



EUROPEAN POLICY BRIEF



GLOBAL RE-ORDERING: EVOLUTION THROUGH EUROPEAN NETWORKS

Representation and authority in international organizations

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INTRODUCTION

When governance is increasingly lodged at the level of regional and global networks, it becomes important to identify and assess mechanisms that enable the ruled to hold rulers to account. When democratic and legal mechanisms to promote accountability are found to be absent at the level of the state, international organizations can be said to be characterized by an **accountability gap**, which may – and often does – result in a **legitimacy gap**.

In this Policy Brief, I analyse the evolution of the **authority of the Secretariat of the United Nations** (UN) and show that this bureaucratic body has vastly expanded its authority. It has done so through **claims to representation** of the “international community.” I use this case to reflect more broadly on how the myriad actors engaged in global governance can establish the authority to govern without there being concomitant **accountability mechanisms**.

As stipulated in the UN Charter, the Secretary-General is to be the organization's chief administrative officer (Art 97), to be present in the meetings of the main inter-governmental bodies, and report to these bodies on the work of the organization (Art 98), and "may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security" (Art. 99). And article 100 (1) specifies that the Secretary General and his staff – the Secretariat – is to remain resolutely neutral: the "Secretary-General and his staff shall not seek or receive instructions from any Government or from any other authority external to the Organization" and that they "shall refrain from any action which might reflect on their position as international officials responsible only to the Organization."¹ On the UN's website, however, the Secretary General (SG) is given a much more expansive mandate: "Equal parts diplomat and advocate, civil servant and CEO, the Secretary-General is a symbol of United Nations ideals and a spokesman for the interests of the world's peoples, in particular the poor and vulnerable among them."² This is far removed from the initial description of the SG and the Secretariat as being neutral, servants of member states, and being (merely) a secretariat function to smooth the cooperation between states. What explains this expansion of the Secretary-General's authority?

It cannot be explained by member states agreeing to do so, since no consensus has materialized about the specific role or authority of the Secretary General and of the Secretariat beyond the stipulations in the UN Charter. Indeed, even permanent members of the Security Council – who select the Secretary General – have often actively sought to curtail the SG's authority. Nonetheless: from the 1950s onwards, we can detect a clear trend towards an expanded authority of, and role for, the UN Secretary General in mediating between states and managing international conflicts without explicit mandates from the UN Security Council. A similar trend is found in other international organizations, such as the World Bank, where its explicitly apolitical mandate – it is to focus solely on "economic" matters – has been expanded to cover a wide range of dimensions of recipient countries' policies.³ Similarly, in debates over the relative power and authority of EU member states, the European Parliament, and the Commission, the role and authority of the latter in shaping policy outcomes has been a

¹ <https://www.un.org/en/documents/charter/chapter15.shtml>

² http://www.un.org/sg/sg_role.shtml. Accessed November 3, 2013.

³ See Sending, O. J. and Neumann, I. (2011) "Banking on Power: How some practices in an international organizations anchors others" in Adler, E. and Pouliot, V (eds) *International Practices*. Cambridge University Press.

most central concern.⁴ As I detail below, the explanation for this expansion of authority is to be found in how the UN Secretary General and the Secretariat has claimed to *represent* the “international”, the specific content of which has been adjusted to particular settings as either being the converging interests of member states, the “world’s peoples,” or the “principles” contained in the UN Charter.

The UN Secretary General and claim to represent the “international

As formulated in the Charter, the neutrality of the Secretariat was a question of neutrality from specific government’s instructions. Nowhere is there any specification as to neutrality in any other form. Whereas the Charter stipulates a kind of “negative” neutrality (“from” member states), the Secretariat over time came to claim its role as an actor that advanced and “owned” the neutrality of the UN Charter and thus positioned itself not as neutral, but as *impartial* – now with a claim to judge and adjudicate between rival claims advanced by UN member states. For the present purpose, it is important to recognize how legal thinking shaped the League Secretariat – and by implication, the UN. Both the League and the UN Secretariat was conceptualized as entities that were charged with codifying rules agreed to by states, and to use these rules in their dealings with states.⁵ The existence of a legal, or rules based mode of operations for the UN Secretariat opened the door to an interpretation of neutrality as being compatible with a distinct commitment to the rule of law to fill the concept of the “international” with substance and direction.

One of the first and most significant instances of the invocation of such an impartial position – as acting on the basis of rules rather than explicit mandate from member states - came when Secretary-General Dag Hammarskjold sought the release of US soldiers serving under UN Command in Korea that had been captured in China. It came to define the so-called “Peking Formula.” It meant “acting in his role as Secretary-General under the Charter of the United Nations and *not as a representative* of what was stated in the General Assembly resolution” and an explicit distancing from “undiplomatically formulated resolutions” by member states.⁶ In so doing, Hammarskjold effectively claimed a position as an authority with reference to the UN Charter and the “international” responsibilities of the Secretary General, which was for *him* rather than member states to interpret and act on. Indeed, the claim to represent the

⁴ See for example, Garrett, G. and G. Tsebelis (1996) “An Institutional Critique of Intergovernmentalism” *International Organization* vol. 50, no. 2: 269-299.

⁵ See Sacrise, G. and A. Vauchez (2007) “The force of international law: lawyers’ diplomacy on the international scene in the 1920s.” *Law & Social Inquiry* no. 32 (1):83-107.

⁶<http://www.un.org/Depts/dhl/dag/time1955.htm>

“international” in this case helped constitute and bring coherence to the international as an object of governing in its own right. In that sense, the claim to represent the international was performative: That which is claimed to be re-presented – a group of individuals, a region, or the international - emerges with its meaning and boundary *through* the claim of representation.

Later, the same claim to representation came to the fore when Hammarskjold had to defend his actions, and those of the Secretariat, in the management of the peace operations in Congo. During the plenary session of the General Assembly in 1960, with the peace operation in Congo ongoing, Soviet Premier Nikita Khrushchev attacked the UN Secretary-General Dag Hammarskjold, saying not only that he should resign, but that the whole post of Secretary-General should be abolished, to be replaced by a *troika* representing the eastern bloc, the western bloc, and “neutral” countries. The Soviet Premier said that Hammarskjold, as chief executive of ONUC, was aiding the “colonialists” in their efforts to “secure the establishment of a puppet government, a government which, though ostensibly ‘independent’, would in fact carry out the wishes of the colonialists. ... It is deplorable that they have been doing their dirty work in the Congo through the Secretary-General of the United Nations, and his staff.”⁷ Hammarskjold had, he argued, “Violated the elementary principles of justice in such an important post as that of the Secretary General.”⁸ Hammarskjold responded that “I shall remain in my post during the term of my office as a servant of the Organization in the interest of all those other nations, as long as they wish me to do so. In this context the representative of the Soviet Union spoke of courage. It is very easy to resign. It is not easy to stay on. It is very easy to bow to the wishes of a Big Power.”⁹ Hammarskjold prevailed in this debate, reportedly with standing ovations from delegates in the General Assembly.

Later, in a speech delivered at Oxford University, in May 1961, Hammarskjold elaborated on his views on the nature and role of his office and that of the Secretariat. He cites an interview with Khrushchev reported by Walter Lippman in which the Soviet Premier had said that “while there are neutral countries, there are no neutral men” and that consequently “there can be no such thing as an impartial civil servant in this deeply divided world, and that the kind of political celibacy which the British theory of the civil servant calls for, is in international affairs

⁷ Khrushchev, Nikita (1960) UN General Assembly. Official Records of the 869th meeting, 23 September 1960, para 141-142.

⁸ Hammarskjold, Dag (1960) UN General Assembly. Official Records of the 883rd meeting, 3 October, 1960. Para 4

⁹ Ibid, para 2-7

a fiction”¹⁰ Hammarskjold noted that such views on the role and work of the UN Secretariat, “challenged the basic tenets in the philosophy of both the League of Nations and the United Nations, as one of the essential points on which these experiments in international cooperation represent an advance beyond “conference diplomacy” is the introduction on the international arena of joint permanent organs, employing a neutral civil service...”¹¹

This debate, and Hammarskjold’s defense of the neutrality of the Secretariat reveal something significant because it brings out the *precarious* nature of the claim to neutrality and independence of international and regional organizations. The formation of the Secretariat with a degree of authority independent of successive resolutions in the General Assembly or the Security Council, is intimately linked to a particular conception of the “international” as interpreted and advanced by the Secretary General: Hammarskjold, and others after him, have invoked a concept of the “international” to construct and act on an interpretation of the Charter in such a way that the *failure to act independently* and potentially in direct conflict with some member states interests, would constitute a *violation* of the Charter. Such claims to represent the “international” derive their force not from expressing a pre-existing group’s interests but from constituting and giving concrete meaning and significance to such groups in the first place. In short: the “international” that the Secretariat claimed to represent did not exist as a group of states or as a realm to govern prior to the Secretariat’s claim to represent it. Rather, the international emerged with its distinct meaning and significance through the Secretariat’s claim to representation.

Representation and authority

To see what is at stake in such claims to representation it is useful to distinguish between actors that are “in authority” and actors that are “an authority”. State actors typically delegate certain tasks and competencies to international (UN) and regional (EU) organizations – acting as an agent of these states. The European Commission, and the UN Secretariat, are therefore actors “in authority.” Such authority is based on a mutual recognition among states that they are *equal, and not able to forge a common position*: it is assumed that no one actor can persuade others on substance to substitute their own judgment for that of another actor. For this reason, an authority is set up, guided by rules, to make binding decisions within certain limits, where the authority of the decision is vested in the institution or office, not in the

¹⁰ Hammarskjold, Dag (1961) International Civil Service in Fact and in Law. Lecture Given at the Congregation at Oxford University, May 30. P.

¹¹ Ibid.

personal characteristics of the person occupying it.¹² “An authority”, by contrast, presupposes precisely the opposite, namely a recognition of *inequality* in that some actors are considered to have expertise, skills, experiences or other attributes that makes others defer judgment to that actor. Moral authority and expert authority are both in this category. For “an authority” to exist, there must be a *shared epistemological framework*: only those that share, say, the moral outlook of Amnesty International or Human Rights Watch – will agree that these organizations have moral authority. Similarly, expert authority is based on a shared scientific or other framework within which it makes sense to say that some actors know better. A position as “an authority” is much more expansive than a position “in authority” because the former implies that some actors are recognized with superior insights and skills so as to be able to move beyond the present order.

If we now return to the description of the Secretary-General’s different roles quoted above – he is the CEO of the Secretariat, an advocate of the international community, and a spokesperson for vulnerable people – we can see that the authority of the UN Secretary General and the Secretariat in general has expanded over time from being (merely) “in authority” to also being “an authority”: The Secretary General and the Secretariat is not only “in authority” but also “an authority” inasmuch as the Secretariat is speaking on behalf of and claims superior competence to manage certain key aspects of international life. The key point here is that some actors are able to present themselves and their operations as (merely) being “in authority” and thus doing what others (states) have told them to do, while at the same time advancing for him/herself a claim to be “an authority” and thus to have superior competence and skills *without* this necessarily being recognized as such *because* they do so under the guise of *representing*, say, the “international” or “Europe”. This is what happened with the UN Secretariat, and it did so through successive claims to representation over the international that no state could really challenge.

Today, the UN Secretariat is in charge of managing UN peacekeeping operations, and the *way* that it does so is significantly shaped by the very claim to authority that it has established for itself by claiming to represent and acting on behalf of the international community. That is: UN peacekeeping operations have been faulted for not being sufficiently sensitive to knowledge of the local context and for pushing international standards and best practices

¹² Friedman, (1990) “The Concept of Authority in Political Philosophy” in Raz, J. (ed) (1990) *Authority*. Blackwell Publishers. pp. 80-83.

without securing local buy-in and so-called “ownership.”¹³ A significant part of the explanation for this lack of attention to the local setting is found in the very process through which the Secretariat first established itself with authority to engage in peacekeeping operations in the first place, namely to represent and advance “international” rules. With the international as the frame of reference for its activities, the local is – almost by definition – a subordinate concern.

POLICY IMPLICATIONS AND RECOMMENDATIONS

Most of the actors that partake in policy debate beyond the level of the state *claim to represent others*. Such claims to representation confers authority because what is being said and done appears as something public and generalized – pertaining to a collective – rather than something private and particular. But one should be wary of such claims to representation, because they often confer authority without there being concomitant mechanisms for those whose interests and identities are thereby invoked to nuance and challenge them.¹⁴

The policy implications and recommendations that flow from this analysis can be summarized as follows:

- i) All actors that partake in policy debates about global issues claim to represent larger groups or interests, the nature of which should be carefully scrutinized. *Some* actors have successfully established themselves with authority through such claims representation *without* those that are thereby represented having a say on what is being said and done.
- ii) Experts and civil servants occupying positions within international and regional organizations have distinct *agendas of their own*, typically to expand their turf and scope of action. A central mechanism through which their authority is expanded is through claims to neutrality and to serving constituencies (member states), while in fact such claims to representation often include an important component of *moving beyond their formally mandated authority*.

¹³ Autesserre, S. (2010) *The trouble with the Congo*. Cambridge University Press.

¹⁴ Eriksen, S. S. and O.J. Sending (2013) «There is no global public: the idea of the public and the legitimation of governance» *International Theory*, vol. 5, no. 2: 213.237.

- iii) The authority of groups that are not subject to democratic control and accountability, including civil servants of international and regional organizations, expert groups and advocacy groups, seems to be increasing rather than decreasing. There are costs to such a development inasmuch as international rule, or global governance, is increasingly controlled and dominated by those versed in a technical, professional language, to the detriment of those affected by decisions taken by others.
- iv) Beyond the accountability issues involved in such a development, there is – finally – costs involved in the *outlook* of those professionals that claim to speak and act on behalf of others: they tend to privilege the frame of reference (the international, for example) that secures their continued authority, which may be in conflict with the frame of reference of those in whose name one act and seek to help.

RESEARCH PARAMETERS

This Policy Brief is a summary of a larger project funded by GR:EEN which looks at the establishment and competition over the authority to govern within transnational and international governance networks. The objective of this study has been to identify the evolving character of authority within and between different actors rather than to attribute it to the formal attributes of particular actors. The study was based on analyses of archival material, in-depth interviews, official documents and (some) participant observation.

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FURTHER READING

All working papers, policy briefing papers and other publications are available on our website: www.greenfp7.eu/papers