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A Beethamite analysis**

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NGO audiences: A Beethamite analysis

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Abstract

Representation is often raised as a legitimacy problem for NGOs based on questions about who is intended to express consent, in what capacity, and for what purpose. This paper provides a framework to explore the transversal nature of NGOs' socio-political community by looking at which audiences confer legitimacy onto NGOs and which actions these audiences undertake can constitute a public affirmation of expressed consent. The paper operationalises Beetham's theory of legitimation to explore what actions might count as expressed consent and thus be analysed as actions that confer legitimacy or delegitimize NGOs. The framework looks at eight groups of audiences that engage with NGOs in terms of power. The conclusion stresses that the power dynamics between an NGO and its audiences are highly fragmented and need more analytic attention if we are to better understand how issues of representation underpin and/or problematize NGOs' legitimate role in international politics.

Keywords: NGOs, audiences, legitimacy, representation, power

An important criticism often levelled at NGOs in international politics is that they have no identifiable constituency 'with whom to engage in dialogue' (Yanacopulos, 2016: 50). This is because as large complex organisations they are 'highly removed from any basic social or political community' (Lupel, 2005: 130). At the heart of these criticisms is a claim that NGOs lack an audience that can function as a demos for their legitimacy claims (Lehr-Lehnardt, 2005: 14; Mercer, 2002: 13), which leaves their constituency 'confined to educated staff members' (Banks et al., 2015: 709). Yet, despite the identified democratic shortcomings of NGOs, there are at the same time plenty of examples in the literature where this non-existing demos is referred to as 'multiple audiences', 'target audiences' or 'key audiences', and in some rare cases scholars probe directly whether NGOs can represent 'a certain constituency' (Dodworth, 2014: 29; Gourevitch and Lake, 2012: 193; Gutterman, 2014: 398; Haufler, 2010: 112; Horton and Roche, 2010: 6). The problem with such references is that they imply, directly or indirectly, that there is such a thing as an NGO socio-political community but do so without identifying its characteristics. The purpose of this paper is to bridge this gap and pin down with more accuracy not only who is involved in conferring legitimacy onto NGOs but also in what capacity they do so.

Audiences are often mentioned or alluded to in the context of legitimacy and accountability, especially in debates about the role NGOs have come to play in both international and domestic politics. According to Shivji (2007: 43-44), NGOs operating in Africa have in many cases been subsumed into formal policy processes where they have taken on semi-sovereign roles without any apparent forms of accountability. This, he argues, is problematic because it is not clear 'which interest is being served by a particular policy. A question about which there

can be neither neutrality nor non-partisanship' (Shivji, 2007: 43). One of the critical lessons from Shivji's book that is relevant for this article is that NGOs, as international actors subject to the drivers of globalisation and global agendas, lack a clear local (or for that matter global) constituency that can legitimise the representative role they play as international actors in domestic politics.

While scholars generally agree that NGOs have some form of power, there is disagreement about how that power should be accounted for. Most scholars would agree that NGOs have no coercive powers in international politics. At the same time analysts also recognise that 'there is very little "smart power," or "soft power," without them' (Wittes, 2013: 2). It is important to stress the centrality of power in the analysis of legitimacy, because without it legitimacy becomes diluted, and possibly meaningless, as a political concept. Power, according to Beetham, is an essential ingredient of legitimacy: 'All societies find it necessary to regulate the access to and exercise of power; and wherever power is organised and distributed in accordance with social rules ... these rules stand in need of legitimation' (Beetham, 2013: 39). Thus, he argues, we cannot separate power from legitimacy without legitimacy falling short as a political concept.

This understanding of power presumes that legitimacy is a relational concept. The audiences framework introduced here is based on the idea that legitimacy, as a relational concept, can be used to analyse the power dynamics in the relationships between an NGO and its audiences. That is, a power relationship between two entities where one is aiming to 'achieve their purposes through others' and where legitimacy is used to analyse how these entities engage and how their normative status is derived from the 'character of a legitimate power

relationship as legally valid, justifiable according to shared norms and beliefs, and confirmed through actions expressing consent' (Beetham, 2013: 38). As Beetham states:

“If power is one person’s ability to achieve their purposes through others, then it cannot be a matter of capacities and resources alone, but also depends on the degree of the others’ willingness to cooperate. And that willingness cannot be sufficiently created by incentives and sanctions on their own; it depends on the normative status of the power holder, and on normative considerations that engage us as moral agents. This normative status derives from the character of a legitimate power relationship as legally valid, justifiable according to shared norms and beliefs, and *confirmed through actions expressing consent* (Beetham, 2013: 38 [emphasis added]).”

It is what these ‘actions expressing consent’ might entail for NGOs’ legitimation of power that this paper is concerned with, explored through the questions of who is expected to confer legitimacy onto NGOs, what might constitute such an act, in what capacity they confer legitimacy, and what limitations these acts impose on NGOs’ power. The paper looks at the power dynamics of the relationships between an NGO and eight groups of audiences that NGOs meaningfully engage with, and which can be viewed as a potential socio-political community. In so doing, the paper aims to fulfil two tasks, a conceptual task in advancing theories on NGO political legitimacy, and a heuristic task that outlines a typology of NGO audiences that can legitimate the power of NGOs.

Conferring legitimacy onto NGOs: the problem with power and representation

Before focusing on what actions might constitute expressed consent it is important to understand the representative dilemma, and criticism thereof, that NGOs have become saddled with. The wider literature on representation and legitimacy emphasises both how our understanding of representation is embedded in democratic political systems as an all-inclusive concept

(Mansbridge, 2011), and how there is a need to expand the concept to explore it in wider political settings including what constitutes the 'activity of representing' (Rehfeld, 2011: 636). According to Rehfeld (2011: 640) 'representation should be conceived in audience-centred ways entirely independent of democratic concerns'. This conceptualisation opens the door for exploring how representation applies to NGOs as entities outside the traditional boundaries of representative democracy but tiptoeing on the sidelines peering in.

In the more NGO specific literature this discussion takes shape along the same lines where representation is identified as a problem or issue for NGO legitimacy. According to Montanaro (2012: 1106) since 'nonelected actors increasingly offer claims of representation' there is a corresponding need for 'a theory of democratic representation that will provide the conceptual tools to assess if, and when, nonelectoral forms of representation can be democratically legitimate'. The argument Montanaro (2012: 1095) makes is that legitimacy as an act of claim making can accommodate self-appointed representation as democratic, but only 'if the affected constituency is empowered to authorize and demand accountability of the self-appointed representative'. This, she argues, can be achieved through a norm that can 'give political presence to those whose interests are affected' thus making them 'visible and audible as affected' with 'powers of authorization and accountability' vis-a-vis the NGO (Montanaro, 2012: 1098).

A possible problem with Montanaro's argument is that it is limited to an understanding of legitimacy as claiming self-legitimation and thus focuses on how NGOs perceive and justify their power and is less concerned with how such

'legitimations are acknowledged or accepted by those subject to it' which, according to Beetham, is a crucial part of understanding not only the effectiveness of their authority but also the quality of their legitimations vis-a-vis 'the wider society' (Beetham, 2013: 255-6). Montanaro's argument thus focuses on credibility of NGOs' legitimacy claims where the solution is about recognising how their supposedly represented audience is made visible and as such empowered as an affected group. Brown (2008) has furthermore argued that NGO legitimacy is primarily about 'creating credibility' that can be validated on a peer-to-peer basis between NGOs through a system of self-regulation. An argument that has been echoed by other scholars claiming that 'NGOs that lack credibility with key audiences ... are almost certain to fail in their quest to bring about social change' (Gourevitch and Lake, 2012: 193).

The upkeep of credibility for self-legitimizing purposes is however, as many scholars have shown, not a sufficient explanation of NGOs' legitimacy. Gutterman (2014: 398) for example states that 'a TNGO's target audience (rather than the TNGO itself or the issue it addresses) determines which types of legitimacy are required, and which characteristics secure such legitimacy'. The shortcoming of arguments that focus on credibility and self-legitimation is that they do not specify how 'key audiences' can instigate a process that would lead to such an outcome (which brings us back into conflict with representation as a concept). But analysis of legitimacy as a relational concept requires that theories also explain whether and how the affected constituency can have access to decision-making processes, not only for the purpose of honouring the terms of their contract with NGOs, but more importantly how they can terminate it. This is the main hurdle to overcome in examining representation as a legitimacy construct, that is, the

question of 'how can we get rid of you' (Benn, 1991). This includes the procedural aspect of power, that is, what processes or rules can be implemented to help the key audiences to terminate the relationship that so directly affects them. Despite the significance of credibility in constructing legitimacy, theories limited to such a view do not adequately answer the issue of representation because they circumvent the normative structure of power.

One attempt to do this has been made by Jennifer Rubenstein in her book on political ethics for humanitarian NGOs, *Between Samaritans and States*, where she makes a case for a justice-based analysis of NGOs' power to overcome this dilemma. She develops a theory that explains how humanitarian NGOs are frequently faced with moral challenges and difficult choices as actors caught between the public and the private sector. By characterising NGOs as moral agents involved in 'conventional governance to some degree' she makes the case for situating NGOs as 'in-between' actors. That is, as actors that 'exercise tremendous power', for example over aid recipients, and who have others, for example donors, 'exercise tremendous power over *them*' (Rubenstein, 2015: 209-210). The thrust of her argument is that NGOs' power should not be in terms of how bad their representation is but about normative assessments such as whether NGOs 'undermine the interests of poor and marginalized peoples' (Rubenstein, 2015: 131). Her thesis thus shifts the focus from representative based arguments to a justice-based argument proposing that we focus on 'how well they *avoid misusing their power*' (Rubenstein, 2015: 121).

Despite the pushback Rubenstein's theory provides against the limits of credibility and representative arguments some scholars have major reserves about building

NGO legitimacy around justice-based theories. According to Erman (2016) such an approach overlooks the importance of process for legitimating political power. Erman argues that: 'A major limitation of the "justice path" is that it tends to neglect the procedural aspects of legitimacy, which cannot be fully responded to via substantive demands such as through the redistribution of basic human rights' (Erman, 2016: 30). The concern is that such an analysis disconnects legitimacy and politics in a way that de-politicises NGOs. It follows that if we are to accept that it is beside the point 'who elected Oxfam' we choose to ignore the political context of NGOs' power. Ellis (2010: 81) raises this point when he questions the real life implications of such an analysis: 'When leaders of NGOs with tens or hundreds of thousands of largely passive donors ... meet with a Minister to talk about aid and foreign policy, are those individuals really only providing information and expertise and standing up for core values? Or are they seen as representatives of an important political constituency?' This is indeed the case, nonelective representation happens in real life as both Rehfeld and Montanaro point out, and as is evident throughout both the academic and the growing grey literatures where NGOs are cast, perhaps unwittingly, as representatives of marginalised or excluded peoples (United Nations, 2004; Bebbington, 2005; Lang, 2012; Greenpeace India, 2015).

As these theories highlight the different approaches to how we can analyse the representativeness of NGOs they are limited in the sense that they are either too close to our understanding of democratic representation as legitimated by elections, thus clouding our judgement, or too far from how we practice democracy in reality and thus theoretically unhelpful. What this highlights is a fragmented understanding of NGO legitimacy and representation. Addressing

this disparity matters because NGOs have become increasingly significant actors in international politics capable of influencing political debates and are largely perceived by other actors as representing global publics (Halpin, 2010: 12). Some argue that the role NGOs play in international organisations is political because they behave as political opposition exercising ‘authority in the international realm in a way that goes beyond commands’, which in turn has contributed to the politicisation of these institutions (Zürn et al., 2012: 71, 86). This is sometimes theorised as NGOs’ ability to induce normative change in international politics, ranging from their formal participation in governmental institutions to informal lobbying at invitation only meetings on global issues (Clark, 2001; Keck and Sikkink, 1998; Avant et al., 2010).

However, it is also becoming clear that NGOs’ power and influence is under increasing pressure with the pushback against them in the emerging powers (Sidel, 2016; Walton et al., 2016). The pressure is mainly on the principle of associational freedom, one that NGOs rely on as the ultimate guarantee for their right to exist. This involves querying whether current regulation, mostly in the form of financial accountability, provides satisfying ‘checks and balances’ when it comes to scrutinising the power of non-state actors and the influence they wield on policy-making (Lipton and Williams, 2016).

In sum, what the existing literature highlights is that there is a common notion in the literature about NGOs having or needing constituencies and that these comprise audiences that need to be integrated into theories about NGO legitimacy. Because in the end if we are to overcome the mismatch of power and the representative gap in global governance, as cosmopolitan scholars put it,

'IGOs and INGOs, like states, need to be bound by a rule-based order' (Held, 2009: 544-546). The paper contributes to this debate by offering a framework of possible audiences that can be seen to be in a position to legitimate an NGO's power.

Audiences for NGOs' legitimacy claims: a typology of power relationships

According to Beetham (2013: 39, 20) legitimacy is not a sum of legitimations that are to be accepted, but an intrinsic part of power itself. As such it requires three things: legal validity, justification of shared beliefs, and expressed consent. As outlined above the least theorised of these for NGO legitimacy is expressed consent. The framework is thus a way to operationalise Beetham's third criterion.

I put forward the following questions as a premise for the framework:

- What is the action of expressed consent? This question allows us to reflect on what type of power relationship it is.
- What hidden assumptions do different audiences have about NGO legitimacy? This question allows us to reflect on what expectations an audience may have about the purpose and abilities of NGOs.
- In what capacity are NGOs' legitimacy claims considered? This question allows us to reflect what the justification or purpose is for conferring legitimacy onto NGOs.
- What problems are related to the affirmation? This question allows us to reflect on the quality (or limits) of the action constituting expressed consent.
- What is the possible outcome of lack of consent, no consent, or withdrawal of consent? This question allows us to reflect on the triggers of delegitimation.

These questions address not only who is giving consent, but also in what form,

for what purpose, and whether these audiences can place effective restraints on NGOs' power. Thus the framework tries to analyse what 'expressed consent' means for NGOs' legitimacy. It starts with the assumption that by giving 'expressed consent' a particular audience confers legitimacy onto an NGO, and then queries what constitutes such an action, if there are antecedents to that action (hidden assumptions), in what capacity the legitimacy claims might be considered (what is the purpose of the claim), possible problems (reflecting the quality of the action), and what constitutes withdrawal or refusal of expressed consent.

The eight different groups of audiences include legislators and judiciary, donors, supporters, members, beneficiaries, international institutions, NGO peers, and the general public. These are groups that NGOs frequently interact with, they can be the target for their policy campaigns, or for fundraising, or when NGOs are claiming rights and/or representation for themselves and others. The framework highlights that the audiences are not uniform in their relationship with NGOs, some are in a legal position, some are in a peer position, whilst others may be financially or politically dependent on NGOs. The outcome of this categorization is hopefully a first step in a meaningful heuristic conception of a potential socio-political community that can be analysed based on their actions expressing consent, and the analyses of how NGOs' power is legitimated. The following section outlines the characteristics of each audiences group belonging to this socio-political community and the power dynamic in their relationship with NGOs. This includes, as per above, what actions constitute their expressed consent, in what capacity their claims are considered, what problems are related to their actions of expressed consent, and what are the possible triggers for processes

of delegitimation.

NGOs vis-a-vis legislators and judiciary. This audience is possibly the least explored in terms of NGO legitimacy. This power relationship places NGOs in a legally subordinate position where NGOs are seeking legal rights from institutions/entities that can grant them such rights. This makes NGOs dependent on certain affirmative procedures from this audience (legislators and/or the judiciary). The relationship between NGOs and the legislators and judiciary is often subject to a specific law (e.g. the Charity Act), and regulated by a governmental body (e.g. the Charity Commission). Thus the action constituting expressed consent consists of issuing legal rights to NGOs within a particular jurisdiction. Consent is expressed in the form of legal rights and regulation, such as the Charity Act and the Charity Commission in Britain. As such this power relationship generates legal validity for NGOs that underpins, in most western liberal democracies and commonwealth legal traditions, their associational freedom.

The problems associated with this type of expressed consent (and this type of power relationship) reflect jurisdictional limitations. It follows that there is often palpable tension between domestic law and the universal aspirations of many NGOs, which goes to show how NGOs are dependent on governments and domestic legal frameworks for this type of consent. It also highlights that there is a legitimacy gap between NGOs' legal domestic base and their own internal organisation of power that is often global (Thrandardottir and Keating, forthcoming). Another problem here is the gap between the associational rights NGOs are provided with in domestic legal forums and their political advocacy as

a function of this freedom. This raises difficult questions, such as to what degree can NGOs be political without compromising their legal privileges? And to what degree does the jurisdictional limitation function as an escape clause for NGOs and to what degree is it a handicap in terms of lack of institutional support protecting their freedom. One notable example here is Amnesty International's denial of charitable status in English law, a case that drew a line between charitable and political objectives of NGOs that came to underpin their subsequent registration and regulation (Chesterman, 1999; *McGovern v A-G* [1982]; Thrandardottir, 2012: 93-96).

This audience can therefore be highly restrictive and problematic for NGOs, especially in countries where there is limited or no legal framework pertaining to NGOs, or in cases where the government raises legal or regulatory barriers to fundraising or registration that impacts on the operational capacity of NGOs (Rutzen, 2015). Withdrawal of consent, or severely restricted/limited consent, can thus trigger a process of delegitimation that undermines the association freedom of NGOs and deprives them of an environment (and thus ability) to function properly. Withdrawal of consent from this audience can therefore cause structural delegitimation to NGOs as recent studies indeed indicate (Christensen and Weinstein, 2013).

NGOs vis-a-vis donors. Donors are perhaps the best represented group of the audiences within the literature. NGOs need them but at the same time are in many ways frustrated by the accountability frameworks imposed on them that are often directed to safeguard the financial interests of donors (Bond, 2015; Bebbington, 2005). This places NGOs in a financially, and possibly contractually,

subordinate position where consent is expressed via contractual obligations with financial transactions as a reward for meeting contractual criteria, and funds are withheld as punishment for failing to do so. Thus this power relationship is defined in monetary terms and has a tendency to reflect NGOs' accountability according to donors' needs and demands.¹

The power relationship between donors and NGOs is often regulated by contractual agreements and financial accountability audits. The most common format is that NGOs produce annual reports that demonstrate how donors' monies are spent, and related reports showing how they have achieved predefined contractual objectives. This arrangement has been criticised in studies on NGO monitoring and evaluation undertakings that show that problems might be kept under the surface in order to not jeopardize future funding or the reputation of donors (Crack, 2016; LeBaron and Lister, 2015).

NGOs' legitimacy problems here are reflected in issues about how the normative purpose of NGOs is distorted by financial drivers and subsequently how the needs of NGOs' intended beneficiaries are de-prioritised often coming second to NGOs' accountability to donors. The main dynamic of this power relationship is therefore bound up with processes of delegitimation, the triggers being withdrawal of funds, no renewal of contracts, and un-subscriptions, all of which translate into smaller budgets and are likely to have a negative impact on an NGO's operations capacity.

NGOs vis-a-vis supporters. According to Halpin and McLaverty there is a

¹ Emerging research is also challenging this paradigm; see for example Deloffre (2016).

significant distinction to be made between members and supporters of NGOs. One comprises NGOs based on membership, which we can have legitimate expectations to analyse as representative, the other NGOs that can only be analysed in terms of how solidarity to their cause is demonstrated (Halpin and McLaverty, 2010: 69). Starting with supporters and the power relationship NGOs have with this group it is clear that the action constituting consent for supporters, in stark contrast to members, is primarily a rhetorical act. This can be a vocal support for an NGO's values as outlined in their mission statement (that often includes a vocabulary signalling that the NGO is doing the right thing, helping and caring, or changing wrong to right). The action constituting expressed consent from supporters can however also include physical demonstrations, such as volunteering, signing up to petitions or marching on campaigns. All indicate public endorsement. Supporters are frequently quoted in NGOs' annual reports to justify their work, more so than reference to members because they are larger in number.

The legitimacy problems here are possible political agendas and the globalisation of these agendas, where supporters become represented twice on certain issues, for example on environmental policy, once through their MP and again through their NGO (Anderson, 2010; Jones, 2004; Peruzzotti, 2006). Although the triggers for delegitimation are perhaps less clear, the absence of supporters at demonstrations and fewer supporters volunteering and donating can be seen as indicators of withdrawal of consent. More direct withdrawal would include mobilisation against the NGO to demonstrate discontent or to publicly state disapproval and withdrawal of moral support.

NGOs vis-a-vis members. Members are, according to democratic criteria, strong representation claimants as one of NGOs' core constituency groups. Members, unlike supporters, can have (voting) rights within the organisation which gives them a significant influence over decision-making and the agenda of an NGO. This makes their action of expressed consent the most explicit of all the audiences and most in line with democratic expectations. An NGO with an internal democratic setup can thus make authoritative claims to represent the concerns of their members – and, as some scholars argue, in the wider political context this arrangement 'can help to improve decision making at the global level' (Halpin and McLaverty, 2010:69). Yet, members, despite their sway, are subject to the ultimate powers of the executive committee that controls who is and isn't allowed to join as a member as well as often having decision-making powers that can bypass members. That is, although members can have voting rights within an NGO they are ultimately dependent on the board for approval of their membership which can be revoked (Thrandardottir, 2012).

The legitimacy problems here often reflect issues surrounding personal agendas, nepotism and financial embezzlement, or possible procedural failures or mission drift where the executive, deliberately or unwittingly, bypasses the members. An example of this is a severance pay to an ex-Secretary General of Amnesty International that was decided by its executive committee without consulting the members. When the amount of the payout became public many Amnesty members vented their anger about not having been consulted on this issue and expressed anger about the amount they considered inappropriate and more in tune with the practices and mores of a for-profit organisation. This triggered a process of delegitimation where many high-profile Amnesty International

members resigned in a public fashion (Ainsworth, 2011). Another, more straightforward, problem that can trigger delegitimation in a membership run NGO is lack of members. This is increasingly the case for many large NGOs in the UK who have started to diversify their fundraising strategies to bridge the income gap due to lack of membership fees.

NGOs vis-a-vis beneficiaries. This audience ought to be, and is often expressed to be, central to NGOs' legitimacy. In reality, however, beneficiaries often get overshadowed by other audiences, in particular donors, when it comes to representation and legitimacy. The power relationship between NGOs and their beneficiaries places NGOs in a dominant position where NGOs have authority (delegated or not) over decisions that have a direct impact on this audience (Shivji, 2007). A possible action constituting expressed consent is the acceptance of aid (contractual or not) whether in the form of direct grants, advice in form of expertise, or surrogate representation at policy meetings or in bi- or multilateral negotiations (an example here is with IGOs, such as in WTO trade talks, where this audience is not represented or under-represented by their governments despite having direct interest in the outcome from such meetings).

The quality of the action constituting expressed consent is problematic here because this audience is more often than not excluded from decision-making processes, not only in NGOs but also in their local community and the wider political processes. Some NGOs, such as Oxfam, have tried to institute formal mechanisms for beneficiaries to engage this audience more and make them integral to their internal legitimation processes through schemes such as complaint redress (Oxfam GB, 2014: 58). However, so far, it is not clear whether

this is achieving its purpose (Yanacopulos, 2016).

There are serious questions to be asked of NGOs as the dominant party here in terms of how they legitimate their power, both from an ethical point of view as well as about processes because NGOs frequently make strong representation claims about this group, often blurring the line between NGOs and the government (Dodworth, 2014: 29). There are plenty of examples in the grey literature that reflect NGOs' sense of moral duty to this audience, often phrased in democratic terms (Greenpeace India, 2015). However, when NGOs make claims such as 'We work for the people, and by the people' (Verma, 2015) they obfuscate the issue of representation. Framing legitimacy claims in terms of democracy and representation is not enough, especially since these claims are often poorly reflected in NGOs' internal processes and organisation of power (Roose, 2012).

Therefore legitimacy problems here include questions about what choices beneficiaries have to access decision-making processes to influence or challenge the values or priorities of the NGO that may affect them. In terms of triggering delegitimation a rejection of aid or other form of assistance offered by the NGO and/or rejection of their values or priorities would undermine or erode their legitimacy. This is particularly problematic because the underlying (or explicit) expectations are very often about political and economic empowerment of beneficiaries — failing to internalise this in their power relationship with this audience poses a serious challenge to their legitimacy and ability to claim to represent them. The legitimacy challenges Greenpeace is facing in India is a recent example (Thrandardottir and Mitra, 2016).

NGOs vis-a-vis IGOs/IOs. This power relationship is characterized by signed contracts and registries that outline NGOs' participation or observation in intergovernmental/international organisations (IGOs/IOs) (Lindblom, 2005; Willetts, 2011).² This places NGOs in a subordinate position in a contractual relationship with an intergovernmental institution. These contracts enable NGOs to obtain a status where they are viewed to be catalysts or representatives of their members and supporters. In its famous Cardoso report, the United Nations panel on civil society relations declared that 'Global civil society now wields real power in the name of citizens' (United Nations, 2004: 26). Since then international institutions sometimes refer to NGOs as the voice of the global public that represents disempowered, under-represented people, or universal norms or ideas. As such they are seen to be channelling interests that get sidelined in domestic governmental processes and by default as a formative part of the solution to correct the democratic or legitimacy deficit in IGOs, albeit to a differing degree (Grant and Keohane, 2005; Archibugi and Held, 2011; Steffek, 2013).

There are two major problems associated with this power relationship. First, is the quality of such representation, can NGOs contribute rightfully to legitimacy deficits in IGOs as proxies of the general public? Leading to the second concern about whether their lack of legal *de jure* status in international law undermines their representative abilities as it raises concerns about their status being entirely dependent on the arrangements it has with the institution at hand. These

² Although I focus on IGOs here, such as the UN and EU, this category also includes IOs, such as religious institutions. For example, the Catholic Church's main administrative body, the Roman Curia of the Holy See, is a significant IO correspondent for Cafod as an agency of the Bishops Conference of England and Wales.

problems are well documented in the literature's discussions on the relationship between NGOs and IGOs (Steffek, 2013; Martens, 2005). Many have pointed out that NGOs have become integral to maintaining legitimacy in global governance and indeed a corrective for IGOs' legitimacy deficits (Macdonald and Macdonald, 2006; United Nations, 2004). Such analysis casts NGOs in the role of intermediates between IGOs and the general public where NGOs become representatives of global civil society or global public opinion that serves to counter the power of IGOs. However, some scholars argue that this is inherently a 'faux legitimacy' because NGOs and IGOs are engaged in circular discussions void of meaningful accountability (Anderson, 2010: 890).

Based on this literature the main action involved in triggering a process of delegitimation involves an IGO terminating an NGO's status within their organisation. A serious form of delegitimation would include litigation for breach of contract, whilst a weaker form would be non-renewal of contracts, both leading to loss of public affirmation and hence legitimacy.

NGOs vis-a-vis peers. In the political climate of recent years the most called for regulation of NGOs has been self-regulation. This has been evident across the board from western governments and institutions alike (Council of Europe, 2007). The theoretical support for self-regulation at the international level has largely come from Brown's (2008) work on how international NGOs can respond to legitimacy challenges, which has resulted in the creation of the INGO Charter (INGO Accountability Charter, 2005). Self-regulation often takes the shape of voluntary codes of conduct and good practice guides, although such frameworks have been criticised for catering to the requirements of donors at the expense of

other audiences (Gugerty and Prakash, 2010). The basic idea is that the power relationship between NGOs is on (somewhat) equal footing. However, research has shown that in reality it is more likely that resource rich NGOs dominate in their relationship with resource poor NGOs (Glazer et al., 2014).

Peer based power relationships, as implemented through self-regulatory initiatives, are therefore likely to be subject to the participation of resource rich NGOs. Although voluntary codes of conduct can serve as stamps of approval or as seal of quality they are vulnerable to several faults. One is that there is no supervisory regulation with statutory authority to implement sanctions in cases of non-compliance. Second, as all codes are voluntary and intended as an incentive to achieve good standards in the NGO sector they are often defined to serve the interests of those in a dominant or peer position to NGOs, such as donors and legislative bodies. Such problems can trigger delegitimation because of lack of democratic scrutiny, perceived elitism in the form of alignment with the interests of those in powerful positions and, as with self-regulation in general, because of the absence of credible mechanisms for punishing failure or undesirable behaviour.

NGOs vis-a-vis general public. Although this is possibly one of the largest audiences of NGOs it is also possibly a non-group. Nonetheless, I have included them here as some issues are worth considering under this template. Some attempts have been made to define this relationship where NGOs are defined as catalysts between governing bodies and the general public (Lang, 2012). However, it remains the case that the power dynamic in the relationship between the public and NGOs is ambivalent and poorly defined. A member of the general

public that is, directly or indirectly, affected by an NGO's policy has very few outlets, apart from joining the NGO, to influence or voice their concerns. This places them in a weak position, as no formal mechanisms of engagement exist between these two entities/actors. As a result there is no definable/tangible/evident action that could constitute expressed consent.

This raises a dilemma where on the one hand it is possible to ask whether, in the context of a liberal democracy, the general public needs to be included as an audience given there are other platforms to engage with NGOs. But on the other hand, if one is exploring representation outside of the traditional boundaries of the democratic political system, it is possible to ask whether this is indeed a missing audience. At the very least, we can argue that NGOs rely on the positive and trustful image that the general public reportedly has of them (Keating and Thrandardottir, forthcoming). Cultivating that public image is therefore important for NGOs' credibility and legitimacy, as some scholars have amply argued (Brown, 2008; Hopgood, 2013; Yanacopulos, 2016). Although the concerns of this audience are to some extent served by the legislative and judiciary audience, this is still derivative interest. This audience is therefore tentatively suggested as a possible constituency.

Conclusion

The aim of this article has been to identify an NGO 'socio-political community' based on whom NGOs communicate with when they are seeking legitimacy. The paper has demonstrated that the existing literature clearly implies an audience in the context of legitimacy and representation, and that NGOs have a role to play in international politics that furthermore can be linked to issues surrounding how

these audiences confer legitimacy onto NGOs. The paper has provided a framework for a more rigorous analysis and a more nuanced understanding of NGO legitimacy based on who is supposed to confer legitimacy, in what capacity, and for what purpose. The audiences' framework is an attempt to identify possible parameters which can be used to understand how NGOs can be held to account for their power as global actors. This should help provide more clarity about the limits of their power in international politics.

Because NGOs are key actors in delivering 'smart' and 'soft' powers it is vital to understand the representational aspect of their legitimacy. If we want to situate NGOs differently from political parties and businesses we have to be able to demonstrate how NGOs' power is legitimated and in what capacity. It is important to clarify not only who confers legitimacy onto NGOs, but also in what capacity, with what expectations, and how these audiences can limit NGOs' power. These questions are fundamental to further discussions about stakeholders and assigning responsibilities based on who is entitled to hold NGOs to account for their use of their power and based on what criteria. By identifying how different audiences confer legitimacy onto NGOs it is possible to assess the characteristics of their representativeness. Whether NGOs are perceived to be, or function as, experts, service providers, or moral imperators their claims have an audience. Demarcating NGOs' socio-political community advances our understanding of how we can better hold NGOs to account for their power.

There are two issues that I would like to highlight in the conclusion. The first issue is about overcoming the 'either international or domestic' division in discussions on NGOs' legitimacy. This is largely reflected in how their right to associate is

guaranteed. In western liberal democracies problems relating to NGOs' freedom to associate are rarely judicial or legislative problems because the freedom to associate principle is one of the cornerstones of these political systems. In countries where associational freedom is not a legal right an NGO can often have multiple problems with the judicial and legislative audience because its 'licence to operate' is not constitutionally guaranteed. Overcoming this dilemma and guaranteeing NGOs supranational legal rights to associate freely is one of the key sticking points in future negotiations about their legitimacy. A weak or non-existing support from the 'legislators and judiciary' audience can also translate into difficulties with other audiences whose consent NGOs rely on for sustaining/maintaining legitimacy. The domestic legal framework therefore highlights a fundamental difference between advanced democracies and weak or emerging democracies (and other political regimes). It furthermore highlights the feeble status of NGOs in international law, a law that seems unable to safeguard such basic aspects of NGOs' legitimacy.

The second issue is about making those who are supposed to benefit from the work NGOs do (beneficiaries) more central in the legitimation process. This audience is often taken for granted, or assumed, in the literature, as is the role of judiciary and legislators, despite being problematic for NGOs' legitimacy in the sense that they have great potential to delegitimize NGOs. The problem is that this audience can politicize the role of NGOs. One outcome of such politicization is a conflict between what an NGO values and has prioritized as universal and what the local community or authority thinks of said values. This can also place an unnecessary burden of choice on beneficiaries in cases where aid is needed but normative values or priorities are not necessarily shared. In reality this

audience often has very limited impact on, or access to, decision-making processes of NGOs and are therefore restricted in their ability to hold NGOs to account. This is particularly problematic for international NGOs when their national offices function as representatives of an international office that is often registered in another country and therefore out of reach for most people who would otherwise be categorised as its beneficiaries. Special attention has therefore to be paid to normative arguments in relation to a non-representative understanding of NGOs because they tend to replace legitimisation processes with abstract assessments of NGOs' value statements and purposes. This problem is evident in the writings of Halpin and McLaverty (2010) and Rubenstein (2014) who try to grapple with how to solve it. These two issues are reflected in the framework as two different bases for NGOs' legitimisation of power. The first base is a rights-based power relationship characterised by NGOs claiming legitimacy grounded in their right to exist. The second base is about the credibility of the legitimacy claims NGOs make and how these can be evaluated independent of their right to exist.

The audience typology tries to overcome such empirical and theoretical dichotomies by focusing on how NGO's power is legitimated vis-a-vis different audiences. By identifying the characteristics of these power relations the framework tries to capture the complexities and nuances involved when defining the parameters of their socio-political community. This can hopefully be seen as step forwards in the debate about NGO legitimacy.

Table 1 Audiences and their actions expressing consent

Legitimacy focus Target audience	What is the action of expressed consent (reflecting the type of power relationship)	Hidden assumptions (reflecting expectations about the purpose and abilities of NGOs)	In what capacity are NGOs' legitimacy claims considered (reflecting justification for conferring legitimacy)	Problems (reflecting the quality of the action constituting consent)	Lack of consent, no consent, or withdrawal of consent (triggers of delegitimation)
Judiciary & legislators Courts Government (Regulators)	Legal right/protection, NGOs granted legal rights to operate in a given territory under sovereign law (charity/ company law)	Normative, Freedom of association (Western liberal democracies)	Legal validity, Regulation	Dependency on gov't's for rights to operate, political conflicts where gov't's do not favour NGOs. Issues regarding applicability of universal norms in domestic law	Unable to register under the law. Litigations, state vs. NGO. NGO lacks legal validity, problems to fundraise, issues of trust, can impact operations
Donors Institutional (Individual)	Contracts Joint and/or predefined contractual targets (monitoring and evaluating)	Legal validity Organisational capacity	Financial accountability, outcomes of projects matter for future funding	Legitimacy is defined in monetary terms, which distorts the normative purpose of NGOs. Money dominates the agenda and represses the political dimension of legitimacy.	Withdrawal of funds, No renewal of funds, unsubscribe. NGO lacks money to continue their programs, directly impacts operations
Supporters Domestic Global	Action, physical or rhetorical (vocal support, volunteering, donations)	Financial accountability, Legal validity	Normative NGOs are doing the right thing, helping, caring, changing wrong to right	Political agendas	Voice or public mobilisation against the NGO to demonstrate withdrawal of support or discontent amounting to lack of support. NGO lacks moral support
Members Country of registration	Join the NGO Acceptance of the internal organisation of power in the NGO	Legal validity Financial accountability, Normative	Impacts in the wider society and globally	Personal gains or remunerations from the NGO, unreasonable financial compensation, embezzling of funds	No members join, NGO lacks people to function, credibility and trust issues
Beneficiaries Individuals (States/gov't)	Acceptance of aid Cooperation Attending meetings Signed contracts?	Legal validity Financial accountability, Political/ democratic	Political and economic empowerment	Is this a valid expression of consent? Is it given under restraint, lack of choices? Do they agree with NGOs' values?	Rejection of aid or assistance offered by the NGO. Complaints and redress via the NGO's complaints mechanism (if there are any). NGO lacks credibility, rejection of values
Intergovernmental/ International Institutions International/regional Country of origin Country of operation Religious institutions	Signed contracts Registration	Legal validity Financial accountability, Normative Epistemic	Representational Global voice of disempowered peoples Global voice of norms Derived legitimacy from contracts	False legitimacy, are NGOs legitimacy gap fillers for struggling IGOs? What is the nature of this symbiotic relationship? Lack of legal rights in international law	Termination/non-renewal of special status in an IGO. Litigation, the IGO sues the NGO for breach of terms/ contract. NGO lacks affirmation from a governmental body, loss of public legitimacy. Structural delegitimation
Peers Alliances Networks Partners?	Declarations (oath) Codes of conduct (monitoring and evaluation) Join NGO Alliances and Charters	Normative (Legal/financial)	Reputation Self-regulation Trust	Self-reinforced legitimacy? Trade off between legitimacy failures and reputation? Elitism? Lack of democratic regulation	Not signing up to codes of conducts. NGO lacks sectoral recognition/ approval that can impact on trust
General Public Country of origin Country of operation	Limited ways to express consent	Financial accountability, Regulation Legal validity Normative	Normative NGOs are working for public benefit/good	Is this a valid audience? Do the NGOs need their consent? Is this a missing audience?	Organised effort in the media/public space to demonstrate there is lack of consent from the public. NGO lacks trust

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