Legitimacy Struggles in Global Governance:

Legitimation and Delegitimation of the Asian Infrastructure Investment Bank

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Panel: Legitimacy and (De)Legitimation in Global Governance.

Introduction

Global governance institutions (GGIs) have become increasingly powerful. As global and regional organizations gain more authority their procedures and performance are also more frequently evaluated according to normative standards and criticized based on such evaluations (Steffek 2003; Bernstein 2011; Brassett and Tsingou 2011; Zaum 2013). Such critical normative assessments, or politicization, of GGIs may challenge the legitimacy of the institutions. In order to function well GGIs need to be perceived as legitimate, at least among influential actors, if not the general public. Therefore, criticized and challenged GGIs have to actively try to boost their legitimacy in the eyes of various audiences. They engage in processes of self-legitimization (Gronau 2016).

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This paper argues that an important aspect of contemporary global governance is the complex interaction of delegitimation and self-legitimation, what might be called legitimacy struggles. GGIs, their member states and possibly other state and non-state actors too try to make the GGI seem more legitimate. They make statements, initiate institutional reforms, and engage in other practices intended to affect various audiences’ legitimacy beliefs concerning the GGI in a positive way. Meanwhile, other GGIs, states and non-state actors may use discursive and behavioral practices that might affect legitimacy beliefs concerning the GGI in a negative way. There is often a struggle between (self-)legitimizers and delegitimizers.

Extant research has examined the self-legitimation of GGIs (e.g. Gronau and Schmidtke 2015; Gronau 2016) and protest against GGIs as delegitimation attempts (cf. Haunss 2007; Gregoratti and Uhlin 2017), but the interaction of legitimation and delegitimation has seldom been analyzed (but see Anderl, Deitelhoff and Hack 2017). By focusing on both delegitimation and legitimation and how the two processes are related this paper intends to indicate a way towards a more dynamic analysis of (de)legitimation processes in global governance in terms of legitimacy struggles.

Previous research on (de)legitimation in global governance has mainly focused on relatively well-established GGIs (e.g. Steffek 2003; Zaum 2013; Gronau and Schmidtke 2015). The process of establishing a new GGI has not been analyzed from a (de)legitimation perspective. Yet, it is likely that a GGI in the process of establishing itself faces specific legitimacy challenges. According to Suchman (1995: 586) there are three general challenges of legitimation: gaining, maintaining and repairing legitimacy. Unlike most previous research on (de)legitimation in global governance which has focused on how GGIs maintain legitimacy or how they try to repair their legitimacy after a legitimacy crisis this study is concerned with the challenge of gaining legitimacy in the process of creating a new GGI. The process of setting-up a new GGI may be a contested process if the new GGI is perceived to challenge and compete with existing GGIs in the field. Thus, it is likely that there are both delegitimation attempts and
self-legitimation by the GGI, which differ from (de)legitimation of older, more well-established GGIs. This is the rationale behind a case study of a new GGI.

Following a Chinese initiative announced in 2013 the Asian Infrastructure Investment Bank (AIIB) started operation in January 2016. This new regional multilateral development bank (MDB) with China as its leading member implies a significant change in the institutional set-up for the global and regional governance of development. It has been seen as challenging existing development banks such as the World Bank and Asian Development Bank (ADB).

The Chinese initiative to create a new regional development bank must be understood in the context of China’s growing economic power and its dissatisfaction with a limited role in the existing dominant GGIs. The AIIB is part of a wave of new global initiatives that China has promoted, including the G-20, the New Development Bank (NDB) of the “BRICS” grouping (Brazil, Russia, India, China, and South Africa), and the Silk Road Economic Belt and Twenty-first Century Maritime Silk Road (One Belt & One Road) (Chin 2016: 11). The Chinese leadership has been frustrated with its lack of influence in international financial institutions (IFIs) (Glaser and Vitello 2015: 25, Chin 2016: 11; Etzioni 2016: 178; Mackintosh 2016: 26; Ren 2016: 436). Governance reforms in the major IFIs have been slow and largely symbolic. The 2010 reform package of the Bretton Woods institutions were blocked by US Congress for many years (Ren 2016: 436). Hence, China’s move to establish the AIIB is reported to reflect “China’s open dissatisfaction” with US influence in existing GGIs (Etzioni 2016: 179). As stated by one observer, “/w/then an emerging power grows but is not embraced or even welcomed by the established powers and the global institutions they dominate, the former trying to create new institutions becomes something inevitable” (Ren 2016: 438).

This development raises a number of intriguing questions concerning legitimacy and (de)legitimation in governance beyond the nation-state. What legitimacy challenges have AIIB as a new institution experienced and how has the Bank tried to boost its legitimacy? What specific legitimation and delegitimation discourses and practices have been applied and with what effects?
The paper will address these questions, first by developing a framework for analyzing legitimacy struggles in global governance paying equal attention to legitimation and delegitimation, and distinguishing between different institutional and discursive (de)legitimation practices; and secondly, by applying this framework to a case study of AIIB. In doing so, the paper aims at contributing to research on legitimacy and (de)legitimation in global governance, particularly through its dynamic conceptualization of (de)legitimation as legitimacy struggles and its focus on the specific case of the establishment of a new GGI. It also aims at making a contribution to emerging research on AIIB, which has so far not paid attention to legitimacy issues.

The empirical findings draw on a systematic qualitative content analysis of the AIIB website, including policy documents and press releases, and documents published by CSOs monitoring AIIB. Additional insights have been gained from media reports and academic articles on the AIIB. All texts were entered into MAXQDA, a software for qualitative data analysis, and coded according to the scheme developed in the following section.

Following this introduction, the paper proceeds with the development of an analytical framework. Then, the empirical analysis of legitimacy struggles related to AIIB is divided into two main sections, one focusing on institutional dimensions of (de)legitimation and one on discursive (de)legitimation. The paper ends with some concluding remarks.

(De)legitimation in global governance: A framework for analysis

This section clarifies how key concepts are used and outlines an analytical framework for empirical research on legitimation and delegitimation in global governance. The legitimation of power has been studied both by political philosophers, for whom power is legitimate if it

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2 The framework outlined here to a large extent draws on collaborative work within LegGov. I thankfully acknowledge the input from Magdalena Bexell, Karin Bäckstrand, Catia Gregoratti, Kristina Jönsson, Nora Stappert, and Fredrik Söderbaum.
meets certain standards of the right and the good, and by empirically oriented social scientists who see power as legitimate if it is acknowledged as rightful by those involved in a power relation (Beetham 2013: x). Hence, “social scientists can be both authors and observers of legitimacy evaluations” (Hurrelmann 2017: 65). This study follows the second tradition, i.e. empirical research observing (de)legitimation practices.

Legitimacy can be defined as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995: 574). Legitimacy is relational. It depends on audiences’ beliefs about the exercise of authority (Tallberg and Zürn 2017: 10). Legitimacy beliefs must be distinguished from other reasons to obey rules, like coercion and self-interest (Hurd 1999: 379). Acceptance of an authority because of fear of punishment or because of cost-benefit calculations do not imply legitimacy (Steffek 2003: 254). Hence, legitimacy requires normative grounding. Legitimacy evaluations consist of “normative validity claims of a generalizable character” (Hurrelmann 2017: 64).

Rather than legitimacy as an attribute of an institution, this study is concerned with processes of (de)legitimation. Legitimacy cannot be empirically observed. What can be observed is legitimation as a process (Hurrelmann 2017: 65). Legitimation means deliberately boosting beliefs that the rule of a political institution is exercised appropriately (Tallberg and Zürn 2017: 10). Delegitimation implies challenging the appropriateness of a political institution’s exercise of authority (Tallberg and Zürn 2017: 10).

Political authority requires legitimation and leads to politicization. “Growing public awareness of international institutions and increased public mobilization of competing political preferences regarding institutions’ policies and procedures” has led to politicization of international institutions (Zürn, Binder and Ecker-Ehrhardt 2012: 71). The overall authority of an institution can be challenged (“polity politicization”), but politicization can also be directed at specific policies of the institution (“policy politicization”) (Zürn, Binder and Ecker-Ehrhardt 2012: 98). Politicization is a necessary but not sufficient condition of (de)legitimation.
“Political actors and institutions may be subject to heavy criticism without their legitimacy being challenged” (Hurrelmann 2017: 66). Criticism that not explicitly challenges the rightfulness of political rule implies politicization, but not delegitimation (Hurrelmann 2017: 66). Nevertheless, politicization is highly related to (de)legitimation as people will not form legitimacy beliefs concerning institutions that are not politicized. “Polity politicization” is by definition a form of (de)legitimation as it refers to the overall authority of the GGI. However, politicization of certain (major) GGI policies may also affect legitimacy beliefs and should therefore be analyzed in a study of (de)legitimation.

Legitimation and delegitimation attempts frequently occur simultaneously. There are often struggles for legitimacy in which certain actors try to delegitimize an institution whereas others attempt to legitimize it. In order to systematically analyze legitimacy struggles in global governance four aspects of (de)legitimation need to be considered: the object of (de)legitimation, the agents of (de)legitimation, the practices of (de)legitimation, and the audiences of (de)legitimation.

First, the object of (de)legitimation in global governance is an institution that has authority and who’s right to rule is evaluated. In this study the object of (de)legitimation is a GGI in the process of being established: the AIIB. The object of (de)legitimation can be further differentiated in terms of the overall authority of the GGI (cf. “polity politicization”) or specific institutional bodies, policies or practices of the GGI (cf. “policy politicization”). In a similar vein Hurrelmann (2017: 76) calls for a distinction between various aspects of global governance that can be politicized – or (de)legitimized – including “the principle of intergovernmental cooperation, its processes, and concrete cooperation outputs”. The distinction between overall authority and specific aspects of the GGI, however, constitutes a methodological challenge. “It is often impossible to tell from a single statement whether a speaker merely criticizes an institution for specific shortcomings, or whether he or she intends to question its legitimacy fundamentally” (Hurrelmann, Schneider and Steffek 2007: 8). “Quite often, this distinction can only be drawn when empirical researchers not only scrutinize individual opinions, behaviour, or acts of communication, but explicitly situate them within the dynamics
of medium or long-term legitimation processes” (Hurrelmann, Schneider and Steffek 2007: 8). This requires a thorough qualitative analysis that contextualizes individual (de)legitimation practices.

Second, there may be many different agents of (de)legitimation. Of particular importance is the GGI’s self-legitimation, but other GGIs, states and non-state actors may also legitimize or delegitimize the GGI. While this study is limited to one object of (de)legitimation (AIIB) – concerning its overall authority as well as more specific aspects – it aims at covering a broad set of agents, including the AIIB itself, other GGIs, member states, other states (mainly the US) and CSOs.

Third, (de)legitimation practices can be discursive (statements supporting or challenging the rightfulness of a GGI’s rule), institutional (reforms of the institutional design of a GGI intended to affect audiences legitimacy beliefs) or behavioral (non-verbal acts that can affect audiences legitimacy beliefs) (Bäckstrand and Söderbaum 2017). Discursive, institutional and behavioral (de)legitimation practices are ideal types. In practice they often go together (cf. Gronau and Schmidtke 2015: 7-8; Tallberg and Zürn 2017: 13). It is indeed difficult to determine that a certain institutional or behavioral practice is a (de)legitimation practice if it is not accompanied by a discursive (de)legitimation statement.

This study will elaborate on institutional and discursive (de)legitimation practices, but leave behavioral practices for future research. The reason for this is mainly empirical. An initial analysis of the AIIB and civil society material indicated that almost all identified (de)legitimation practices could be categorized as institutional or discursive. There has, for instance, to my knowledge, not been any protests or demonstrations against the AIIB. Other GGIs have been the targets of public protest manifestations and in those cases it makes sense
to analyze these as behavioral delegitimation practices, but for the purpose of this case study a limitation to institutional and discursive practices is reasonable.³

Institutional legitimation consists of (changes in) institutional features of a GGI, accompanied by justification of its exercise of authority. Institutional features that can influence legitimacy beliefs include (1) the formal structure of GGI authority, e.g. voting rights; (2) broadened participation allowing new non-member actors to take part in one or several phases of the GGI's policy process; (3) transparency, implying some kind of public communication policy that regulates the spread of information about the GGI; (4) accountability mechanisms, i.e. some kind of retrospective channel for answerability; and (5) cooperation agreements or partnerships with other actors. Institutional delegitimation (or politicization) refers to criticism against the GGI's implementation of these institutional features.

Discursive (de)legitimation consists of verbal evaluations of a GGI’s exercise of authority according to certain normative standards or sources. Scholte and Tallberg (2017) develop a 2x3 matrix typology of sources of legitimacy, which can be traced in empirical research of (de)legitimation discourses. The typology takes the well-known distinction between procedure (input) and performance (output) as a point of departure and adds a threefold distinction between democratic, technocratic, and fair as three generic qualities that may apply to both the procedures and the performances of GGIs. Stakeholder participation and accountability are characteristics of a GGI’s policymaking process that might enhance its legitimacy. This refers to democratic procedure. Democratic performance as a source of GGI legitimacy is related to increased popular participation and public accountability in wider society as an outcome of the activities of the GGI. Legitimacy derived from technocratic procedure implies efficiency or expertise. Technocratic performance is related to problem-solving capacity resulting in societal benefits. As for fair procedure, this quality has to do with

³ One type of behavioral legitimation practice that can actually be found in the AIIB case is third-party ratings. Particularly important for a multilateral development bank (MDB) is credit rating. Hence, it is not surprising that AIIB was quick to announce that it had received the highest rating from both Moody’s and Fitch (AIIB 2017b; AIIB 2017c).
institutional features such as impartiality and access for those affected by the policies of the GGI. Fair performance, finally, refers to outcomes of GGI activities that secure human dignity and distributive justice.

Fourth, the audiences of (de)legitimation can be multiple, including both state and non-state actors (Symons 2011; Bexell and Jönsson 2017). While recognizing the importance of this dimension for a comprehensive analysis of (de)legitimation in global governance, this study will not systematically focus on audiences. The reasons are pragmatic. The limited scope of this paper does not allow for a full analysis of all dimensions of (de)legitimation and when analyzing documents related to (the establishment of) AIIB it has been particularly difficult to identify different audiences of (de)legitimation discourses and practices.

To sum up, the framework outlined here intends to analyze the dynamic relations between legitimation and delegitimation in terms of legitimacy struggles. Legitimation – boosting beliefs that the rule of a political institution is exercised appropriately – and delegitimation – challenging the appropriateness of a political institution’s exercise of authority – should be analyzed together. A comprehensive analysis of (de)legitimation in global governance should pay attention not only to “polity politicization”, but also to politicization of specific aspects of the GGI. In addition to the object of (de)legitimation two major analytical dimensions are the agents of (de)legitimation, which might include GGIs, states and non-state actors, and practices of (de)legitimation, which can be categorized as institutional and discursive. Institutional (de)legitimation refers to such institutional features of a GGI as its formal structure of authority, arrangements for broader participation in policy-making, transparency, accountability mechanisms, and cooperation agreements with other actors. Discursive (de)legitimation consists of verbal evaluations of a GGI’s exercise of authority based on the following sources of legitimacy: democratic procedure, democratic performance, technocratic procedure, technocratic performance, fair procedure, and fair performance.
AIIB and legitimacy struggles

In the initial phase of establishing the AIIB, most delegitimation attempts came from the United States. The establishment of the AIIB was “seen by many in the US as a challenge to existing Western-led institutions, as well as a potential opportunity for China to expand its influence in the region at the US expense” (Glaser and Vitello 2015: 25). The US refused to join the Bank and reportedly pressured its allies to do the same (Etzioni 2016: 173). Delegitimation statements from the US government and Congress focused on concerns that the AIIB was unlikely to adopt “best practices” developed by established GGIs, especially related to human-rights abuses and environmental risks, as well as transparency, good governance, and anticorruption mechanisms. US politicians expressed worries that AIIB would steer infrastructure projects to Chinese contractors and use the new Bank to twist the arm of Asian states that need infrastructure funding (Etzioni 2016: 175-176). In his State of the Union address in January 2015 President Obama, referring to the establishment of AIIB and other Chinese initiatives in global governance, said that “China wants to write the rules for the world’s fastest-growing region,” and added “We should write those rules. We should level the playing field” (Glaser and Vitello 2015: 25). Treasury Secretary Lew explained the US position on the AIIB at a Congress hearing: “Our concern has always been ... will it adhere to the kinds of high standards that the international financial institutions developed.... Will it protect the rights of workers, the environment, deal with the corruption issue appropriately?” (Glaser and Vitello 2015: 26).

According to media reports US officials actively discouraged several US allies, including Australia and South Korea, from joining the Bank. These efforts, however, failed. On March 12 2015, the British government declared its intention to join the AIIB as a founding member, which opened the door for other US allies to follow suit. Expressing frustration, an anonymous representative of the Obama administration accused the UK government of “constant accommodation” of China (Glaser and Vitello 2015: 26). Eventually, AIIB founding members numbered 57, including close US allies like Australia, Israel, South Korea, Germany, France, and Italy. Besides the US, the only major economic power that chose not to join the AIIB was
Japan, the main actor in ADB. Other GGIs also joined in the legitimation of the new MDB. World Bank President Jim Yong Kim in April 2015 welcomed AIIB as a “new major player”. He labelled the AIIB and the BRICS-backed New Development Bank “potentially strong allies” for the World Bank (Donnan 2015). Hence the US campaign to delegitimize the new MDB was a complete failure. The Economist characterized the AIIB story as one of “a victorious campaign against American-led skepticism” (quoted in Etzioni 2016: 174).

When most of its strongest allies had announced their support for the AIIB, the US began to soften its rhetoric. Realizing that it had lost the legitimacy struggle on AIIB, the Obama administration appeared to accept the new Bank. Instead of voicing worries and concerns about AIIB the new US message was to propose co-financing between the AIIB and the World Bank and ADB (Glaser and Vitello 2015: 26). President Obama voiced conditional support for the AIIB for the first time in a press conference on April 28 2015. He said that he wanted to “dispel this notion that we were opposed or are opposed to other countries participating [in the AIIB]” and added that if AIIB “ends up having ... safeguards, is run in a way that ultimately is actually going to lead to good infrastructure and benefit the borrowing countries, then we’re all for it” (Glaser and Vitello 2015: 26).

Hence, when it was clear that the AIIB would indeed be established, and with the support of most Asian and Western governments, more specific criticism replaced the overall delegitimation attempts. Instead of challenging the new GGI’s right to rule, critics focused on specific aspects of its governance structure. A number of CSOs have been particularly active in this “policy politicization”. Civil society networks that had for long criticized other multilateral development banks (MDBs) were quick to also engage AIIB. For instance the NGO Forum on ADB started to monitor AIIB as well.5

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4 I refer to AIIB either as a GGI, IFI, MDB or simply the Bank. This is not only a matter of linguistic variation. GGI is the more generic term, IFIs are one type of GGIs operating in the field of global finance, and MDBs refer to a more specific type of IFIs.

5 On the NGO Forum on ADB, see Uhlin 2016: 91-95.
CSOs have typically not questioned the existence of the new MDB, but raised serious concerns about specific governance policies and activities of AIIB. This policy politicization cannot be seen as a fundamental challenge to the legitimacy of AIIB as the critics do not question the rightfulness of the GGI’s exercise of authority at large. Rather, by participating in the Bank’s consultation processes they implicitly contribute to legitimizing the new institution. Nevertheless, civil society critics have pointed out serious flaws in AIIB’s institutional design and policies, which could potentially delegitimize certain aspects of the GGI. Also compared to other IFIs, AIIB is accused by CSOs to have less legitimacy.

For a long time, environmental and human-rights organisations have been complaining about established IFIs only applying inadequate environmental and social standards. Now they accuse the AIIB of failing to meet even those standards (Diehl 2017).

Hence, self-legitimation attempts by AIIB have faced delegitimation and more specific "policy politicization" mainly from the US and transnational CSOs monitoring IFIs. Legitimation and delegitimation have focused on the one hand on institutional features of the new GGI, an on the other hand on discursive statements referring to different sources of legitimacy. The rest of this section will address these two dimensions in turn.

**Institutional legitimation practices and their critical politicization**

The process of establishing a new GGI is very much about institutional design. Legitimacy issues are naturally tied to various institutional features of the new GGI. A GGI in the making needs to develop institutional features that are perceived as legitimate by important legitimacy granting audiences. The AIIB was created in a context of already existing IFIs with certain more or less established norms and standards. “Environmental protection, social responsibility, and corruption avoidance have become broadly accepted global norms in the international system” (Chin 2016: 12). As a new GGI, AIIB had to relate to these norms and learn from the experiences of established GGIs. AIIB President Jin Liqun argued that AIIB is a
“new type of development bank”, governed according to the “highest possible standards”, learning from the experiences of existing institutions (Rosenzweig 2016). When critics voiced concerns that the new Bank would not meet established standards, the Chinese counter-initiative was to recruit former senior IMF and World Bank staff to AIIB and give them the task to design the new GGI’s institutional structure (Mackintosh 2016: 32).

In this process, AIIB made use of a number of institutional legitimation practices. Its formal structure of authority has been the subject of both positive and negative legitimacy beliefs, depending on audience. In many ways the AIIB has a similar set-up as other IFIs, but one notable exception is that unlike the World Bank, ADB and other similar institutions, the AIIB does not have a resident board of directors. AIIB directors are not based at the AIIB headquarters in Beijing, putting them in a weaker position in relation to the AIIB management (Mackintosh 2016: 31). Moreover, unlike in other similar GGIs, directors and alternate directors are unpaid (Chin 2016: 15), further indicating their more marginal status. Skeptics have accused Beijing of trying to give the Bank’s management more unchecked power over the institution. For instance, a former senior US treasury official remarked that “I understand why the [United States] or other advanced countries prefer the resident board . . . . We do not trust the likely management” (Chin 2016: 16). The former US representative on the ADB Board of Directors Robert Orr commented that the lack of a resident board of directors in AIIB was “a major flaw in the AIIB governance structure” (Orr 2016). Without a permanent board that has day-to-day oversight, there is a risk that AIIB will be much more centrally controlled by the Chinese government and there will be less transparency and accountability, he argued. Moreover, according to him, a resident board would provide civil society with easier access and a voice (Orr 2016).

Others have defended the decision to have non-resident directors arguing that this makes the institution more efficient. Echoing the arguments of AIIB management, Bin (2017: 152) suggested that having non-resident directors “will not only delineate responsibility and increase efficiency; it will be helpful for management to make decisions within its capacity impartially by considering economic factors only, rather than being unduly interfered by
directors, as it has been the case in other MDBs with resident directors.” This kind of argumentation was obviously convincing from the perspective of many states that were eager to join the new MDB.

Another institutional feature on which a legitimacy struggle can be identified is participation by non-member actors. In line with what has become common practices of MDBs and many other GGIs, AIIB has held consultations with various stakeholders and invited comments on major governance policies, including its environmental and social framework, transparency policy, energy strategy, and proposed complaints mechanism. However, many CSOs have criticized these consultation processes for failing to be democratic and inclusive. Already in October 2015, before the AIIB started operations, a number of CSOs led by Article 19 called for the proposed new MDB to engage with civil society in a more transparent and accountable manner (Article 19 et. al. 2015). Referring to the AIIB’s draft Environmental and Social Framework (ESF), the CSOs stated:

Unfortunately, we are not able to comment on the contents of the draft ESF due to fundamental problems with the ESF consultation process which preclude meaningful participation by civil society, and especially those communities who will be most affected by AIIB’s activities (Article 19 et. al. 2015).

The CSOs specified their “serious concerns and critical recommendations” in terms of the too short timeline of the consultation process, the lack of release of relevant documents in local and regional languages, the limitation to on-line consultations, and the limitation to only one round of consultations. They further demanded that

/consultation meetings should ensure accessibility for persons with disabilities, be gender sensitive and culturally appropriate, and allow for anonymous
contributions by civil society members who may fear repercussions for participation (Article 19 et. al. 2015).

Similar concerns were raised by CSOs concerning consultation on AIIB’s public information policy (CEE Bankwatch Network et al 2016) and Energy Strategy (Friends of the Earth US 2016). The latter took place in 2016-2017 and indicated that AIIB had made some changes in line with some, but far from all, civil society demands. The consultation now had two phases. During the first phase the Bank received over 40 responses from government agencies, private sector companies, and CSOs, which it claimed to incorporate in a draft energy strategy that was posted on the AIIB website for comments during the second phase of the consultation process (AIIB 2017a).

Similarly, in April 2017 AIIB called for public consultation concerning its proposed complaints handling mechanism. The Bank declared its eagerness to receive suggestions “from any individual, organization or stakeholder” (AIIB 2017e). The consultation process had two phases. After the first phase a proposal should be drafted and posted on the AIIB website for further comments during the second phase. In addition to welcoming written submissions, a series of video conferences were planned in both phases.

The participation of a broad spectrum of stakeholders in these consultation processes was obviously seen by the AIIB leadership as potentially boosting its legitimacy. In his speech during the 2017 Annual Meeting, President Jin Liqun stressed the importance of AIIB outreach activities to include a broad set of stakeholders. “Over this past year, the Senior Management Team has been reaching out to the media, NGOs, CSOs, and other stakeholders for meaningful dialogue and information-sharing about the Bank”, he said (AIIB 2017h).

However, CSOs monitoring AIIB remained critical of the Bank’s consultations with CSOs and other stakeholders. In a letter to the Director General of the Compliance, Effectiveness, and Integrity Unit (CEIU) of the AIIB a number of prominent advocacy CSOs, including the Bank
Information Center and the NGO Forum on ADB, welcomed the Bank’s intention to have public consultations concerning its proposed complaints mechanism. However, the CSOs criticized the procedures and demanded that AIIB “conduct a two-phase public consultation process that is consistent with the practices of other international financial institutions (IFIs)” (Accountability Counsel et. al. 2017). More specifically the CSOs criticized the use of English as the only language, the lack of in-person meetings, and the short time frames for submission of input. Moreover, “Unlike other IFIs, the AIIB has not published individual stakeholder comments received during previous processes, the Bank’s response to individual comments, or a list of stakeholders that contributed to the processes” (Accountability Counsel et. al 2017).

CSOs have criticized not only the alleged lack of meaningful stakeholder participation in AIIB consultation processes on major policies, but also concerning substantial projects.

At the scale in which the AIIB is planning to invest, it is alarming that AIIB does not have a knowledge management system to engage with the civil society, local communities, academics and researchers apart from borrowing clients and investors. This lack of bottom up learning from the ground will lead the AIIB making people more vulnerable to the social and environmental violations. We reiterate the need of a proper consultation with the CSOs and the local communities as we have seen that MDB projects are more damaging and controversial when they do not consult the communities (Friends of the Earth Asia Pacific 2016).

Hence, institutional features enabling genuine and inclusive stakeholder participation in AIIB’s policymaking has remained an important focus of legitimacy struggles between Bank management and civil society critics.

Another contested institutional feature relates to (the lack of) transparency. When AIIB began operations in January 2016, the Bank had a provisional public information policy in place. While committing to promote transparency and accountability the document also stresses
“protecting confidentiality” as a guiding principle. AIIB is said to have a “responsibility to restrict access to information whose disclosure could cause harm to specific parties or interests, particularly its members, clients, and co-financiers” (AIIB 2016). This statement is likely to boost the Bank’s legitimacy in the eyes of certain borrowing states and private company partners, but it might affect the legitimacy beliefs of many other audiences negatively.

Civil society critics argued that AIIB’s public information policy is below the standards of other IFIs. The obligations to publish documents are quite limited compared with other IFIs. There are too many vague exceptions and no harm-test. There is a lack of specificity on the timing and content of the Board documents to be released, the interim policy does not say anything about implementation, and there is no provision for an appeal to an independent oversight body. (Business and Human Rights Resource Centre n.d.; CEE Bankwatch Network et al 2016; Mendel and Summers 2016). A 40 pages detailed report prepared by the Centre for Law and Democracy and the Bank Information Center concludes that

/d/espite some strengths, in many areas the Interim Policy fails to meet the minimum information disclosure standards established by international law and the practice of other international financial institutions (IFIs). As a result, there is a clear need for fundamental revision of the rules regarding the disclosure of information at the AIIB (Mendel and Summers 2016).

Despite the criticism, AIIB has yet to revise its provisional public information policy.

Most IFIs have developed some kind of accountability mechanisms to handle complaints from people claiming to be negatively affected by the institutions’ activities. Accountability is generally believed to be central for the legitimacy of GGIs. AIIB has established an independent “Compliance, Effectiveness and Integrity Unit” (CEIU) that is also mandated to receive complaints about AIIB operations. The CEIU is independent of AIIB Management and
its Director General reports directly to the AIIB Board of Directors (AIIB 2017d). In April 2017 AIIB announced its ambition to establish a “complaints handling mechanism” (AIIB 2017e). This is likely to become another site for legitimacy struggles.

Yet another institutional aspect that might enhance the legitimacy of a GGI is cooperation with other GGIs. AIIB has been keen to cooperate with the World Bank, ADB and other MDBs, presumably in order to counter arguments that the new Bank is competing with the established MDBs. For instance, in April 2017 World Bank Group President Jim Yong Kim and AIIB President Jin Liqun signed a memorandum of understanding to strengthen cooperation and knowledge sharing between the institutions (AIIB 2017i). In his speech during the 2017 Annual Meeting, President Jin Liqun stressed the importance of partnership with other GGIs. He said that “/s/since the Bank’s inauguration, we have enjoyed close partnership with our MDB partners – we have co-financed operations with a number of MDBs and are working, collaboratively, with them and others to support global initiatives and platforms” (AIIB 2017h).

Also relying on the legitimacy of other actors, just as cooperation with other GGIs, is the creation of institutional bodies recruiting prominent people whose support can boost the legitimacy of the GGI. Such and institutional set-up is the AIIB’s “International Advisory Panel”. Established in October 2016 to “support the President and senior management on the Bank’s strategies and policies, as well as on general operational issues” (AIIB 2017g), it consists of prominent people with experience of the operation of IFIs, including researchers and former ministers. In April 2017 Professor Ngaire Woods of Oxford University joined the Panel (AIIB 2017g).

In sum, in the process of establishing AIIB the design of specific institutional features have been contested in legitimacy struggles featuring self-legitimation by the AIIB management and critical politicization or delegitimation mainly by US officials and transnational CSOs monitoring IFIs. While choosing a similar governance structure as established IFIs in many respects, AIIB differs in having non-resident directors. Representatives of the Bank see this as more efficient and something that can boost AIIB’s legitimacy, particularly among borrowing
member states, but critics have argued that this strengthens the power of AIIB management and decreases transparency and accountability. Like many other GGIs, AIIB has held consultations with CSOs and other stakeholders concerning major policies. This is something that has been promoted as legitimacy boosting by the AIIB management, but the way these consultations were conducted has been severely criticized by CSOs. Institutional mechanisms for transparency and accountability have been, or are in the process of being, set up by AIIB as part of the GGI’s attempt to gain legitimacy. However, these institutional features have also been criticized by CSOs for being flawed and not even meeting minimum standards of other IFIs. Despite such critical policy politicization, AIIB has attracted a large membership of states from all over the world. Partnership with established MDBs such as the World Bank and ADB is also a form of legitimation indicating that major global authorities view the new MDB as legitimate.

Discursive (de)legitimation

The AIIB slogan “lean, clean and green” indicates an attempt to legitimize itself in terms of both procedure and performance. While no reference to democratic performance can be found in AIIB self-legitimation statements, democratic procedures feature quite frequently in the Bank’s discursive legitimation. On its website, AIIB declares that “good governance is our hallmark and we strive to operate at the highest possible standards in governance, transparency and accountability” (AIIB 2017d). Democratic and fair procedures were prominent themes in President Jin Liqun’s speech at the 2017 Annual Meeting. Referring both to accountability and impartiality as central values for AIIB, he said:

We are clean – good governance is crucial to our credibility and the key to success. No compromise is allowed in this regard. We hold ourselves fully accountable for the Bank’s management, and adhere to full compliance with the Bank’s rigorous governance standards and principles. We operate transparently and have zero tolerance for corruption (AIIB 2017h).
Meanwhile, in civil society discourses on AIIB references to both procedure and performance appear and CSOs point out shortcomings related to democracy and fairness as well as technocracy. Hence, a broad spectrum of legitimacy sources are referred to. CSOs have been particularly concerned about flaws in democratic procedures of AIIB policymaking, as indicated in the previous section’s references to civil society criticism against allegedly flawed consultation processes and a general lack of opportunities for meaningful stakeholder participation.

AIIB sometimes refer to fair performance as a way of legitimizing specific projects funded by the Bank. For example, a loan to build access roads to approximately 4,000 villages in all 33 districts of Gujarat, India, was legitimized in terms of providing

... approaches to educational institutions, schools and hospitals. The upgraded road access is expected to have a positive impact on women and girls by improving school attendance rates for girls who currently drop out of school due to a lack of access to all weather roads (AIIB 2017f).

In his speech at the 2017 Annual Meeting, President Jin Liqun said: “We care about those who might otherwise be left behind without our support, hence our rigorous implementation of the safeguards. We care about poor people’s access to urban infrastructure, hence the slum upgrading in Indonesia” (AIIB 2017h). However, CSOs monitoring AIIB have questioned AIIB’s commitment to justice and equality. Concerning the specific project in Indonesia that the AIIB President referred to, CSOs claimed that the human rights of women and indigenous people were violated in this project (Diehl 2017).

AIIB’s claimed efficiency and expertise – i.e. its legitimacy derived from technocratic procedures – are captured in the lean part of the slogan “lean, clean and green”. As put by AIIB President Jin Liqun, “/w/e are lean – we operate as an agile and responsive institution,
with a focused management team, clearly defined mandate and accountability, and a core of talented, highly experienced, and dedicated staff” (AIIB 2017h).

However, the most common source of discursive self-legitimation of AIIB is technocratic performance. AIIB has been established to “foster sustainable economic development and create wealth and improve infrastructure connectivity in Asia, and to promote regional cooperation and partnership in addressing development challenges” (AIIB 2016). AIIB’s capacity to solve problems of lack of infrastructure and deliver coordinated infrastructure solutions for the benefit of whole societies are stressed in the presentations of all the Bank’s activities. According to the AIIB President, “/t/he importance of quality investment in infrastructure and regional connectivity cannot be overstated” (AIIB 2017h).

Civil society discourses politicizing the AIIB rarely seem to refer to procedures related to fairness or technocracy. The democratic procedures discourse highlighting participation and accountability is most prevalent. Meanwhile, when it comes to performance CSOs are most concerned with values that can be related to fairness and technocracy. Main concerns related to fairness and problem-solving capacity include AIIB’s allegedly weak commitment to sustainable energy (Bank Information Center et. al. (2016), and human rights violations in the context of AIIB-funded projects (Diehl 2017).

AIIB’s approach to investment in the energy sector has been particularly controversial. AIIB has not yet approved investment in coal power, but the Bank does not rule out the possibility to fund “efficient and clean” oil and coal-fired power plants (Liu and Tang 2017). When the Bank refers to “modern energy” in its Energy Strategy this does not necessarily mean clean and renewable energy, as pointed out by civil society critics (Liu and Tang 2017). In a response to critics, AIIB President Jin Liqun, in what can be understood as a re-legitimation attempt, stated “there are no coal projects in our pipeline, and we will not consider any proposals if we are concerned about their environmental and reputational impact” (AIIB 2017h).
Environmental impacts of AIIB-funded projects and other substantial issues are obviously important for CSOs monitoring the Bank, but the relatively strong focus of civil society advocacy on providing input on AIIB governance policies have made CSOs focus more on the lack of democratic procedures than on the actual performance of the new MDB. This is not surprising in the initial face of establishing the new GGI. As AIIB engages in more development projects, CSOs are likely to focus more on the performance of the Bank.

One early example of this is a critical evaluation of one of AIIB’s first projects, the Tarbela 5 project in Pakistan (Bank Information Center 2017). In cooperation with the World Bank and the Pakistan government AIIB will boost production at an existing hydro-dam and link it to the national grid via new transmission lines. The Tarbela hydropower project, however, has a troubled history. Tens of thousands of people were displaced between the 1960s and 1990s. To this day many thousands of families remain impoverished and are still seeking fair compensation and redress for their losses. In the new project AIIB and the World Bank have promised compensation for previous harm, but according to the critical report, redress will be severely limited. Moreover, consultation and access to information have not followed best practice. For instance, translations of crucial project documents in Urdu were only made public following inquiries to the banks. Hence, the civil society report focuses not only on (the lack of) fair performance, but also the (lack of) democratic procedures.

In sum, discursive legitimation and delegitimation have focused a lot on democratic procedure. Issues of stakeholder participation and accountability are arguably of particular importance in the early phase of establishing a new GGI when choices of institutional design are high on the agenda. The most common source of discursive self-legitimation of AIIB, however, is technocratic performance. Meanwhile, delegitimation discourses among CSOs, in addition to democratic procedure, mainly focus on fair performance. References to fair performance (and procedure) can also be found in AIIB self-legitimation statements, but they do not appear as frequently as technocracy. Hence, while both legitimation and delegitimation make use of most types of legitimacy sources, legitimation tends to rely more on technocratic performance whereas fair performance is a main theme of delegitimation statements.
Concluding remarks

This paper has proposed a dynamic analysis of legitimation and delegitimation as a way forward for research on legitimacy in global governance. GGIs and their critics are involved in legitimacy struggles in which delegitimation practices are met by self-legitimation attempts and vice versa. Such legitimacy struggles feature both institutional legitimation practices and discursive (de)legitimation. Legitimacy struggles are arguably especially prominent in the processes of establishing new GGIs. Hence, the case study of the AIIB can bring new insights to research on (de)legitimation in global governance.

AIIB faced serious delegitimation attempts from the US before it was established and a number of prominent transnational CSOs have continued to critically monitor the new MDB. The AIIB leadership has engaged in self-legitimation, both discursively and through the design of various institutions. However, institutional features intended to boost the legitimacy of AIIB have been criticized and delegitimized by external actors. AIIB’s decision to have non-resident directors is one example of a contested institutional practice. Like many other GGIs, AIIB has held stakeholder consultations on major policies. While these can be understood as self-legitimation practices, the way these consultations were conducted has been severely criticized by CSOs. Institutional mechanisms for transparency and accountability have been, or are in the process of being, set up by AIIB as part of the GGI’s attempt to gain legitimacy. However, these institutional features have also been criticized by CSOs. Despite such critical policy politicization, the large membership and close cooperation with established MDBs indicate that AIIB is widely considered a legitimate GGI.

Concerning discursive (de)legitimation related to AIIB, both legitimation and delegitimation are concerned with democratic procedure as a source of legitimacy. Problems of stakeholder participation and accountability are probably especially significant for a new GGI. The most common source of discursive self-legitimation of AIIB, however, is technocratic performance. Meanwhile, delegitimation discourses among CSOs, in addition to democratic procedure,
mainly focus on fair performance. Hence, legitimizers and delegitimizers tend to put different weight on different source of legitimacy although they share a focus on democratic legitimacy.

AIIB’s self-legitimation has been successful in the sense of securing support from most major states and other GGIs in the field of development. The economic power of China and self-interests of states joining AIIB obviously offer alternative explanations to the relative success of the AIIB, but this paper argues that an understanding of how specific legitimation and delegitimation practices play out in complex legitimacy struggles provides a more nuanced picture. Civil society actors are typically more skeptical to the new GGI than are government officials. Nevertheless, the major transnational CSOs targeting AIIB do not challenge the overall authority of the GGI. Rather, their willingness to take part in the Bank’s consultation processes indicates an implicit acceptance of AIIB’s overall authority as legitimate even if they are very critical against specific policies and projects.

The findings in this paper are by necessity preliminary. The AIIB has been operative for little more than one and a half year and future research will have to follow up on new developments and challenges of the Bank. Moreover, it might be fruitful to systematically compare the legitimacy struggles of AIIB to legitimacy struggles of established GGIs.
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