in place, path dependence may take hold and reduce the costs of continuing to comply as composed.

55 See Gruber 2000, chap. 7 on Mexico, and chap. 8 on the EMS. See also Cameron and Tomlin’s (2000) version of NAFTA.
56 For conceptualizations of power in IR theory, see Barnett and Duvall 2005.
59 See Baldwin 1995; Vaubel and Willett 1991; and Keohane 1984. An alternate branch of the model looks at the ability of international organizations to affect domestic politics by giving the government (or others) leverage in domestic competitions. See Cortell and Davis 1996; and Milner 1997.
60 Coase 1937.
61 Buchanan and Tullock 1962, 13.
pared to the costs of defecting, but the logic of instrumental cost-benefit analysis remains at the center of state.IO relations. In sum, it is sometimes in the self-interest of states to choose to follow an organization.62

A third approach to examining the influence of international organizations begins with the two central insights of constructivism: “that the fundamental structures of international politics are social rather than strictly material . . . and that these structures shape actors’ identities and interests, rather than just their behavior.”63 From this starting point a research program has developed that charts how international institutions can constitute states and their interests; how they can define the terms by which states pursue those interests; and how they can be sites for the contest between states over status, legitimacy, and power. The constructivist program has both critical and positivist strands. Its empirical research includes, for example, how the fact that arguments at the Security Council are cast in legal language affects the politics that happen there,64 how the terms used in domestic debates about state identity affect its international commitments and status,65 and how negotiations in international crises can both break and remake bonds of community among states.66

By locating the concept of legitimacy at the center of the discussion, I adopt elements from all three approaches to international organization. In relation to the realist explanation, the legitimacy of an organization helps to explain when powerful states find it a useful tool in their arsenal, even if they do not believe in that legitimacy. It also gives a causal explanation for how legitimation changes the relative costs and benefits of complying or defecting, and this contributes an important element to the liberal argument. For constructivism, emphasis on legitimation shifts the focus from material power to the social construction of meanings around material resources, social institutions, and symbols.

**PLAN OF THE WORK**

The structure of this book reflects the path of legitimation itself, from creation to reproduction to delegitimation or, to borrow language from

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62 This is a long-term view; there may be short-term reasons to defect from a cooperative system, and the neoliberal model allows that states may indeed defect in practice. What is important is that, in defecting in the short-term, states have considered the consequences of that defection for the long-term stability of the institutions they presumably value. “Self-interest” is understood here in the way described more fully in chapter 2.

64 Johnstone 2003.
65 Lynch 1999.
economic markets, from investment to exchange to loss. Chapter 2 provides a theory of the legitimation process for international institutions. Centered on the power an institution gains by being seen as legitimate, this model introduces the concept of legitimacy to the study of international institutions and organizations. It addresses, first, how legitimated institutions affect individuals and their behavior, and, second, how institutions come to be legitimized in the first place. Legitimacy changes individuals’ perceptions of their interests through the process of internalizing external norms. This change in individuals then creates a change in the structure of the system as the new behavior becomes more common. Even actors unaffected by the internalization process will find it rational to alter their behavior to account for the change in their strategic environment. The steps in legitimation are spelled out in chapter 2 in generic and abstract terms; their more interesting aspects are revealed only in later chapters when we can see these forces at work in concrete instances.

Chapter 3 presents a series of debates about how legitimation takes place in empirical settings and sets out a number of competing explanations. These address three broad questions that arise repeatedly in social science studies of legitimacy: (1) What makes an institution appear to be legitimate? (2) How does legitimacy affect strategic behavior? and (3) What difference does legitimation make in the relations between strong and weak actors? Each question has been answered in a number of ways, and this book provides some of the most common modes of thought on the subject. These controversies on how to interpret legitimation are then considered again in chapter 7 in light of the empirical material in the intervening case studies.

Chapter 4 begins the examination of the UN Security Council, starting with its early history. When the American proposals were first made in 1943 and 1944 for a prospective world organization, there was obvious tension between the desires of the major powers to retain ultimate control over the organization’s biggest decisions and the need to gain widespread support among the small and medium states that were to be its rank and file. The unequal structure of the Security Council, which was necessary for the former goal, was an obstacle in achieving the latter. This tension could only be managed by a program of legitimization. Chapter 4 charts this program in the debates and conflicts over the shape of the Security Council between the Dumbarton Oaks Conference and the early years of the Council’s operation after 1946, and centers on the UN Conference on International Organization (UNCIO) in San Francisco. Most striking was the degree to which the small and medium states that had opposed the veto allowed the procedures of the conference to structure, and ultimately limit, their chance to express that opposition. They took advantage of the opportunity the conference afforded to voice their dissent
from the draft plan, but once their amendments failed to win the necessary super-majority and the Great Powers refused to concede to their demands, they gave up their fight and went on to support the Charter with enthusiasm. The substantive interests of the veto opponents were never satisfied, but they switched nonetheless from opposition to support of the draft. The key element of the Great Powers’ strategy for the conference was to take advantage of the small states’ commitment to the well-established procedures of international conferences and thus allow some careful circumscribed dissent. The opportunity for small states to voice their interests, even as they lost the substantive effort, was important in legitimizing the inequalities that remained in the Charter. Throughout we see the importance of proceduralism (conferences, deliberation, and the rules that organize contention) in creating legitimacy.

Once in operation, the strength of the Security Council lay in its ability to confer and withhold symbolic status to states and their actions. Chapter 5 examines how a legitimated institution comes to be seen as embodying a corporate identity, and how that identity causes the objects and practices associated with it to become symbolically powerful. The life of institutions is a constant effort by actors to appropriate, reinforce, and undermine the institutions’ legitimacy, and much of the Council’s role in international affairs since its founding, and especially since the late 1980s, demonstrates this. Chapter 5 considers the history of the Council as a problem in the long-run governance of a social system. It looks at several ways actors have sought to associate themselves with the symbols of the Council as a means of appropriating some of the legitimacy, and thus some of the power, that it represents. Notable here are the efforts of states to win collective legitimation for the use of force, the desire by states to occupy non-permanent seats in the Security Council, and the interest in adding items to the Council’s agenda and keeping them there. These forces were evident in the the U.S.-Iraq crisis of 2002–3 insofar as international political support for the American operation was partly dependent on the symbolic authorization of the Council. In each of the instances in this chapter, states spend a great deal of energy to associate their cause with a symbol of the Council, with no expectation that this association will change the material facts of a dispute, but a strong expectation that a change in symbolism alters the way others understand the situation. This itself is equivalent to a change in material conditions and shows the power legitimation creates in an institution.

After chapters 4 and 5 examine the creation and deployment of legitimacy in an institution, chapter 6 takes the next step and looks at the process of delegitimation. If legitimacy gives an institution power over actors, how might one go about challenging that power? One should never assume that an institution that is widely seen as legitimate is actually morally
CHAPTER 1

good and always (or ever) acts for the benefit of all. Legitimacy is worth studying precisely because it is a powerful force and can transform a relation of overt coercion into something that appears more benign. That does not mean that it is benign. Examining the efforts of dissenting states and groups to oppose the Council and its decisions shows both the strengths and vulnerabilities of social orders buttressed by legitimated power. The material for chapter 6 is drawn from Libya’s efforts to overturn the sanctions regime imposed on by the United Nations from 1992 to 2003. Libya made a clear and determined drive to manipulate legitimated values associated with the Council’s sanctions as a means to undermine the authority of the sanctions regime. This strategy was based on associating the Libyan position with international institutions and practices that enjoyed wide support in the international community. It appropriated the justifications used by the sponsors of the sanctions and used them to separate the sponsors from their audience of third-party states. Noncompliance with the sanctions was a growing threat to the legitimacy of the Council by about 1997. The response by the United States and Britain reveals the lengths to which they would go to defend the legitimacy of the Council as a whole, even if it meant abandoning their short-run policy preferences. The history and theory of that effort is instructive for understanding the contestation over legitimacy and symbols around the Security Council in particular and international politics more generally.

Together chapters 4, 5, and 6 illustrate that the legitimacy of international organizations is a consideration for states at all ends of the power spectrum: it influences the behavior of small states, such as those that were considering whether to accept the Charter in 1945; of strong states, such as Russia and others, that fight over the legitimating power of peacekeeping symbols; and even of states ostracized from the mainstream of international society, such as Libya after Lockerbie.

Finally, chapter 7 gathers and develops several implications that may be drawn from the book. These are divided between those of interest to IR theory and those directed to the practical matters of designing new international organizations. Regarding the former, I concentrate on the relationship between rationalism and constructivism, on the implications the contents of this book may have for the study of other international organizations, and on the issue of sovereignty in the international system. I find that the existence of legitimated international organizations implies that sovereignty is distributed among very different kinds of international actors and is not monopolized by states. For the practical arts of institutional design and diplomacy, my findings offer constructive thoughts for legitimizing new institutions such as international courts, and for making sense of the Council’s role in the 2003 U.S.-Iraq crisis. Chapter 7 also
returns to the central controversies about legitimation that were outlined in chapter 3 and uses the empirical findings from the Council to help address them.

Chapters 4 through 6 are organized around the empirical study of aspects of the UN Security Council, but each depends on the development of a conceptual framework that is not usually associated with the study of international organizations. The larger goal, therefore, is to develop and defend such a conceptual framework. Chapter 2 sets out a trichotomy of “modes of social control” and shows that none can be ignored in international relations. Chapter 4 takes this concept of legitimacy and makes it dynamic, demonstrating how it is created through the processes of debate and deliberation. Chapter 5 then expands on the elements of symbolism and authority that were latent in the earlier chapters and uses them to investigate further the politics that occur in and around the Council. Chapter 6 completes the cycle by opening up space for the contestation and reinterpretation of legitimacy, adding a dynamic of change to what began in chapter 2 as a relatively static concept.

METHODS AND SOURCES

The main source for the empirical materials in this book are primary documents of the Security Council, the UNCIO, and other UN bodies, as well as documents from national delegations. These provide direct evidence, from the life of the Council, of the politics of legitimation. In the chapters on international negotiations, they give a clear sense of what the states sought from the negotiations in substantive terms, as well as the procedural and discursive means by which they put forward their positions. There are times when reading the negotiating history between states might be misleading, and so I also make use of media sources and scholarly accounts to contextualize the primary documents.

The theoretical framework of the book derives from the sociological work of Max Weber and Pierre Bourdieu, and combines these with the work of Alexander Wendt in international relations. This produces a conceptual approach that in some ways is quite traditional in IR and in others quite atypical. It assumes, for instance, that states are unitary actors that generally act rationally, by which I mean that they calculate the relative costs of alternative strategies in the pursuit of their perceived interests. Following a typical state-centric model, I treat states as the main actors and examine the influence of international organizations in terms of their effects on states. This influence on behavior may either be direct or mediated through a process in which an international organization contributes to the construction of states’ interests. International organizations are
important, as they influence how states think and act. I do not inquire into how states came into being, how the position of states relative to other actors might be changing, or how individuals within governments or the public at large compete to control policy.

I also assume that, although states are the central actors, the environment in which they operate is populated by institutions and social forces that shape and influence them in significant ways. My interest is in the international organizations that exist among these forces, but other institutions are also clearly important, including market forces, ideologies, populist mobilizations, and a range of nonstate actors. All these outside influences on the state contribute to constituting the environment in which states make decisions. These factors contribute to constructing the payoff matrix for states. States take decisions in the context of an already existing set of institutions in the system, and the presence of these institutions changes the costs and benefits attached to actions. Even strong states take their decisions in this context; although they have more power than weak players to change the nature of their environment, in short-term situations like international crises this power is limited even for the strong.

The power of international organizations is both “institutional” and “structural” in the terms provided by Barnett and Duvall. Institutional power arises when “the rules and procedures” of an international organization are used to “guide, steer, and constrain the actions (or nonactions) and conditions of existence of others.” Each of the empirical chapters that follow shows that the Council is a location of institutional power and examines the implications this has for relations between states and for the Council itself. Structural power is evident in the relation of mutual constitution between Council power and state interests. The process of legitimating the Security Council is inseparable from the constitution of states’ interests. It contributes to making “the social powers, values, and interpretations of reality that deeply structure internal control” characteristic of state sovereignty. Productive power, as defined by Barnett and Duvall, is not pursued in this book but could be the focus of research on international legitimacy. In such a work, the emphasis would be on the processes through which powerful discourses become authoritative and therefore legitimate.

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67 Johnston (2001) develops a similar framework to study the process of socialization of states.
68 Barnett and Duvall 2005.
69 Ibid., 51.
70 On “mutual constitution,” see Wende 1987.
72 See, for instance, Williams 1999.
The combination of rational states in a social environment means that my approach straddles two of the conventional divides in IR theory. By assuming that states are rational but in a socially constructed environment, it overturns a false dichotomy that separates some versions of rational choice and constructivism, and by studying both the material and social content of the environment it links the materialist emphasis of realism with the ideational concerns of constructivism. I think it is more productive to combine these approaches than to treat them as mutually exclusive. This is true for both theoretical and empirical reasons. These are documented and defended in the chapters that follow and revisited in chapter 7.