Legitimation by differentiation: How do International Organizations Claim Legitimacy in Complexity?

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Abstract

With the proliferation of international organizations (IOs), legitimacy has become a key for IOs to stay relevant, and to retain their focal places or leadership in the regime complex. While increasing attention is given to institutional overlap and regime complexity in the international relations (IR) literature, there is hardly any work that addresses the question of legitimacy and legitimation in Complexity. This paper contributes to this gap by addressing the question: How do International Organizations claim Legitimacy under conditions of overlap? To answer this question, I have identified a new legitimation strategy, Legitimation by Differentiation (LegD), a discursive strategy that IOs implement to claim legitimacy by making use of their competitive advantage. I theorize the relationship between IOs and their environment in terms of a business environment, where overlapping IOs are compared to business units working in the same market. I take it one step further arguing that IOs are likely to use the LegD strategy when they are threatened in the focality of the role they play. To test this argument, I present a case study in which I analyze the legitimation claims of both the League of Arab States and the African Union in Libyan conflict in 2011 drawing on data from the communiques of both organizations covering the first year of the Libyan conflict, in addition to preliminary data from interviews with a number of former and current officials.

I. Introduction

The proliferation of international organizations (IOs) and their increasing engagement in global governance have raised a political debate over the IOs' growing authority and their legitimacy to exercise such authority. Michael Zürn (2018) summarizes the problem with international institutions in global governance as follows: what they do is not enough given the magnitude of global problems, yet their basis of legitimacy is too small for what they already do (p iv). There is a resurgence of the research program on IOs' legitimacy in the scholarly literature in international relations (IR). Recent attention has been given to the empirical study of when, how and why International Organizations (IOS) gain, maintain or lose legitimacy (Dingwerth et al. 2019; J Tallberg et al., 2018; Zürn 2018). IOs pursue legitimacy to justify their authority, exercise influence and ensure compliance. Like other organizations in political life, IO's long-term capacity to deliver depends on its legitimacy in the eyes of the relevant audience (Tallberg & Zürn, 2019). A clear gap in the literature of legitimacy and legitimation is that scholars have ignored the complexity of the environment in which IOs exist and study the legitimacy and legitimation of IOs as standalone units. The paper addresses this gap by unpacking the question: How do international organizations claim legitimacy under conditions of overlap? To answer this question, I build a theoretical model based on the market analogy, which unpacks how IOs strategically react to their environment. I have identified a new discursive legitimation strategy, which I refer to as a legitimation by differentiation (LegD) strategy and I have advanced the argument to specify the scope condition under which IOs are more likely to resort to the use of the LegD strategy.

There has been a rapid and significant expansion of the number of international organizations over the last half century, which is often explained as a result of decolonization, globalization, or increase in the number of global issues (Turner, 2010). This institutional density has led to overlap among numerous institutions, legal frameworks and authority creating what is referred to as a regime complex. Alter and Raustiala (2018) define a regime complex as an array of overlapping institutions that includes more than one international agreement or authority covering a particular functional or territorial area, such as a regime complex for climate change (Kohane &Victor, 2011). This complexity is often described in the literature by the metaphor of Spaghetti bowl (Alter & Meunier, 2009; Nolte 2016). In regime complexes multiple sources of supranational authority exist (Williams 2013, p. 43; Hurd, 2007). The question of legitimacy – defined here as beliefs of audiences that an IO's authority is appropriately exercised (Tallberg & Zürn, 2019) - is therefore salient given the sheer number of IOs and the expansion of their scope. Under conditions of overlap, legitimacy becomes important for IOs to remain relevant to member states as arenas for coordinating policies and solving problems, and to retain their focal places or leadership in the regime complexes (Lesage& Graaf, 2013).

The African context is a case in point of such complexity, where there is a nested network of regional and sub-regional organizations. In the realm of peace and security particularly, there is a dense web of international, regional, and sub-regional institutions, which partially overlap in mandate and membership (Geis, 2019). Some of these sub-regional organizations are the Regional Economic Organizations (RECs) that have expanded its scope to the peace and security realm, such as the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), and the Intergovernmental Authority on Development (IGAD)

(Yoram, & Hofmann, 2019). Africa is also home for a number of conflicts where the mandates of the organizations working in the realm of peace and security overlap.

In this paper, I focus on the Libyan conflict in 2011 as a case study. I study the legitimation strategies of two regional organizations, the African Union (AU) and the League of Arab States (LAS), regarding their roles in the conflict. My contribution is threefold: I fill a gap in theories of legitimacy in IR, which focus on the legitimacy of IOs as standalone units, neglecting that IOs operate in a complex environment. Second, I fill a gap in our understanding of the consequences of overlap on IOs by unpacking how IOs claim legitimacy in a complex environment. Finally, I provide an empirical look into legitimation claims of two regional organizations that are not commonly studied in the IR literature.

The Libyan conflict is an illustrative case of institutional overlap that involves various organizations with a core competency in security, including the AU, LAS and the UN. Several issues are at stake while looking at the Libyan conflict among them are the legitimacy of intervention of some actors; whether it is a UN file, or an Arab or African file, given that Libya is a member state of both the AU and LAS; and finally, the principle of subsidiarity and who should take the lead in the conflict resolution efforts. I focus on the African Union (AU) and the Arab League (LAS), both regional organizations seek to orchestrate efforts of conflict resolution, which induces rivalry, or "soft competition" to use the term of interviewee (17). Both regional organizations overlap with each other and with the UNSC which adds an additional layer to the dynamics of overlap.

The paper precedes as follows. I situate my research first within the current research program on legitimacy and legitimation, and the one on regime complexity and overlap (section II). In the subsequent section, drawing from the business literature, I theorize how international organizations

claim legitimacy in complexity by developing the concept of legitimation by differentiation (LegD) (section III). The fourth section describes the hypothesis and operationalization of the LegD. I then test the hypothesis using preliminary findings of how the African Union and the League of Arab States claim legitimacy under conditions of overlap (Section V). The final section concludes.

II. Legitimatin and Insitutional Overlap

In the literature of IR, the interest in legitimacy of international organizations has taken more attention with the rise of their role in global governance. Legitimacy is particularly important for IOs to be able to exercise its authority and secure compliance to its rules. Despite the importance of legitimacy for IOs, only recently legitimacy of international organizations has become pivotal in IR research (Buchanan & Keohane, 2006; Hurd 2007; Lenz, Burilkov, Viola, 2019; Tallberg, Bäckstrand, Scholte, 2018; Tallberg & Zürn, 2019; Zaum 2013). There are two commonly agreed upon approaches to legitimacy; the normative approach, within which IOs should ascribe to a set of normative principles such as the principles of justice, public interest, and democracy to be considered legitimate (Buchanan and Keohane, 2006, and Zürn, 2000), and empirical or sociological approaches.

This paper is situated within the sociological approach which considers that the legitimacy of an organization depends on the beliefs and perceptions of its relevant public (Zaum, 2013). Legitimacy in that sense is defined as "the beliefs or perceptions within a given audience that an exercise of authority is appropriate" (Tallberg et al., 2018, p. 6). The question whether IOs are believed to be legitimate becomes a purely empirical issue (Dingwerth et al., 2019; J Tallberg et al., 2018; Zürn, 2018).

The research program on empirical legitimacy of IOs has been increasing and taking forefront in IR. Its focus ranges from processes of legitimation, i.e. actors' practices and strategies

of claiming or rejecting legitimacy (Barker 2001; Gronau & Schmidtke 2016; Bäckstrand & Söderbaum 2018), to the work on tracing sources of legitimacy, i.e. the factors that shape audiences' individual legitimacy beliefs (Dellmuth & Tallberg, 2015, 2018; Zürn 2018; Dingwerth et al. 2019; Zaum, 2013), in addition to the recent research agenda on the consequences of legitimacy and legitimation on changes in IOs' institutional design and behavior (Lenz, Burilkov, &Viola 2019; Sommerer & Agné, 2018). These landmark studies neglect the organizational environment in which IOs operate. A clear gap in the literature is that the current research program still treats IOs as self-contained units and analyze their legitimacy and legitimacy claims in isolation.

The growing density of international institutions and the increase in their interaction raises questions about the adequacy of addressing IO legitimacy and legitimation in isolation from the environment in which they operate. To capture this growing phenomenon, the concepts of international regime complexes and international regime complexity have emerged in IR. Both concepts "grapple with the reality that nearly all international cooperative issues one engages today are likely to connect to, overlap with, or conflict with multiple international institutions and policies" (Alter, 2022, p. 1). Raustalia and Victor (2004) defined the term international regime complexes as "an array of partially overlapping and nonhierarchical institutions governing a particular issue area" (p. 279). Alter and Meunier (2009), refer to the aggregation of the regime complexes as the international regime complexity. Later, Alter and Raustalia (2018) built on this definition and refer to regime complexity as "the international political systems of global governance that emerge because of the coexistence of rule density and regime complexes" (p. 5).

A rich body of literature has emerged mapping regime complexes, relevant actors and cooperation challenges within a complex (Raustiala, 2000; Aggarwal,1998; Raustiala, 2000; Raustiala &Victor, 2004) or unpacking overlap in a particular regime such as international trade,

global refugee regime and regime complex for climate change (See Betts, 2013; Bush, 2007; Keohane & Victor, 2011, Panke & Stapel, 2018). The scholarship on international regime complex is expanding covering different regime complexes, offering theories emerging from case studies or small N analysis, conceptualizing the variety of outcomes (Alter, 2022). To my knowledge, there is hardly any study that addresses the consequences of regime complexity for IOs legitimation. This paper is motivated by the need to fill this gap.

I focus on institutional overlap and not the whole regime complex. The concept captures a situation where international institutions with a legitimate claim to authority over a particular issue area or over a given problem space overlap. There are two dimensions that together form a case of institutional overlap: membership and mandate or policy competence. The membership dimension refers to a situation where two or more IOs have similar (but not necessarily identical) membership (Hofmann, 2009 & 2011). For example, the intersection of membership between the Council of Europe (CoE) and the European Union (EU), or the membership of the Economic Community of West African States (ECOWAS) that forms a subset of the African Union (AU). Overlap along the mandate dimension refers to the tasks and functions that the institutions have subscribed to in their treaties, strategies and other constitutive and operational texts, and resources includes the common and pooled resources of each institution (Hofmann, 2011, pp. 103-104). There are numerous examples of overlap such as NATO, the EU and the OSCE (peace and security policy area), the WTO and the Common Market of the South (liberalization of trade), and the AU and the Regional Economic Communities organizations (Economic integration, regional development and peace and security).

There is a good reason to study IOs legitimation and institutional overlap in relation to each other. Scholars have recognized that legitimacy is not just a static characteristic, but one that

fluctuates, contested, and used strategically (Billerbeck, 2019). Actors and institutions generate legitimacy through legitimation, a process of justification and contestation to shape legitimacy beliefs. Institutional overlap changes the environment in which IOs claim legitimacy in relation to a particular audience, due to the presence of multiple sources of authority who claim legitimacy over the same area of competency. One could expect, therefore, a change in the process through which IOs claim legitimacy to take environment into account.

The literature still falls short in unpacking the relation between the two concepts as explained above. We still do not know how institutional overlap impacts the strategies that IOs use to claim, maintain or regain its legitimacy. I present here a theoretical framework that unpacks how institutional overlap shapes the legitimation strategies employed by regional IOs. In an overlapping environment, legitimacy is crucial for IOs seeking to gain or retain their focal place in a particular issue-area or a regime complex. Borrowing the concepts of competitive advantage and differentiation strategies from the business literature, I argue that in their quest for leadership and centralization, IOs react to overlap by employing strategies of legitimation by differentiation (LegD) through which they implicitly or explicitly make use of their competitive advantage.

III. Theorizing Overlap & Legitimation

I theorize the relationship between IOs and its environment by drawing on the market analogy from the business literature. I start by drawing an analogy with the business environment, where overlapping IOs are compared to competitive business suppliers working in the same business market. Drawing analogies or importing concepts from other fields of study into international relations is not novel. International relations scholars have borrowed concepts and ideas from other fields and most commonly from economics to explain some of the puzzling phenomenon of IR such as states' behavior, establishment of international regimes or regime

maintenance, and interaction between the different constituents in a regime etc. (Waltz, 1979; Keohane, 1982; Yarbrough and Yarbrough 1990; Downs and Rocke 1995; Lake 1999; Moravcsik 1999; Wallander 2000; Weber 2000).

a. The Market Analogy

I borrow the market metaphor to explain how IOs behave to legitimize itself in an overlapping situation. The analogy is as follows; overlap among IOs result in a structural environment that resembles an oligopolistic market in which competing business units seek to have a competitive advantage in terms of goods or services superior to all of a customer's other choices to survive or have a larger share in the market. Like the market environment, institutional overlap results in an environment in which the legitimacy claims of overlapping IOs and other relevant actors compete. In such an environment, IOs, like business units, seek to have or use its competitive advantage vis-à-vis the other overlapping IO(s) to claim legitimacy or gain/maintain a central position.

For the purpose of theorizing, I identify in a generalized way the similarities and differences between the business environment and the political environment in which IOs operate. The point of similarity, which I build on in the theorization, is that both IOs and business units operate in a complex environment, where interactions with other constituents influences the behavior of the individual units. In such a complex environment, business units and IOs seek to survive, the former by maximizing profit and the latter by staying relevant.

I acknowledge, however, the differences between the two environments. On the one hand, business units in economic markets exist to provide goods and services; and they operate to survive, secure a share in the market, and maximize profit. They function in flexible and fluid environment, where there is a room for those who can compete. Competition in economics is like a selection

mechanism as only those who could compete would survive, therefore, business units always seek to develop a competitive edge over their competitors.

On the other hand, international organizations are established to provide public goods (ranging from defense to environmental protection) and overcome collective action problems. IOs function in a much more complex environment. Unlike the business environment, the IO's environment are by far not flexible and fluid, and hard to change. We know from the literature on IOs that they have a strong tendency to persist once they are institutionalized. Competition for IOs, therefore, is not a selection mechanism for IOs like business units. Pierson (2000 & 2004) argues that competition is not a useful selection mechanism in political environments, which is why there is a high degree of path dependence. IOs strive to remain relevant or increase its attractiveness as existing institutional arrangements, to increase the cost for relevant actors to defect.

I extend the metaphor of business market further to compare an overlapping context to oligopolies, i.e., markets that have a few competitors with relatively large market share, where the action of one business unit leads to a significant influence over the competitor and the market. IOs in an overlapping context are similar to oligopoly in a sense that even with proliferation of IOs still few IOs are competing and dominating a policy area. Overlapping IOs result in an environment or complex, where the action of one unit influences the other and the whole complex. A relevant example here is the refugee regime complex. The UN High Commissioner for Refugees (UNHCR) is one of many organizations within the UN System that were established in the aftermath of World War II and at that time they held a de facto monopoly in the policy field of refugee protection. The UNHCR was created in 1950 to oversee the implementation of the 1951 Refugee Convention. At the time of its creation, the UNHCR had a monopoly in the refugee regime. However, with the rapid institutional proliferation within and beyond the UN system in areas related to migration and human

rights leading to the creation of a refugee regime in which overlaps with other regimes such as Human Rights Regime, Labor Migration regime, security regime and travel regime (see Betts, 2013). With the presence of few actors, decisions and choices about refuges are now not only made within the UNHCR-forums but other organizations such as the International Organization for Migration (IOM) that influence UNHCR's decisions.

A similar example is the Food and Agriculture Organization (FAO) established in 1943, which was the origin of the contemporary global governance of food security. With the proliferation of institutions working on areas related to food security or with the expansion of policy areas of other existing institutions, such as the International Fund for Agricultural Development, the World Food Programme of the United Nations (WFP), and the World Health Organization (WHO) among others. Policy making in the field of food security is no longer confined to FAO (See Margulis, 2017). Another example is Peace operation missions which used to be dominated by the UN Security Council (UNSC). With the proliferation of regional security organizations (or organizations that have collective security as one of its policy areas) such as NATO, the African Union (AU), ECOWAS among others, there has been a shift since 1992 towards regional organizations-led missions especially in Africa and Europe (Jetschke & Schlipphak, 2019).

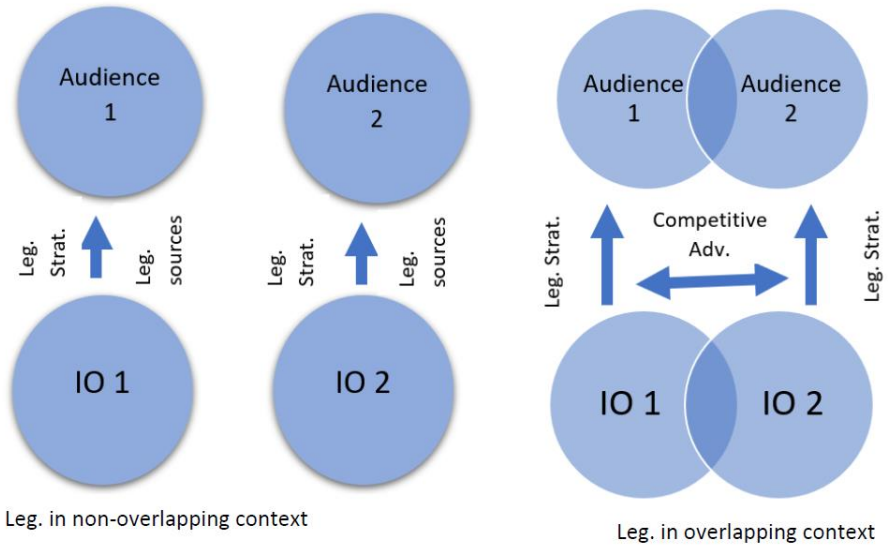
This interdependence feature in a regime complex where IOs overlap is similar to interdependence feature of an oligopoly. Business units in oligopolies behave strategically and take their decisions and build their competitive strategies in relation to the environment (the market) and other competitors. Similarly, at least conceptually, overlapping IOs in a regime complex would behave strategically i.e., by taking other overlapping IOs and the environment (the complex) into consideration. While striving to remain relevant in an overlapping context, IOs would adopt

strategies that help creating a defensible/ competitive position vis-a-vis other overlapping institution.

By postulating that institutional overlap would lead to competitive dynamics, I side with the group of scholars in the literature who argue that regime complex and overlap produce less favorable outcomes. There has been much debate in the literature over the outcomes of overlap where as one group of scholars argues that overlap facilitate more effective cooperation, division of labor, enhance normative legitimacy, manage interface conflicts successfully and will ultimately strengthen global governance and international cooperation (Faude & Groβe-Kreul, 2020; Gehring & Faude, 2014; Kreuder-Sonnen and Zürn 2020, Keohane & Victor, 2011). Other scholars fear that such complexity may weaken global governance because of the ambiguity over international standards and creating opportunities for forum shopping (see among others Aggarwal, 1998; Alter & Meunier, 2009; Raustiala & Victor, 2004). In this paper, I side with the second group by arguing that institutional overlap results in competitive dynamics among IOs over retaining their focal places or leadership positions in regime complexes.

b. Legitimation by differentiation Strategy (LegD)

Overlap among IOs changes the environment in which IOs claim legitimacy. It results in a structural environment that resembles an oligopoly where a few actors, i.e. IOs, exist and claim legitimacy over the same issue area. Legitimation in overlapping context is no longer an interaction between stand-alone legitimizing actors, i.e., IOs and the concerned audience, but rather among two or more interacting IOs with authority claims over the same issue or problem area addressing overlapping audience (See figure 1).



I define the concept of LegD as a sub-set of discursive legitimation strategies that differentiate the IO from an overlapping IO by reference to a competitive advantage. It is the explicit or implicit reference to the IO's competitive edge over an overlapping actor. The strategy is comparative in nature, this comparative element is the criteria that distinguishes it from the rest of legitimation strategies. An IO's competitive edge could stem, for example, from its knowledge/competence, identity or resources. To give an example, Ojanen (2017) studies power relations between the EU, NATO, and the UN in the field of security policy, which is a shared task environment. Ojanen argues that the differences between the three organizations or the distinguishing features that one has over the other defines their power relations. For Ojanen, the power (or what I refer to as a competitive edge) of the EU over the UN is sources (material), the EU' autonomy (e.g. to act in crisis management) and status (upgrading towards state-like features). Conversely, the power of the UN over the EU is the subordination of the EU to the authority of the UNSC as a regional organization, and the principle of division of labor. The power of the EU over NATO is equally based on its supranationality, while the NATO's power over the EU, based on

knowledge or knowhow in addition the US membership. In essence, Ojanen (2017) argues that understanding the distinctive features of the EU, NATO, and the UN help understand what power resources each of these have (Ps. 96 - 98). Similarly, I argue that IOs' distinctive features will be used by IOs to construct a defensible position vis-à-vis the overlapping actor(s) over a contested issue area.

An environment of overlap triggers a condition where IOs not only seek legitimacy to justify their exercise of authority but rather to gain or retain a focal place or leadership in a regime complex. The existence of an overlapping actor as a new component in the legitimation process. Betts (2013), for example, argues that the UNHCR has become a challenged institution when other IOs such as the IOM or other organs of the UN became involved in refugees matters and the UNHCR had to change its strategies vis-à-vis other actors that have emerged. Following the same logic, I expect IOs to change their legitimation strategies vis-à-vis other actors.

i. The Scope Condition

I do not claim here that whenever IOs overlap, they will make legitimacy claims by differentiating themselves from others. Given the proliferation of IOs, overlapping institutions have become the norm. The mere existence of this overlap, therefore, does not reveal much about what this overlap means for an organization. Overlap is a structural condition that shapes an IO's legitimation strategy, but doesn't determine it.

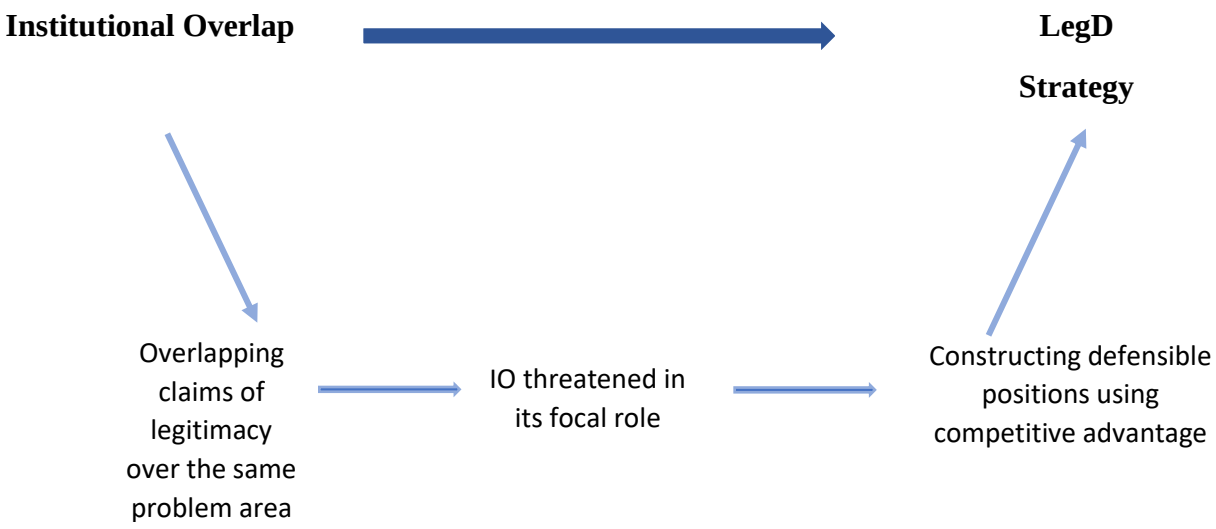
Policy overlap varies in importance to organizations and that the reaction of organization to overlap would vary depending on whether overlap occurs in areas that traditionally define the organization's role (Gebhard & Galbreath, 2013). Along the same line, a number of studies address the way in which overlap influences the dominance of an IO in an established international regime.

Betts (2013) develops the concept of a challenged institution to describe the implications of overlap for the UNHCR's traditional dominant role in the refugee regime complex, whereas Lesage and Graaf (2013) describe that overlaps strengthen the existing institution's dominance of the OECD. I build on this idea of the implications of overlap on the dominant role of IO. I expect that if overlap threatens the focal or central role of IOs, IOs invoke the LegD strategy to claim legitimacy, which leads to the hypothesis that I will tease out in this paper:

> *H1: To the extent that institutional overlap threatens the focality/centrality of an IO, IOs will use LegD strategy to claim legitimacy.*

I assume that when IOs are faced by overlap that occurs in a problem area where they already have or aspire to have a leadership role, one of the implications of overlap is that the IO will be threatened (or challenged) to play this role and have a voice. Threats perception has long been a subject of study and debates in international relations. In this paper, I define a threat for an IO as a situation in which an agent(s) or actor(s), in this case overlapping IO(s), has either the capacities or the intension to undermine its central role[1]. Threats are probabilistic because they may or may not take place (Rousseau & Garcia-Retamero, 2007). Thus, an IO may perceive a situation as a threat regardless of whether the threat will take place or not. I expect if an IO perceives an overlapping situation as threat, it will employ legitimation by differentiation strategy by constructing a defensible position leveraging their competitive advantage vis a vie an overlapping actor(s) in order to retain leadership or a focal position in a particular situation. The figure below visualizes the mechanism of the LegD strategy.

[1] I follow Davis's (2000) definition of a threat as "a situation in which one agent or group has either the capability or intention to inflict a negative consequence on another agent or group" (p. 10).



ii. Operationalization of LegD

Legitimation by differentiation strategy is comparative in nature. It is the explicit or implicit reference to the IO's distinguishing feature in an overlapping context. LegD are communicative in nature through which an IO seek to convey information about an IO's competitive advantage. It could be also institutional, for example, an IO might consider enlarging its policy scope to gain a competitive advantage. Discursive strategies will be needed, however, to frame this institutional change as having an edge over the overlapping actor(s).

LegD is a discursive strategy, i.e. linguistic propositions that could be found in a given paragraph in the official statements of the IOs related to the case of active overlap. These official statements could be in the form of communiques, media statements, speeches or published meeting reports issued in the name of the IO itself, a body of the organization, a representative of the IO or a representative of a member state. Those propositions are statements that legitimize the organization itself and not a mere justification of the organization's policy, position or a specific action. They include positive evaluation of the organization with references through the use of comparative adjectives or grammatical modifiers implies as a comparative form even if the referent

object of the comparison is not mentioned. To give an example, the following paragraph is part of a communique by the AU assembly on the Libyan conflict.

> AU international partners, in particular the United Nations Security Council and its members and relevant bilateral partners, to support the African initiative and the search for a political solution, as **the best way of achieving the mutually-reinforcing objectives of peace, democracy, the rule of law and national reconciliation in Libya**. The Assembly UNDERSCORES that the role of the AU is formally recognized by UN Security Council resolution 1973 (2011) and is fully consistent with the provisions of Chapter VIII of the UN Charter and **the unique contribution that the ad hoc Committee can make for the resolution of the current crisis**. (Assembly/AU/Dec.385(XVII))

In these propositions, the AU is trying to justify the relevance of its role in the Libyan conflict. It describes its initiative, the African initiative, as the best way of achieving peace and stability. The use of the comparative adjective in the superlative form "best" here implies that what the AU can bring to the conflict resolution is the best in comparison to other proposals on the table. The same idea is emphasized by the use of "the unique contribution". Again, the AU situates itself in the overlapping context as having a unique contribution in comparison to what other actors can bring. The reference to the "African" initiative as "the best way" and a "unique" contribution, is an attempt by the AU to distinguish itself from the other overlapping actors by referring to its competitive edge or distinguishing feature which is the identity of the organization.

LegD are propositions that express boundary production, it makes use of what is called as boundary markers[2] to differentiate between us, the IO that is performing legitimation, and the other

[2] I follow the research on identity construction (Lamont and Molnar 2002), which emphasizes the role of conceptual markers in establishing the boundaries of what constitutes Us as opposed to Them. Boundaries are constructed as outcomes of social processes to separate people into groups and generate feelings of similarity and group members (ibid).

overlapping actors. These boundary markers are expressed in terms of reference to the distinguishing feature, such the history, identity of the organization, competence, or capabilities/resources.

IV. The Case study of the Libyan Conflict

I have used a purposive sampling in selecting the Libyan conflict. The Libyan conflict is a case of institutional overlap that involves various organizations with a core competency in security, including the AU, LAS and the UN. Several issues are at stake while looking at the Libyan conflict among them are the legitimacy of intervention of some actors; whether it is a UN file, or an Arab or African file, given that Libya is a member state of both the AU and LAS; and finally, the principle of subsidiarity and who should take the lead in the conflict resolution efforts.

A number of actors got involved from individual states, non-state actors, to IOs such as the African Union and League of Arab States (LAS), NATO, the EU and the UNSC. Some of these IOs overlap in membership and policy scope namely the UN, AU and the LAS, in addition to the EU which does not theoretically overlap with other regional organizations, yet it overlaps with the UN.

I focus on the African Union (AU) and the Arab League (LAS), both regional organizations seek to orchestrate efforts of conflict resolution, which induces rivalry, or "soft competition" to use the term of interviewee (17). Both regional organizations overlap with each other and with the UNSC which adds an additional layer to the dynamics of taking the lead in the conflict resolution efforts. Libya is an Arab country and a member of LAS, at the same time it is also a member state of the AU (as well as the Organization of the African Unity earlier), at which it used to be very influential under Gaddafi. Both LAS and the AU are general purpose organizations and both are mandated to be collective security providers. Unlike the relation with the UN, there is no hierarchal

relation between the two organizations, and unlike other regional and sub-regional organizations in Africa with which the AU overlaps, LAS is not recognized as part of regional economic communities (RECs), the building blocks of the AU, and is not part of the African Peace and Security Architecture. Therefore, the dynamics of interaction between the two originations is not institutionalized.

In this section, I look at the legitimacy claims of both organizations at the initial stage of the Libyan conflict. I am interested in analyzing how both organizations construct their legitimacy discursively to stay relevant in a setting where there are other key players. I draw on data from the communiques of both the AU and LAS covering the first year of the Libyan conflict and preliminary data from interviews with a number of former and current officials at both organizations, the UN Support Mission in Libya (UNSMIL) and the Delegation of the European Union to Libya (EEAS)[3].

I will be looking at discursive legitimation strategies, i.e., communiqués or statements issued on the Libyan conflict from the beginning in February 2011 until the death of Gaddafi and the end of NATO operation in October 2011. I have chosen this period for the following reasons, first it is difficult for time and space limitations to cover 10 years of the conflict. Second, the first year was challenging in terms of having various actors heavily involved in the conflict from the beginning. One may argue that the first period is when a lot of key decisions were taken, such as the no-fly zone and the NATO intervention. This is when the terrain is being broken up and actors position themselves, with lasting consequences for later periods. Third, the death of Gaddafi and end of NATO operation are turning points in the course of the conflict.

[3] I conducted so far nineteen (19) interviews (see Annex I) with current and former officials during the period from November 2020 until March 2022. Given that the interviewees are current or former diplomats, I chose to anonymize them to protect them.

a. The African Union in the Libyan Conflict

In the wake of the uprisings in Tunisia and Egypt that took place by the end of 2010, the protests in Libya started. The first demonstrations took place on 15th and 16th of February 2011 in Benghazi with a small rally that soon grew into a series of large demonstrations in serval cities that were forcibly crashed down and hundreds were killed. The first AU discussion on the Libyan crisis was at the Peace and Security Council (PSC) meeting of 23 February 2011. The Council issued a communique in it "expresses deep concern with the situation in the Great Socialist People's Libyan Arab Jamahiriya and strongly condemns the indiscriminate and excessive use of force and lethal weapons against peaceful protestors" (PSC/PR/COMM(CCLXI)) [4]. The first communiqué was a general one where the AU expressed concern over the situation and decided to send a mission to Libya to assess it. Given the rapid developments of the events, a number of actors started to react to the conflict in Libya from state actors such as the U.S., UK, and France to IOs and humanitarian NGOs. The AU is criticized for its slow and unproportionable reaction to the situation in Libya that quickly got violent. This was mainly due to lack consensus among member states on how to react to the events in Libya given Gaddafi's relations with some of the AU member states (Interviews 3 & 11). By the time the AU had made a decision, its efforts to push for a political resolution were significantly constrained by the UN actions and resolutions (Interview 3).

The AU Peace and Security Council (PSC) met on March 10, 2011 at the heads of state level. The Communique of the meeting emphasized that "current situation in Libya calls for an urgent African action" and reiterated its "rejection of any foreign military intervention, whatever its form." (PSC/PR/COMM.2 (CCLXV)). In this Communique, the AU presented what became to be

[4] Communique of the 261st Meeting of the Peace and Security Council
http://www.peaceau.org/uploads/psc-communique-on-the-situation-in-libya.pdf

known as the AU "roadmap" to the Libyan Crisis and set up an ad hoc high-level committee to implement the roadmap, including the presidents of Mauritania (in the chair), Republic of Congo, Mali, South Africa and Uganda. The roadmap and the ad hoc committee emerged from a hard-won compromise amid the disagreement among the AU member states (Interviews 3, 4 & 11). The idea of the lack of consensus among member states and lack of coordination within the different bodies at the AU was cited as a reason the AU could not have an influential role from the beginning (Interview 15). A more effective coordination between the PSC and the African members of the UNSC could have strengthened the presence of the AU and its role in the resolution of the crisis (Interview 3).

The PSC "roadmap" calls clearly for an urgent "African action" for: (i) the immediate cessation of all hostilities, (ii) the cooperation of the competent Libyan authorities to facilitate the timely delivery of humanitarian assistance to the needy populations, (iii) the protection of foreign nationals, including the African migrants living in Libya, and (iv) the adoption and implementation of the political reforms necessary for the elimination of the causes of the current crisis. The emphasis that the solution to the Libyan crisis should be African and that African actions should be pursued is constantly repeated in the communiqués. This emphasis on the African identity of the solution to the crisis is an attempt by the AU to make a legitimacy claim for playing a focal role and get its voice heard in international forums. At different forums, the AU repeated the discourse that the solution to the Libyan crisis should be African and that the Africans should not be ignored in any conflict resolution mechanism (Interviews 13 & 15).

The AU stresses an attribute that it deems as a competitive advantage over the other overlapping actors, and hence construct its legitimacy and stay relevant in a competitive setting. Asking about the African identity, almost all my interviewees emphasized that this is not new to the

AU's "way of thinking". "The AU has the slogan African solutions to African problems; the AU wants to be the first point of reference for any African conflict" (Interview 2). For the AU, Libya is an African country and a member of the AU so it is only natural that the AU claims legitimacy to play an influential rule in the conflict (Interviews 1, 2 &3).

On 17 March, the UNSC adopted Resolution 1973 that authorizes "taking all necessary measures to protect civilians under threat of attack" (Para. 4) and enforces a no-fly zone (Para. 6). The resolution references in the prologue the communiqué of the Peace and Security Council of the African Union on March 10, 2011. The language of paragraph 2 on the positive mention of the AU initiative was proposed by South Africa so that the African states in the Security Council would vote for the resolution (Interviews 3 & 15). However, the resolution did not endorse the AU roadmap and instead enacted the LAS's call for no-fly zone and requested –under Chapter VIII of the UN Charter-the Member States of the League of Arab States to cooperate with other Member States in the implementation of paragraph 4 (take necessary measures). At this stage, the AU's efforts to pursue a political resolution to the crisis were highly restricted by the UNSC resolution (Interviewee 3). The AU was struggling to have its voice heard particularly that South Africa voted for the 1973 Resolution, a position that was not in coordination with the AU PSC.

The AU convened an extraordinary summit meeting on 25 May, at which it called for an immediate pause in fighting, for ceasefire monitors, and for a framework agreement for a political solution, including a transitional period culminating in elections[5]. The chairperson's report reflects the AU attempts to stay relevant to the conflict. The report - as shown in points 8 and 9 below - clearly expressed anger about marginalizing Africa's role in the conflict, and emphasized that African solutions are required for conflict resolution. The report states the following:

[5] See "African Union decision on the peaceful resolution of the Libyan crisis", Voltaire Network, 25 May 2011, www.voltairenet.org/article170143.html

> 8. The Assembly expressed Africa's surprise and disappointment at the attempts to marginalize the continent in the management of the Libyan conflict, recalling that the role of the High-Level ad hoc Committee is formally recognized by the Security Council in paragraph 2 of resolution 1973 (2011), and falls within the overall context of Chapter VIII of the UN Charter on the role of regional arrangements in the settlement of disputes among and within their member States. The Assembly also recalled that Africa, particularly the countries of the region, are those that bear the greatest impact of the conflict in Libya, both in terms of security and socio-economic consequences.
>
> 9. The Assembly stressed that the lasting resolution of the Libyan crisis requires a significant contribution by Africa and close coordination among all stakeholders. In this respect, the Assembly pledged Africa's solemn commitment to work closely with its multilateral partners, in particular the United Nations and the Secretary-General's Special Envoy for Libya, in the spirit of operative paragraph 2 of resolution 1973(2011), the League of Arab States, the Organization of the Islamic Conference (OIC) and the European Union (EU), as well as with its bilateral partners.

It is clear from the chairperson's report that the AU was marginalized in a crowded environment amid a UN leadership as some of the P5 had direct interests in Libya. There was an indirect reference to the principle of subsidiarity by referring to Chapter VIII in the UN charter about regional arrangement. For the AU, based on the principle of subsidiary, they should take the lead and be the focal forum. The AU was pushing for a leadership role, a role that did not even resonate with the Libyans (Interviews, 13 & 14), who did not feel that the AU is the closest representation of their identity (Interview, 15). The dynamics here is worth examining more whereas the AU draws on its African identity to stand out and ensure its voice will be heard, part of the group of the target audience seems to reject such a legitimacy claim.

In claiming legitimacy of being a relevant actor to the conflict resolution, the AU used the differentiation strategy, which is highlighting the African identity of the organization, to state its

competitive advantage vis-à-vis other actors. The report mentions that "the Assembly reiterated the unique contribution that the ad hoc Committee could make to the search for a peaceful solution to the conflict in Libya." The uniqueness of the contribution at this stage is derived from the African access to Gaddafi and other actors in the conflict (Interview,13). The AU was always insisting that it had a unique contribution to bring it to the table, however, it failed to demonstrate this unique contribution, and hence they could not have the influential role they hoped for (Interviews, 13 & 15). The AU was trying to discursively construct its legitimacy as having a unique contribution or a competitive advantage that it failed to demonstrate. The audience in this particular legitimacy claim was apparently the UN and the international community. It seems, however, that the audience did not accept such claim, as the AU failed to demonstrate this discursive legitimacy claim by highlighting its unique contribution.

As the fighting intensified and the war appeared to have descended into a stalemate, the AU High-Level Ad Hoc Committee met on 26 June 2011 and issued a communiqué[6] in which they expressed the AU's deep concern at the continuing fighting between the warring Libyan Parties and at the NATO-led aerial bombardment. The communiqué addresses "all Libyans to heed this call to allow Africans to continue to provide Africa-owned and Africa-led solutions to our problems" (Para. 6 (vi)). The language of the communique makes use of the differentiation strategy in terms of implying that the solutions of the conflict should be African and should come from the relevant organization, which is the AU.

[6] Communiqué of the meeting of the AU High-Level Ad Hoc Committee on Libya retrieved from https://reliefweb.int/report/libya/communiqu%C3%A9-meeting-au-high%E2%80%90level-ad-hoc-committee-libya

The communique[7] of the Malabo Summit that took place on June 30, 2011 expresses concerned over the NATO bombing and "STRESSES the continued relevance and validity of the AU Roadmap as articulated by the PSC at its 265th meeting". The AU assembly further urged

> AU international partners, in particular the United Nations Security Council and its members and relevant bilateral partners, to support the African initiative and the search for a political solution, as the best way of achieving the mutually-reinforcing objectives of peace, democracy, the rule of law and national reconciliation in Libya. The Assembly UNDERSCORES that the role of the AU is formally recognized by UN Security Council resolution 1973 (2011) and is fully consistent with the provisions of Chapter VIII of the UN Charter and the unique contribution that the ad hoc Committee can make for the resolution of the current crisis. (Assembly/AU/Dec.385(XVII))

The language of the communique again stresses the competitive advantage that the AU has which is the African identity. The AU stresses the "unique" contribution of ad hoc Committee and the relevance of the African initiative and it called on all the actors to support the African efforts. From the previous analysis, it was obvious that the African Union was challenged to maintain a relevant role and take leadership position in a crowded field. Based on the brief review of AU's official documents on the conflict in Libya, it is clear from the language of the communiqués that the AU is keen on presenting itself as a relevant actor in a context where a number of overlapping institutions compete. The AU has constructed its legitimacy claim by employing a differentiation strategy in which it stresses the African identity. Identity is considered as an attribute that the AU deems important for the audience (although apparently it was not the case) and hence gives the AU a competitive advantage over the other actors. Also, the juxtaposition of refusing foreign

[7] Communiqué of ASSEMBLY OF THE UNION Seventeenth Ordinary Session 30 June - 1 July 2011 Malabo, EQUATORIAL GUINEA. Retrieved from https://au.int/sites/default/files/decisions/9647-assembly_au_dec_363-390_xvii_e.pdf

intervention in any form and having concerns over the NATO mission, against the AU's Africa initiative that is based on a political resolution and dialogue among all actors is another strategy that the AU used while constructing its legitimacy claims.

b. The League of Arab States (LAS) in the Libyan Conflict

In this section, I will look at the impact of overlap on the discursive legitimation of LAS. For LAS, Libya is a de facto Arab file and within its terrain of influence. It is important here to highlight the difference between the League and the AU. Although both organizations overlap in terms of memberships and policy scope, the capacities, tools and mechanisms available for both organizations are different. Unlike the AU, the institutional framework of the league provides it with very few tools to play a role in managing conflicts in the region. Whereas the AU has an institutional architecture for peace and security and tools such as forces to intervene in conflicts military, the League's tools are limited and mainly depends on the informal diplomacy of the Secretary General. This difference in the capacities and the tools that are available to both organizations was emphasized in almost all my interviews. Acknowledging these differences, the overlap in the Libyan case created dynamics where both organizations were trying to have a focal role in the conflict resolution efforts. "There was a sense of crowdness and attempts by some actors to sideline the League" (Interviewee 8).

Unlike the AU, the League was exceptionally quick to react to the violent developments of the events in Libya. On 22 February 2011, the League condemned the use of force against civilians and suspended Libya's participation in the League. Amr Moussa, the Secretary-General of the Arab League at that time, wrote in his memoirs that it was the first time in the history of the organization that it suspended a member-sate's membership as a reaction to the deteriorating situation in the country, and described it as "an important development in the Arab Multilateralism" (Moussa 2020,

p. 416). The League's role in the Libyan conflict is "an exception" in the history of the League (Interviewee, 7). The League was under pressure to act by some of the member states and some of the P5 as well, who had direct interests and wanted to influence the course of the events (Interviewee, 7).

The Council on the Ministerial Level issued a resolution[8] on March 2, 2021 condemning the violence by the Libyan authorities against civilians; at the same time, the resolution referred to the possibility of imposing no fly zone in Libya and the coordination between the League and the AU in this regard. Moussa (2020) refers to this resolution as a message to Gaddafi at that time that the League will not remain silent and that the Arab States will take actions (Moussa 2020, p. 421). Although the coordination of the AU was mentioned in the Resolution, the League's call for a no-fly zone was not in coordination with the AU. It was a reaction to the mounting pressure on the League. In an extraordinary session held ten days later upon an invitation from United Arab Emirates (UAE), the Council[9] asked the UN Security Council to "take necessary measures to impose a 'no fly zone'" over Libya. Moussa (2020) wrote that its was expected that the Gulf Cooperation Council (GCC) states would ask and even pressure the League to issue a resolution in which is it calls upon the UNSC to impose a no-fly zone (p. 423). Although Moussa in his memoir defended the League's resolution arguing that there was an Arab understanding of the "non-fly zone" and the League never endorsed any foreign interventions in Libya, the League's resolution bestowed legitimacy on the UNSC 1973 resolution on March 17, 2011 authorizing "all necessary measures" "to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jumahiriya", and the subsequent NATO's intervention on March 19, 2011. The UNSC 1973 Resolution also endorses the League's role:

[8] Council Resolution 7298, Regular Session 135, 2 March 2011.
[9] Council Resolution 7360, Extraordinary Session, 12 March 2011

> 5. Recognizes the important role of the League of Arab States in matters relating to the maintenance of international peace and security in the region, and bearing in mind Chapter VIII of the Charter of the United Nations, requests the Member States of the League of Arab States to cooperate with other Member States in the implementation of paragraph 4.

The juxtaposition in the language of the UNSC 1973 Resolution between underscoring the role of the League and requesting the League and its member states to take actions, on the one hand, and the mention of the AU's initiative on the other hand, is a clear indication that the League at this stage of the conflict was playing a more influential role, while the AU was trying to have its voice heard. At this stage of the conflict, there was a need for the League's role. Mousssa (2020) mentions in his memoir that Hilary Clinton, the United States Secretary of State at that time, flew from Paris to Cairo on March 15, 2011 to meet with him in order to secure the League's support for the military intervention. With the UNSC and NATO taking the lead in the Libyan conflict, the role of the League retreated, individual Arab states joined the NATO-led coalition and the role of the League was limited to observing the developments of the events and condemning the regime's violence. With the killing of Gaddafi and the end of the NATO's mission over Libya on 31 October 2011, it was only when there was a room for efforts of political mediation of the conflict. The UN and NATO-led coalition rejected any efforts to mediate the crisis, Gaddafi's removal was a precondition for political transition (Interviewee 3).

From the initial analysis of the data I collected, the LAS did not appear to be as a challenged as the AU was. On the contrary, particularly at the beginning of the conflict, LAS played an important role by calling for a no-fly zone and in a way bestowing legitimacy on the UNSC 1973 resolution. For LAS, Libya is a de facto Arab file and there was no need to prove that. Also, it was clear that LAS was aware of the limitations of its role so they were not pushing for a bigger or a

leadership role. Still LAS wanted to be relevant, yet within the limitations of its capacities that it seems from the interviews that LAS is well aware of (Interviews 7,8,9, &11). In other words, LAS did not feel the urge to claim legitimacy or prove its relevance. As one of my interviewees put it "we do not need to prove we are relevant, they (with reference to the international community) come to us because ty need us" (Interviewee 7). The language of the LAS communiques is different than those of the AU. There is not any explicit reference to what could be interpreted as the comparative advantage of the organization or its relevance to the scene. From the interviews, it was clear that the LAS was aware of the competition dynamics with the AU who is trying to play a leadership role. LAS's reactions, however, to such attempts, were not reflected in the discursive communiques but rather in lobbying behind the closed doors (Interviewee 8). One of these attempts was the LAS's proposal to establish the Quartet in 2017, a framework for LAS, AU, EU and the UN to consult on Libya. Such a proposal could be seen as an attempt to stay relevant in the scene and to block the AU from taking a leadership role. The Language of the League's communiques changed at a later stage of the conflict which is out of the scope of this paper. There are references to the League making use of its competitive advantage, such as references to the League's role should be taken into consideration and cannot be ignored as the oldest regional organization and the only representation of the Arab voice.

V. Back to the Theoretical Model

The analysis supports the hypothesis that to the extent to the extent that institutional overlap threatens the focality/centrality of an IO, IOs will use LegD strategy to claim legitimacy. Institutional overlap has led to competitive dynamics not in terms of which actor has the legitimacy to claim authority and intervene in the conflict but rather in terms of taking the lead, having an influential role and ensuring that its voice is heard at key forums.

Institutional overlap, resulted in dynamics where the African Union, at the initial stage of the conflict, perceives the overlapping situation as a threat. It has become a challenged organization, i.e. not the focal actor or the main authority in the conflict resolution efforts. The AU was sidelined and was struggling to maintain its focal role. The overlap, therefore, resulted in conditions that motivate the AU's legitimation to justify its relevance to the conflict. The AU constructed defensible positions vis a vie the overlapping actors by making use of what it deems as its competitive advantage, i.e. the African identity. The AU makes use of the differentiation strategy to claim legitimacy to a leadership position or a focal role. By emphasizing the African identity and the uniqueness of its contribution as the African organization, the AU was positioning itself vis a vie the Arab League as it considers the Libyan conflict as an African file and therefore an African organization should take the lead. The AU also positions itself against the UN claiming legitimacy to play a focal role in the conflict by referencing Chapter VIII on the regional arrangements, and presenting itself as the African regional organization.

This was not the case for the League that at the beginning of the conflict had a focal role and was pushed to pursue a leading role. The league was not in need to make legitimacy claims at that time or to attempt at establishing defensible positions. In other words, the league did not have the threat perception of being sidelined. On the contrary, it was "pushed" to have a central role as a regional organization. This was changed later when the League's role reiterated and it found itself in a position to "elbow its way among the crowdness" (Interview 8). The League later on made discursive legitimation strategies in which it made use of its competitive advantage but this out of the scope of this paper.

VI. Conclusion

This paper fills in a gap in the IOs legitimacy and legitimation literature by addressing the question: How do IOs claim legitimacy under conditions of overlap? I presented a theoretical framework based on an analogy with the business market and the concept of competitive advantage. I argue that institutional overlap results in a structural environment that resembles an oligopoly where a few actors, i.e. IOs, exist and claim legitimacy over the same issue area. In such an environment, legitimation will be used strategically taking into consideration the other overlapping actor(s) and the environment. I identified a new legitimation strategy which I refer to as legitimation by Differentiation (LegD), a sub-set of discursive legitimation strategies that differentiate the IO from an overlapping IO by reference to a competitive advantage. I advanced the argument one step further arguing that IOs are likely to use the LegD strategy when they are threatened in the focality of the role they play.

I do not claim that overlap would result only in conflict and competition among IOs. Overlap could result in different modes of interaction among IOs including cooperation, division of labor/coordination, conflict, and competition. The concept does not suppose a particular mode of interaction. IOs in an overlapping environment could opt for cooperation or division of labor, yet they seek to differentiate themselves from overlapping actors to ensure a position in a regime complex.

The Libyan conflict is a case of institutional overlap that involves various organizations with a core competency in security, including the AU, LAS and the UN. The overlap between the two regional organizations, the AU and LAS, is particularly relevant as unlike the relation with the UN, there is no hierarchal relation between the two organizations and hence they could compete for influence and leadership role. The substantial overlap between areas of competence of two major

regional organizations lead to dynamics where both organizations aspire to have a legitimate influence, stay relevant, or acquire a leadership role. The primarily analysis has shown that the AU has constructed its legitimacy claims by employing a differentiation strategy in which it stresses the African identity because its perception threat that it was sidelined, while this was not the case of the League. The case study has supported the hypothesis. IOs under overlapping conditions seek legitimacy to remain relevant to member states as arenas for coordinating policies and solving problems, and to retain their focal places or leadership in the regime complexes. In justifying and contesting their legitimacy, IOs discursively position themselves vis-à-vis the overlapping actors by referencing their competitive advantage.

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Annex I: Interviews

Interview	Affiliation	Language	Medium	Date
1	Current AU official	EN	Virtual	July 25, 2021
2	Current AU official	AR	Virtual	May 25, 2021
3	Former AU official	EN	Virtual	March 31, 2021
4	Former AU official	EN	Virtual	Dec 10, 2020
5	Former AU official	EN	Virtual	Feb 19, 2021
6	Former AU official	EN	Virtual	Jan 27, 2021
7	Current LAS official	AR	Virtual	Nov 3, 2020
8	Current LAS official	AR	Virtual	Feb 10, 2021
9	Current LAS official	AR	Written Questions	Jan 23, 2021
10	Current LAS official	EN	Virtual	Nov 5, 2021
11	Former LAS official	AR	Virtual	Sep 29, 2020
12	Former UNSMIL	EN	Virtual	July 17, 2021
13	EU Official	EN	Virtual	August 2, 2021
14	Former UNSMIL	EN	Virtual	June 4, 2021
15	Former UNSMIL	EN	Virtual	Nov18, 2021
16	Former UNSMIL	EN	Virtual	Feb 22, 2022
17	Arab League	EN	Virtual	Feb 23, 2022
18	Current AU Official (Part I)	EN	Virtual	March 9, 2022
19	Current AU Official (Part II)	EN	Virtual	March 23, 2022