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IGOs and Juridical Organs

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IGOs AND JURIDICAL ORGANS

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This thesis is dedicated to my parents, Rosario and Jesus M. Diaz, brother and sisters and Georg Klamlinger for their patience, support and encouragement.

IGOs AND JURIDICAL ORGANS

by

JANETH DIAZ

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Abstract

Do the number of members, the level of democracy, and the level of institutionalization contribute to the creation and use of a juridical organ in IGOs? This study utilizes 495 IGOs in order to answer this question and examine which of these three elements, or all of them, are relevant to the creation and use of any type of juridical mechanism in an IGO. For each of these characteristics five dependent variables were tested. Empirical results indicate that neither the level of democracy nor the number of membership contributes to the creation and use of a juridical mechanism. In contrast, only institutional structure was considered highly statistically significant. Unexpectedly, the number of membership becomes statistically significant for the possession of formal mediation in IGOs when institutional structure is absent.

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I. Intergovernmental Organizations and Juridical Organs

International organizations or intergovernmental organizations¹ (IGOs) are often third party actors between conflicting nation-states. The majority of these organizations are created by states to foster a myriad of goals including the resolution of military, environmental, and economic conflicts. The procedures used to mediate such disputes vary in each organization. Additionally, the institutional structure for most IGOs varies depending on the strength and the level of importance they have in the world and how they collaborate and incorporate their ideas for the wellness of their community.

Most IGOs have been created to promote the development of cooperative relationships between state members, some acting as mediators to either preserve a stronger relationship among their members, or to solve conflicts more easily. In order to provide a better conflict-resolution environment among the members of an IGO, most IGOs have created their own dispute settlement mechanisms. These dispute mechanisms, such as courts or other juridical structures, have helped IGOs to address their disputes against other members and develop resolutions, statutes, and articles that help them to resolve their conflicts.

However, until now the relationship of how other intergovernmental organizations besides the UN and its juridical system relate and unify to create international law has been unclear. Most scholars have only focused on the origins of international organizations and their contribution to human rights, the United Nations often being the center of attention in their studies. Furthermore, there are several studies that explain the

¹ Despite existing differences between intergovernmental organizations (IGOs) and international organizations (IO) – IOs are not necessarily governmental controlled and may be private – both terms are to be understood interchangeably for the scope of this paper since government makes frequent use of various types international organizations.

connection between the UN and other juridical organs, leaving other IGOs outside of the picture.

The significance of this thesis is twofold. On one hand it fills a void left in the academic literature. Scholars tend to focus more on issues regarding how IGOs contribute in promoting peace and cooperation with other countries rather than how and in which types of juridical organs they address their disputes. While most studies focus solely upon these outputs, this thesis focuses more upon the institutional structure of juridical mechanisms within IGOs. On the other hand, this thesis also explores the practical consequences of the creation and use of juridical organs in IGOs. One of the most important issues deals with the number of members in IGOs. I suggest that a larger number of members in an IGO will contribute more for the creation as well as for the use of a juridical organ. Also, a larger membership within an IGO lends itself to the creation of a juridical organ within that IGO for the purposes of organizing and contributing to the creation of standards of international law.

It is very conspicuous to notice that scholars as well as policy makers have analyzed both topics in a separate way, but placed major emphasis on the UN and its institutional structure. “However, what has not yet attracted much attention is the relationship between international organizations and international dispute settlement bodies” (Boisson de Chazournes, Romano, & Mackenzie 2002), given the absence of the study of other IGOs, besides the UN, and juridical mechanism, I will investigate this highly complex relationship and provide an answer to the following questions: What types of IGO’s are more likely to have a juridical mechanism? What are some of the

factors that contribute to an IGO for the creation of their own juridical mechanisms? And once they have it, how many of those IGOs have made use of their juridical mechanism?

Intergovernmental Organizations (IGOs) are often called upon by states to intervene when a conflict arises between states. They are also central in the creation of international law and juridical courts. One example of this is the United Nations (UN), which has developed several institutions in order to serve different countries around the world in diverse areas such as in the protection of human and women rights, children's education, economic development between states, and many others areas. Besides that, the UN has its own juridical organ, which is known as the International Court of Justice (ICJ), in order to provide a court for conflict-resolution not only for the UN, but also for other intergovernmental organizations.

The aim of this thesis is to analyze the interplay between IGOs and juridical organs. Of particular interest is the idea of how IGOs create their own juridical mechanisms. According to the book *International Organizations and International Dispute Settlement*, "in the majority of the cases, the organ representing the organization before a dispute settlement body and the dispute settlement body itself are part of the same organization" (Boisson de Chazournes, Romano, & Mackenzie 2002). This statement supports my argument, which states that: not only states but also IGOs constitute important bodies as recognized judicial courts and contribute to the formation of international law. Additionally, I also explore whether or not instituted juridical organs are utilized, or if they are only a façade, for there are few investigations that illustrate the relationship between IGOs and dispute settlement bodies.

Although the body of sound empirical research on IGOs and juridical mechanisms is expanding, many features of these IGOs have not yet been completely measured and it has not been clarified how these institutions help to create international law. Bearing this in mind, my thesis begins by explaining why some IGOs have formed their juridical organs, especially focusing on the role they play among their members and what juridical organs they are most likely to use in order to solve their disputes. I examine whether their level of democracy, the number of members and their level of institutional structure contributes to the creation and use of a juridical mechanism in an IGO.

As already stated, the creation and importance of IGOs were growing markedly among countries, but decreased in pace within the last 10 years (Pevehouse, Nordstrom, & Warnke 2003). However, it is hard to assess the effectiveness of their performance in the judiciary and, therefore, to assess if IGOs use it extensively. Besides the European Communities (Boisson de Chazournes, Romano, & Mackenzie 2002), it is not very common to see IGOs acting against other IGOs or states in juridical settlements. In an attempt to determine whether the existence of a juridical mechanism in all or in some of these IGOs is relevant or not, the assessment of the efficacy of their juridical performance is required first.

Additionally, this investigation tries to attempt to determine if the juridical organ is a decisive factor in the structure of IGOs, how it is constructed, and if it contributes to the development of international law. Furthermore, with all the collected data, I expect to conclude that a greater number of members will be a determinant factor in the creation and use of a juridical mechanism in order to solve their disputes. Finally, I assume that those IGOs with a higher degree of democracy within its members will use a juridical

mechanism more often than those institutions that are not built upon democratic principles.

Organization of the thesis

As previously stated, there is a need to portray the relationship between IGOs and juridical organs. In order to accomplish the main goal of this thesis, the information gathered for this study is based on theoretical as well as empirically proven information of previous studies. Another aspect of the information gathered for this study is based on quantitative analysis. A thorough description of these data will be provided in the respective chapters. The following paragraphs give a brief description of the content of each of the chapters of this study.

Chapter 2 explains the literature review concerning the history of intergovernmental organizations and their relationship with juridical organs. It also analyzes previous studies that relate to this field of research, including the number of memberships in IGOs as well as the participation of democracy and international structures in IGOs. Additionally, it also explains the different concepts and definitions that are used for the purpose of this study, such as juridical organ and intergovernmental organizations terms. It is also important to point out that the word “*state*” in this thesis will refer to countries. This chapter also discusses the World Health Organization (WHO) and the World Trade Organization (WTO) as examples of those IGOs that have created and used a juridical organ besides the United Nations (UN) and the International Court of Justice (ICJ). Furthermore, at the end of this chapter the hypotheses for this study will be presented along with a deeper discussion of how they will be analyzed and tested with the aid of the collected data.

Chapter 3 consists of a quantitative research design based on data sets such as Polity98, the “IGO Attributes” data set as compiled by Charles Boehmer (2009), International Governmental Organization (IGO) Data (v2.1) by Jon Pevehouse and Tim Nordstrom, and an additional data set extracted from Boehmer and Nordstrom (2008). All these data sets provide collected information regarding the number of members in an IGO, their average level of democracy, their level of institutional structure and their relationship with juridical mechanisms to provide evidence for the following hypotheses:

a) The greater the number of states affiliated with an IGO, the more likely they will contribute to the creation of a juridical organ b) The greater the number of states affiliated with an IGO, the more likely it is that IGO will have used its juridical organ;

along with the rest of the hypotheses mentioned at the end of the chapter. The data employed to test the statements previously mentioned consist of a thorough description of the dependent and independent variables as well as the use of cross-tabs, and logistic regressions and their respective explanation. These two different types of methods combined will test if the number of members, the level of democracy and institutional structure are determinant factors for the creation as well as for the use of a juridical mechanism in an IGO. The next is then to examine whether this will eventually lead to a democratic environment between their members through the use of mediation or other types of conflict-resolution mechanisms.

Chapter 4 presents the analysis of the information accumulated by the previous chapter. In other words, it explains the different quantitative tests applied and tables given in order to test if intergovernmental organizations really help in the creation of a juridical mechanism and its use. Additionally, it elucidates the results that the data will

provide and explain the relationship between the different variables as well as their significance for the creation of a juridical organ and which variables are more likely to create it. In other words, the results obtained will enable us to test if the hypotheses concluded in chapter 2 were correct or erroneous depending on what the results will tell us. Lastly, it concludes with the results of the study as an overall synopsis and explores if there were any other ways to modify the data gathered as well as any other unexpected outcomes that would suggest modifications in the overall design of the study.

II. IGOs and Juridical Organs: Their Relationship and Proliferation

There has been a constant growth in the number of IGOs as well as an expansion of international law. Unfortunately, the lack of studies generally analyzing whether and how, juridical mechanisms within IGOs work to help in the implementation of new international law is very obvious. Instead, scholars often focus on the most powerful and recognized international organizations, such as the United Nations (UN) and the European Union (EU) and often exclude other IGOs. We hence lack knowledge more generally on other IGOs and their juridical organs.

This chapter describes the concepts as well as previous studies that talk about the relationship between intergovernmental organizations and juridical mechanisms. There is a myriad of literature that explains IGOs and their involvement in different international issues, ranging from human rights to environmental as well as political-level treaties and disputes. However, the lack of studies analyzing IGOs and their relationship with juridical mechanisms is very conspicuous. This is one of the reasons for my describing the IGOs' structure as well as the juridical organ of the organizations in the present chapter. Thus, I will be able to test whether there is a certain relationship between both terms. Furthermore, this chapter will provide examples of institutions that have made use of their juridical organs, such as the World Trade Organization (WTO) and the World Health Organization (WHO). Finally, the hypotheses will be analyzed at the end of this chapter.

IGOs and Their Proliferation

Nowadays, IGOs often play essential roles in the negotiation of agreements between states by speeding up solutions. For that reason, IGOs have become

omnipresent in international relations (Pevehouse, Nordstrom, & Warnke 2003), obtaining prestigious international positions in the resolution of different global issues. Additionally, IGOs play different roles for different states; some of them are created to establish financial relationships, other institutions fight for the preservation of human rights, while other IGOs are created to settle disputes among countries. Some scholars like Wallace and Singer (1970), Russett and Oneal (2001), and Pevehouse, Nordstrom and Warnke (2003) even consider some IGOs as “emanations” because they re-emerge or simply replace other institutions. In order to have a better conflict-resolution scenario, some of these international institutions have created their own dispute settlement mechanisms, some of which operate as courts.

As it was mentioned in chapter one, the main purpose of this study is to analyze IGOs and their juridical mechanisms. In order to have a better understanding of the content of this study, we must understand the terms used when referring to international organizations and juridical mechanisms. Most of the sources found refer to the definition of IGOs as “an institutionalized arrangement among members of the international system to solve tasks which have evolved from systemic conditions” (Hanrieder, 1966, p. 2).

Similarly, there exist several definitions to describe an intergovernmental organization. However, the definition that I have selected for the purpose of this thesis is the one given by Pevehouse, Nordstrom and Warnke (2003), which states that: “in order to be considered an international organization, this institution would have at least 3 nation-states as their members, is a formal entity and possesses a permanent secretariat or other indication of institutionalization such as headquarters and/or permanent staff.” This is the definition of IGOs that will be employed for the purpose of this study.

As it has been mentioned earlier, another important part of my thesis is the juridical body of an IGO. After looking at several definitions, I faced the difficulty of having to select one specific definition that would enable me to identify juridical organs. The most common dictionary definition of judiciary is: “the system of law courts that administer justice and constitute the judicial branch of government.” Looking at other meanings I was able to find that “the judicial system is regarded primarily as a service provided by the government...with the workaday function of resolving the [formally and informally] disputes that arise in the ordinary course of social and economic life. The Courts in such societies are, of course, essential organs” (Chayes, 1988 p. 1028).

Since none of these definitions can singularly help me for the elaboration of this project, I came up with the following definition according to which the term intergovernmental juridical mechanism would be described as follows: *all those formal organs that assist intergovernmental and international organizations to resolve their conflicts and disputes through rulings, mediation, and arbitration.* Some examples of these formal organs are the International Court of Justice (ICJ), regional and specialized courts, the international arbitration and domestic courts. Also some IGOs have opted for mediation mandate whenever a conflict arises between their members or other IGOs. It is important to mention these three types of conflict-resolution mechanisms because some of the intergovernmental organizations will have a judicial court or council body in which they solve their disputes and sometimes create international law through some or all of these three types of solutions.

The dispute settlement structure of an organization may play a very important role in the stability between the members of an organization. It is through juridical organs

that some IGOs are able to take, discuss, and solve their disputes among the members of the same organization as well as with other states. Having a juridical organ within their organization assists the member states to obtain bargains or agreements that can be of benefit to members of that IGO. Nonetheless, IGOs have the ability to request and influence advisory opinions whenever they think their opinion is necessary and the specific courts allow them to do so. It is through advisory opinions that IGOs may influence “the development and outcome of the dispute” (Dominicé, 2002, p.98).

The ICJ, under the UN, has allowed advisory opinions since 1936 and they have played an important role in the decision-making process of specialized agencies such as the World Health Organization and UNESCO (Boisson de Chazournes, 2002). IGOs, contrary to states, are the only agents allowed to request advisory opinions at the ICJ. The role of juridical mechanisms in an organization in some cases is to assist with legal advice to the parties in dispute and make sure that those rules imposed by the final decision of the court are effective and respected by both parties. Although the study of IGOs and juridical organs has not captured the attention of many scholars, it is important to analyze the connection between IGOs and juridical mechanisms. In the next sections, I will take a look at how the inclusion of juridical mechanisms into IGOs has taken place and how these mechanisms have since evolved. I will start with the ICJ as an example of how it has been used as a dispute settlement mechanism between IGOs.

The ICJ and Its Performance in IGOs

According to the International Court of Justice (ICJ), intergovernmental organizations may request advisory opinions but cannot bring cases to the Court, which means that they can only participate in those cases where the states involved request the

institution's opinion. Although this procedure is available to certain public international organizations, other non-listed organizations can also request it and it is up to the ICJ whether to accept or decline the request. In addition to this, the ICJ "has played an important role in juridical determination of a number of disputes between states and in delivering advisory opinions that clarify and contribute to the growth of international law" (Gibson, 1991, p.117). There are several cases where IGOs have requested advisory opinions from the ICJ. The first institution to do so since the creation of the court was the World Health Organization (WHO), which in 1980 requested an advisory opinion concerning the *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* (ICJ, Reports, 1980).

The Agreement of 25 March 1951 between the WHO and Egypt consisted of the decision on whether or not the regional office of the WHO should be relocated from Egypt to another Arab country. The controversy arose when the WHO was asking the ICJ for the first time for an advisory opinion on whether or not the organization would be violating the agreement between the country and the organization in case of relocation and whether or not the Agreement of 25 March 1951 would be terminated at the time of relocation. After considering the opinions of other states with various international organizations and the relationship and history of the WHO with Egypt, the Court concluded that, "the contractual legal regime gave rise to mutual obligations of cooperation and good offices"(Amr, 2003), and it depended on the specific kind of modalities the relocation might affect both the WHO and Egypt.

Not all international juridical bodies have the authority to provide advisory opinions. In order to do so, they must prove that they are capable of handling cases in

their courts. For example, advisory opinions can be rendered by the ICJ but not by the WTO Dispute Settlement Mechanism or by any other international criminal tribunals because such power would be considered a “distraction from the true function of a criminal court of law” (Romano, 2002). Furthermore, the capacity to request for advisory opinions is more likely given to IGOs and not to individual states or groups of states (Romano, 2002); however, IGOs cannot appear before ICJ in contentious cases. As we see, the WHO case is an example of how IGOs have the power to request advisory opinions and take them to international courts.

Additionally, even though disputes among international organizations are quite rare, they can be submitted to arbitral tribunals whenever it is necessary (Romano, 2002). This can be illustrated by the Contadora process, which involved disputes between the OAS and the UN Secretary-General and produced normative resolutions in both organizations (Alvarez, 2005). However, there are also restrictions on the sort of cases IGOs can discuss or ask for advisory opinions in international courts such as the ICJ. For example, IGOs are not allowed to take cases regarding human rights.

An exception to this situation is the African Court of Human and People’s Rights (ACHPR), part of the African Union (AU), which allows their members and other “African intergovernmental organizations,” and other IGOs where African countries are members to take cases that deal with human rights (Romano, 2002). On the other hand, if an individual or group believe their human rights established in the American Convention on Human Rights have been violated and the individual or group are legally recognized by one or more member states of the Organization of American States (OAS), they can make a petition to the Inter-American Commission of Human Rights in order to

investigate the complaint. If the commission proves that there has been a violation against the individual or group, a case can be submitted to the court (Romano, 2002).

IGOs in the Dispute Settlement Arena

The number of international organizations has proliferated greatly over the last 3 decades; as of today, there are hundreds of international organizations around the world, each with different tasks to perform. As of 2004, at least 238 international organizations were working on global issues (Barnett & Finnemore, 2004). It has proven difficult to estimate the increase in IGOs because many other organizations are regional or have a more limited focus. Moreover, the IGOs population varies due to definition used of IGO and their birth and death rates. The current number ranges from 270 to more than a thousand (“Intergovernmental Organizations,” 2008) depending on the definition established for IGOs. Furthermore, there is a diversity of theories that try to explain why IGOs have been created and how they perform in order to help solve problems. According to Gerard J. Magone (1954), international organizations existed before Napoleonic times, but most of these fall outside most modern definitions of IGOs. According to Magone, the Roman Empire was one of the first inspirations for the creation of international organizations. These different institutions have helped to prevent and solve issues between different countries. International organizations have helped in a variety of ways such as in the creation of laws that protect human rights as well as the fight for endangered animals.

There was a proliferation in the members of international organizations during the last few decades of the 20th century. During the late 1940s, when the U.S. stood as the world hegemon, it created several international institutions for three main reasons: 1)

maintaining peace and security, 2) maintaining a stable international economic market, and 3) supporting democracies and protecting human rights. Two important organizations came into existence after the occurrence of the two world wars of the twentieth century. They are The League of Nations in 1919 and the United Nations in 1942, whose most important mission was to preserve peace among countries. However, many regional organizations arose with some purpose, including the Organization of African Unity (OAU), today renamed African Union (AFU), Organizations of American States (OAS), Association of Southeast Asian Nations (ASEAN), and others.

As it was previously stated, after two great wars, the international community saw the opportunity to come together in order to solve rising disputes through diplomatic channels instead of war. One example of this situation is presented to us in today's current world affairs. Having China, Russia, U.S., France, United Kingdom, Pakistan, India and possibly Israel being the only nation-states to publicly possess nuclear weapons has inclined the less powerful states such as Iran and North Korea to pursue nuclear deterrents. It is then, in situations like this, that states try to prevent military conflicts by readdressing IGOs because their main function is to provide order and peace between nations and to serve as an authority on its own for advancing shared security and well-being (Gibson, 1991).

According to Michael Barnett and Martha Finnemore (2004), international organizations are treated as “structures of rules, principles, norms, and decision-making procedures through which others, usually states, act” (p.2). In other words, IGOs are structured to extend good and bad norms. Second, IGOs help states to cooperate in any approach to resolve disputes and improve relationships with other member states. Finally,

IGOs help to resolve disputes that might affect their future agreements with other states as well as to facilitate their relationship and respect their own rules. Some intergovernmental organizations are seen as reliable institutions that help to make and affect authoritative decisions on issues among two or more nations, giving them “more far-reaching powers of independent action and decision” (Akehurst, 1967, p.3) in every aspect of international relations.

Although many scholars assumed that IGOs are purposively created by states (Barnett and Finnemore, 2004), international organizations also face problems after and during their creation because IGOs often perform or behave differently than had been intended by state members. One such problem is collective action. According to Mancur Olson (1994), collective action is when all the members in a group have the same interests and concerns and they work as a team to achieve them. He argues that the greatest concern within these institutions is that the majority will take advantage of the minority by free riding. Furthermore, Olson points out that an organization with a large number of members will have more difficulty achieving its goals than a smaller number of members. This is due to the lack of free riding a smaller number of members will have in order to accomplish their goals and reach a faster agreement among themselves. In order to concur in their agreements “most of the large economic organizations in the United States have had to develop special institutions to solve the membership problem posed by the large scale of their objectives” (Olson, 1994, p.65). Once again, he reemphasizes that larger groups are, due to the number of members, less efficient and less organized at the time of making decisions than smaller groups.

Contradictory to his point, collective action can also be seen as an asset at the same time. Collective action also helps with the dissemination of more institutions into the same institutions, the UN being a current example of this situation. Furthermore, in order to avoid collective action problems between the members of an organization, the members of an IGO have a tendency to become more democratic. It has been proven that if the members of an IGO tend to be more democratic, there will be a higher probability for them to enhance the conditions enforced upon them by other members (Pevehouse, 2005). As a result, IGOs will be more likely to cooperate, trade and maintain stable relationships with other democracies and the probabilities to have a collective action problem will decrease.

The Success of the Establishment of a Juridical Organ in an IGO

As we can remark, IGOs may have a very influential role in helping states to solve their disputes, but unfortunately there is not a clear idea of how IGOs influence conflict-resolution processes through the use of juridical organs. This is one reason why in this study we also analyze how these IGOs create their own juridical mechanisms in order to provide a peaceful environment between the members of their own organizations as well as with other states involved. In order for an IGO to be more effective and have higher participation in the making of important decisions, some IGOs have created their own juridical structure to solve disputes between their members or other states involved in a specific conflict. As Mangone puts it; “the most significant contribution of Rome for the future of International Organizations was the Court for foreigners” (Mangone, 1954, p.15). This court’s mission was to administer law in cases involving non-Roman citizens

at that time. Since that time, the structure and the heart of the discussion have determined the effect that IGOs have on disputes.

Many dispute settlements have emerged since the Court for foreigners. For example, the Permanent Court of International Justice (PCIJ) in 1922; at the end of WWII, the ICJ was created, followed by the European Court of Justice in 1951 and the European Court of Human Rights being part of the European Union (EU) in 1952, and the dispute settlement forums of the WTO, to name a few. Today, the most commonly used international court is the International Court of Justice (ICJ), where states through the help of IGOs and IGOs themselves are allowed to request advisory opinions. Additionally, the UN has also established special tribunals for war crimes, such as in Rwanda, Cambodia, and Sudan.

As it mentioned earlier, another important aspect of international organizations is that some of them have created a juridical mechanism inside their own organization. According to Steve Charnovitz in his article, “Judicial Independence in the World Trade Organization”, some elements of judicial review emerged as early as 1919 within international organizations starting with the constitution of the International Labour Organization (ILO) in that year (Charnovitz, 2002). After this judicial procedure began, the Abolition Convention of 1927 took place, attempting to provide advisory opinion given by a technical body in the League of Nations and eventually to use arbitration if it was necessary. However, unfortunately this attempt was unsuccessful (Charnovitz, 2002). Nonetheless, this was not the only effort made by IGOs, for after this attempt many other organizations created juridical mechanisms.

These mechanisms or courts have mainly been created with the purpose of hearing cases only when submitted by parties in dispute (Blaisdell, 1966). The United Nations (UN) is a clear example of this recognition implemented not only by the states, but also by the International Court of Justice. The ICJ is the principal juridical organ of the UN. According to the UN official website, one of the ICJ's roles inside the UN is to solve legal disputes submitted by the states and give advisory legal opinions authorized by the UN organs and specialized agencies. Nevertheless, many other IGOs contain these mechanisms.

On the other hand, states are allowed to request an advisory opinion through other IGOs such as ILO, UN, OAS, etc. This is one of the reasons why some of these international organizations create their own juridical organs. In special situations, IGOs possess the authority and the right of action when a quarrel between members occurs. They often apply this right in "settlement of disputes or in the field of administration" (Hill, 1952). This is the case with the World Trade Organization (WTO), which after several decades was able to elaborate and put in practice the Dispute Settlement Understanding as part of the WTO charter (Croley & Jackson, 2003).

The World Trade Organization is an example of how an IGO has the power to create its own juridical mechanisms in order to provide "only" legal assistance to the members of its organization and allows panels to consult with other IGOs under Article 13 of the Dispute Settlement Understanding (Romano, 2002). One of the most controversial cases held by the WTO took place in 1998, which involved the European Union (EU) and the complaint made by the US to the WTO on whether or not the bananas tariff imposed by the EU was too high. It is worth mentioning here, that this

case is one of the most important at the level of international dispute settlement mechanisms because the EU had to submit itself under the WTO juridical mechanism leaving aside the European Court of Justice (ECJ). The role that the WTO played in this case was crucial because the extent of retaliation constantly done by the US against the EU, of continually accusing it of violating the WTO rules, was this severe that the case was opened again in 2001.

As it is reflected in these two examples, one of the functions of IGOs is to cooperate in the creation of new mechanisms that can help to generate safety, peaceful measures and better working-climate between countries. Additionally, scholars such as Boehmer, Gartzke and Nordstrom (2004) have argued that the impact that IGOs have on dispute behavior can be due to three factors, namely “mandate, member cohesion, and institutional structure” (p.7). These statements are supported by the liberal institutional theory, which argues that IGOs are in favor of diplomatic and peaceful conflict resolution and try to avoid disagreements or conflictive situations among the members of the organization (Boehmer, Gartzke, & Nordstrom, 2004). Nonetheless, IGOs while solving disputes are often seen by constructivists, functionalists and liberal institutionalists as “a central component of world order” (Boehmer, Gartzke, & Nordstrom, 2004).

IGOs, Democracy, Membership and Institutional Structure: A Complex Linkage

As we have discussed before, not only membership but also democracy is seen as a way to maintain a stable relationship among the members of the same organization as well as with other organizations. This is one of the reasons why democracy, besides the

number of members, constitutes an important part of IGOs in this study. There are countless studies in the international relations field that argue that state members of an IGO work in close liaison with other member countries of the same organization in order to preserve their benefits and avoid conflicts between them.

Democracy plays a very important role among the members of an organization because through democracy state members are more willing to cooperate, ally, and trade between them in order to obtain more benefits (Pevehouse, 2005). However, sometimes democracy is also enforced between the members of an IGO through the use of sanctions and even with membership suspension if the majority of the members agree with the terms. Hence, the level of democracy in an IGO can be seen as one of the reasons why some states prefer to join some IGOs rather than other IGOs.

If there is democracy within the members of an IGO, it is more likely that other democratic states will join the same organization. Joining an IGO that is recognized for its level of democracy increases the possibilities to obtain more benefits and facilitate agreements among state members of the same organization. Scholarly work reveals that there is an obvious connection between membership and democratization. Academics such as Shanks, Jacobson and Kaplan (1996) and Boehmer and Nordstrom (2008) explain that democracies are more likely to join IGOs than autocracies. Additionally, other factors include that if a state has been independent, economically developed and democratic, it will tend to join IGOs (Jacobson, Reisenger, & Mathers, 1986).

The existence of democracy in an IGO sometimes is due to a well-formed institutional structure in an IGO. Democracy and membership constitute an essential part in the creation of a stronger institutional structure. An institutional structure in an IGO

has to obey to rules imposed on them by the members of an IGO. Another side of an institutional structure is the juridical part. Sometimes there are juridical organs or conflict resolution mechanisms where members of IGOs can bring forward their complaint and a special authority that can follow the procedure such as a secretariat or a council. Some of the procedures employed by IGOs in order to solve their disputes among other members are resolved through the use of mediation or arbitration. It has been argued that IGOs that have more institutional structure can help to solve different problems involving collective action (Boehmer and Nordstrom, 2008).

Most of the literature above clearly shows that state democracy contributes to obtain a higher number of members within an IGO. The effectiveness of socialization of states in the most highly institutionalized IGOs is also a signal of elevation in the membership of international organizations (Bearce and Bondella, 2007). ONeal and Russett (2001) often state that countries that share the same membership in an IGO are less likely to experience disputes. Pevehouse (2005) in his investigation has also demonstrated that a change in membership can influence the variations of outcomes towards democratization.

It is evident that democratization along with institutional structure, whether it is through the help of sanctions, loss of membership, economical benefit, or other factors, are major contributors for an IGO to augment their number of members. In other words, institutional structure allows for IGO efficacy to enforce norms and rules. What it is still not clear is whether or not democratization and membership along with institutional structure really contribute to establish a juridical structure within IGOs. My contribution is to show that a higher number of membership, democratization, and institutional

structure or the three elements together have become factors in the creation and use of a juridical organ.

The Hypotheses

The relationship and importance of a juridical mechanism or any kind of dispute settlement with an IGO is fundamental for the collaboration of new treaties and a peaceful environment between the member states of a certain organization and other states as well. Very often, the ICJ has been the instrument used to settle disputes between IGOs and their officials through the request of advisory opinions (Dominicé, 2002). However, one question that has still remained unanswered is what are the factors that contribute to the creation of a conflict resolution mechanism in an IGO? The power to create a juridical mechanism and the influence and the authority that IGOs have in the decisions taken by that specific juridical organ can be due to several factors. Three of these factors are the number of member states in an IGO, the level of democracy between its members, and the institutional structure of an IGO. These three components might lead to the necessity of a juridical organ for their organization, in order to have a fastest conflict-resolution environment.

As it was previously stated, we need to recognize that “the most highly institutionalized organization possesses mechanisms of mediation, arbitration, or adjudication aimed at conflict resolution and the enforcement of organizational decisions” (Boehmer, Gartzke, and Nordstrom, 2004). These mechanisms are created to solve disputes and enforce and maintain democratic relationship among the members of an IGO. What the study needs to test is whether or not the number of members along

with the level of democracy and the level of institutional structure in IGOs contributes to create and make use of these kinds of juridical mechanisms.

Therefore, based on these propositions, I present six hypotheses that attempt to test if there is a connection between the number of state members, democracy, institutional structure and the creation and use of a juridical organ in an IGO. First, I argue that a higher number of state memberships in an organization lead to a greater possibility for the creation of a juridical mechanism in the IGO. This might occur because an IGO with fewer members may possibly serve more easily as forums for informal bargaining between states, whereas higher number of members may necessitate more formal juridical mechanisms or organs to solve their disputes.

- H1. The greater the number of state members in an IGO, the more likely the IGO will contain a juridical organ.

In view of the fact that IGOs are seen as the scenarios through which decision-making, conflict-resolution and the establishment of norms takes place, some IGOs possess a juridical structure. Therefore, if hypothesis one is proven right, then the number of memberships in an IGO tends to elevate the possibility to create a juridical mechanism. For that reason, my second hypothesis suggests that membership in an organization tends not only to lead to the creation of juridical structure, but also to the subsequent use thereof, when disputes arise among their member states.

- H2. The greater the number of states affiliated with an IGO, the more likely it is that IGO will have used its juridical organ.

Several studies such as those made by Wallace and Singer (1970), Russett and Oneal (2001), Pevehouse (2005) and the most recent one brought forward by Boehmer and Nordstrom (2008), interconnect the relationship among democracy and IGOs and

how these organizations try to conserve peaceful relations between their country members. These studies suggest that membership and democracy between the members of an IGO are two factors that contribute to the improvement of treaties and benefits of the member states. Additionally, these scholars argue that the institutional structure of an IGO may be an essential factor to promote peace among the members of these institutions. Based on these assumptions, I will analyze if democracy as well as institutional structure of an IGO can be considered as an influence to the creation and use of a juridical mechanism in an IGO. Therefore, the following hypotheses will be tested:

- H3. The more democratic the members of an IGO, the more likely it is the IGO will possess a juridical organ.
- H4. The more democratic the members of an IGO, the more likely it is the IGO will have used its juridical organ.
- H5. The higher the level of institutional structure in an IGO, the more likely it is the IGO will have a juridical organ.
- H6. The higher the level of institutional structure in an IGO, the more likely it is the IGO will use a juridical organ.

The hypotheses above portrayed some of the possible factors that might contribute to the creation of a juridical mechanism inside of an IGO. Two of the hypotheses suggest that the number of members affiliated with an IGO might determine the necessity and degree of elaboration of a juridical mechanism in which their members will be able to solve their disputes with other members of that IGO. In other words, what these hypotheses reflect is that a greater number of member states will be more likely to create and make use of the dispute settlement of the IGO of which they are members rather than a small number of members.

The rest of the hypotheses suggest that a high level of democracy that each member state has, might encourage other members of the same organization to create their own juridical structure. In other words, democracy will be seen as a factor of enforcement for the members of an organization to create and use a juridical mechanism in order to solve their conflicts and respect the rules imposed on by their own system. In order for these IGOs to respect and follow the rules imposed by their own juridical system, it is essential for these institutions to have a compelling institutional structure. Therefore, not only a high number of memberships and a high level of democracy will be seen as two possible factors for the creation and use of an IGO, but also a high level of institutional structure of an IGO. However, the next chapter will discuss more intensively how these variables will be measured and it will provide a deeper discussion of the type of data that will be used in order to test these hypotheses.

Once again, the field of study on the judiciary within IGOs is very limited and has not attracted too much the attention of scholars. Heretofore, many studies provide only a glimpse of the role and the relationship of IGOs and juridical mechanisms by explaining them in a separate way and not looking at them as a united body. The particular interest in this study is to provide an idea of the participation that IGOs have in juridical mechanisms as well as to provide evidence that IGOs themselves can have the power and the capacity to create a juridical structure and that that dispute settlement body might lead to the elaboration of international laws for the benefit of the organization and the member states. The next chapter discusses the research design and data used to test these hypotheses.

III. Research Design

The previous chapter described the literature review and the theoretical propositions linking IGOs and juridical organs. Chapter 3 now describes the methods and data I used in order to test the hypotheses in chapter 2. In this chapter, I explain the quantitative tests employed. I also provide a thorough description of the data and variables used to test the hypotheses. The statistical analysis consists of a discussion of frequency statistics and logistic regression analyses. The results produced by these statistical methods are intended to test whether the independent variables are determinant factors for the creation, as well as the use of, a juridical mechanism in an IGO.

Describing the Methods

In this study, I argue that three of the factors that contribute to the creation and use of a juridical mechanism are the number of memberships, the level of democracy, and the level of institutionalization of an IGO. As I have stated in the previous chapter, there are studies that limit their attention to IGOs such as the United Nations (UN) or the European Union (EU). It is important to mention that in this thesis the information gathered is focused not only on these two organizations but also on all those organizations that have a juridical mechanism and that falls into the definition of IGOs given earlier.

The type of evidence that has been collected in order to test the hypotheses presented in chapter 2 consists of gathering data on the number of members of IGOs, the level of democracy, and institutionalization of each IGO from the year 1815 to the year 2000. The IGO data come from the International Governmental Organization (IGO) Data (v2.1) set by Jon Pevehouse and Tim Nordstrom. The unit of analysis in this data set is

based on a cross-section of the IGOs. The data were collapsed down into cross-sectional data from the IGO-year data format.

Dependent variables

I will examine five dependent variables in order to test the presence of a juridical mechanism in an IGO and the use of a juridical mechanism to settle disputes. The period of time for each of the variables was coded at any point in its history where any of these four mechanisms took place. A further set of data, modified and combined with data from the “IGO Attribute” data set by Dr. Boehmer (2009), has been used to determine the IGOs that both have a juridical mechanism such as a court or other formal means of mediation/arbitration as well as having made use of it will be subject to thorough analysis. The first dependent variable points out the number of all those IGOs that possess some form of a court and will be identified as *Judiciary*. The second variable is called *Mediation* and refers to all those IGOs that have mandate for formal mediation. Both of these variables are classified as nominal and they equal 1 when any of these mechanisms are in IGOs and 0 otherwise.

The third variable, *Juridical*, reports the presence or the absence of a juridical mechanism in an IGO. This is also a nominal variable that equals 1 when an IGO has a court or formal mediation mechanism and 0 if both of these mechanisms are absent in an IGO. These data set show that the majority of IGOs analyzed do not have a formal or official juridical mechanism. In other words, not having a juridical mechanism in the structure of an IGO where to solve their disputes might prove less relevant to issues of institutionalization and international law among IGOs member states.

The fourth dependent variable is called *Used*; it indicates which IGOs have formally made use of their dispute settlement structures. This variable also equals 1 if used and 0 otherwise. The information collected for this variable has also been taken from the IGO Attribute data set (Boehmer, 2009) and my own data collection. Additionally, this data set will also help to measure the levels of democracy and institutionalization in each IGO observed and determines if democracy and institutionalization are significant factors to the use and elaboration of a juridical organ. Finally, an additional dependent variable has been added in the study. The fifth dependent variable is called *Institutional Structure (Inst_igo)* which examines how the number of members and the level of democracy in an IGO affect the IGO institutional structure level.

Independent Variables

The first independent variable is *Avg-Dem*, which measures the average level of democracy of each IGO's members over the life of the IGO. The first step to create this variable was to merge each country from the Polity98 data set into the COW 2.1a state IGO membership data set. For each year of each IGO, the democracy scores for the members were averaged and then collapsed into a single mean statistic per IGO. This allows for the inclusion of this variable in a cross-sectional study. Polity98 data set has been very helpful in studies that have been intended to measure the level of democracy in IGOs. The polity score consists of 0 to 10 autocracy score subtracted from its 0 to 10 for democracy score, providing a combined score of -10 as the least democratic and +10 as the most democratic. The autocracy and democracy score are based on a variety of measures, including competitiveness of political participation, regulation of political

participation, executive recruitment and the constraints on the chief executive (Gurr et al, 2009). Polity98 is also a source that is very reliable for and familiar to political science scholars such as Mansfield (2000), Russett and Oneal (2001), Pevehouse (2005), and others, who tried to investigate issues related to democracy, peace, war in international organizations, and whose studies are based on quantitative research and focused on international organizations.

The next independent variable is *Membership*. This variable measures the average count of members in each IGO over its history. The construction of this variable is similar to the democracy variable. The COW IGO 2.1a data was used to sum per year the membership of each IGO. This data set was then collapsed into data based on the mean value across all the years of an IGO's existence. This transformation is essential because it will help to convert the data into a cross-sectional format.

A third and last variable is called *Inst_igo* referring to the institutional structure of an IGO. IGOs vary in their level of institutional structure; therefore a detail description of this variable is given in Appendix 1. This variable is based on Boehmer et al. (2004) that has been updated for a project by Gastzke, Nordstrom, Boehmer, and Hewitt (2009). This variable is divided and identified on a four-point scale of institutionalization. The first category is called no institutional structure as (0), the second category (1) as minimal structure, which identifies if an IGO possesses a secretariat but there is a lack of bureaucracy. The third category of this variable is identified as structured IGOs as (2), when there are structures of assembly or bureaucracies to implement policies and procedures. The last category is identified as (3) when it refers to interventionist IGOs. Interventionist IGOs refers to all those conflict resolution organs and mechanisms,

including the courts, formal mediation/arbitration, peacekeeping, defense pacts and the ability to impose economic sanctions such as embargoes and withholding loans. This variable was also collapsed into a mean statistic for cross-sectional format. In addition to this, *Inst_igo* will also be used at the end of the study as a dependent variable to measure the effect that membership and democracy might cause over institutional structure.

Having explained the importance of the variables and the process that has been used for their collection, the next chapter presents the statistical analysis. I will first provide descriptive information for each of the dependent variables through the interpretation of frequencies. Each of these frequencies will allow me to determine the specific number of IGOs that possess any type of court, mediation or both. Eventually, these tests will also help me to detect the number of IGOs that have made use of any type of juridical mechanism or organ.

The use of logistic regression is required for the first four dependent variables used in this study because they are measured as dichotomous and binary variables. This will allow me to discern statistical significance of the hypothesized relationships. Finally, I decided to use ordered probit regression to test how the number of membership and democracy level of IGOs affect their level of institutionalization. This is necessary when analyzing ordinal dependent variables. Overall, the methodology that will be applied in this thesis will consist of the use of frequencies and logistic regressions between the variables in order to find out which variables are more statistically significant and may cause either a positive or negative impact in the expected results.

IV. Results

Chapter 4 explains the level of connection that exists between the independent and dependent variables. I first present and discuss the empirical tests of the hypotheses with a discussion of the descriptive statistics. In order to measure the effects of membership, democracy and the institutional structure of IGOs on the creation and use of a juridical mechanisms or organs, I utilized a combination of cross tabulations and logistic regressions. Moreover, considering that institutional structure relates to juridical organs, I examine how democracy and the number of members in an IGO predict institutional structure by using an ordered probit test. I conclude the chapter by providing a list identifying to those IGOs that possess and use a juridical mechanism.

In each of the first four tables I include *Membership*, *Avg-Dem*, and *Inst_igo* as independent variables. I examined four dependent variables: 1) *Judiciary*, referring to all those IGOs that possess some form of a court, 2) *Mediation*, concerning to IGOs that have mandate for formal mediation, 3) *Juridical*, when referring to those IGOs that possess a court and/or formal mediation, and 4) *Used*, measuring all those (juridical) IGOs that have used its juridical mechanism or not, whether by court or formal mediation. The next sections will explain the tables and results for each of the tests.

Frequencies and Cross-Tabulations

I first discuss the frequencies of the dependent variables. The Judiciary variable determined that out of 295 IGOs only 23 IGOs possess some form of court. The next variable called Mediation measures which IGOs possess a mandate for formal mediation. Only 19 IGOs out of 294 have this type of conflict- resolution mechanism. Furthermore, the results given by the Juridical variable were that only 27 IGOs out of 294 possess a

court or a mechanism of formal mediation or both. Finally, the results also show that there are 21 IGOs that have used their juridical mechanism, whether it is a court or formal mediation. Therefore, I can conclude that juridical organs are uncommon across IGOs, and not that many have been used.

Testing the Hypotheses

The following four tables include two logistic regression models per table. In the first model, the *Inst_igo* variable has been dropped in order to observe if there is any impact on the Membership and Avg-Dem variables when institutional structure is not included in the model. In the second model, *Inst_igo* has been included in order to observe any change in the previous results. Table 1 includes two logistic regression models each for the impact that the Judiciary variable has on IGOs. In model 1-1, using only Avg-Dem and membership, and in model 1-2, adding the institutional structure variable, I was able to observe that there is no change in any of the results and only *Inst_igo* appears to be statistically significant. Based on these results, H5 can be accepted because *Inst_igo* can contribute to the possession of some form of court in IGOs. Consequently, hypotheses 1, 2, 3, and 4 can be rejected because neither the level of democracy nor the numbers of memberships of an IGO contribute for the creation and use of a judicial organ.

Estimates in table 2 are again obtained by using logistic regression, but with Mediation as the dependent variable. Model 2-1 reports that by the exclusion of the *Inst_igo* variable, the Membership variable becomes statistically significant. Model 2-2 reports that only *Inst_igo* is a predominant variable with a Z-value of 2.23. Therefore, both models show that a higher number of members and a higher level of institutional

structure in an IGO can contribute to the possession of formal mediation, except when both variables are combined. As a result, H1 can be accepted if institutional structure is excluded. Table 3 shows Juridical as the dependent variable for both models. The results report that Membership and Avg-dem variables are not statistical significant in model 3-1 and that by adding Inst_igo in model 3-2 only Inst_igo becomes statistical significant. In order for an IGO to possess a court or a formal mediation mandate or both, an IGO will have a higher level of institutional structure. As a result, hypothesis 5 for this model can also be accepted. Based on the results given by the two tables, hypotheses 2, 3, 4 and 6 can be rejected.

Table 1 IGOs and Full Judiciary

	Model 1-1			Model 1-2			
Judiciary	Coef.	Std. Err.	Z	Judiciary	Coef.	Std. Err.	Z
Avg-Dem	.0408375	.0492069	0.83	Avg-Dem	.0242193	.0500243	0.48
Membership	.007831	.005676	1.38	Membership	-.0002972	.0068558	-0.04
				Inst_igo	.514517	.2474642	2.08
Constant	-2.80791	.3337502	8.41		-3.07334	.3802216	-8.08
N		285				275	
Prob>Chi2		.3379				0.1065	

Note: Test are Two-tailed. Standard Errors are robust.P<.05

Results on table 4 again are obtained by using logistic regression, but this time using Used as the dependent variable. Model 4-1 and 4-2 show that there is no statistically significant variable for each of the results. These results support neither of my hypotheses stating the use of a juridical mechanism in an IGO, whether it is a court or formal mediation. Consequently, hypotheses 2, 4, and 6 can be rejected because there is not an elevated number of IGOs that have used a juridical mechanism. This might be due

to the low number of observations used in the estimation. The number of observations used in this model was 26 and 25 respectively; increasing the number of observations to at least 40 could have given a better estimation. Overall, the results provided in each of the tables show that democracy is not a determinant factor for the possession and use of a juridical organ in an IGO.

Table 2 IGOs and Mediation Mandate

	Model 2-1			Model 2-2			
Mediation	Coef.	Std. Err.	Z	Mediation	Coef.	Std. Err.	Z
Avg-Dem	-.029833	.0540404	0.55	Avg-Dem	-.0489803	.0536143	-.91
Membership	.0113571	.0056182	2.02	Membership	.0024047	.006783	.35
				Inst_igo	.5949832	.2671397	2.23
Constant	-3.013294	.3395653	8.87		-3.296176	.3959327	-8.83
N		284				274	
Prob>Chi2		.1396				.0359	

Note: Test are Two-tailed. Standard Errors are robust. P<.05

Table 3 IGOs and the Possession of a Court, Mediation or both

	Model 3-1			Model 3-2			
Juridical	Coef.	Std. Err.	Z	Juridical	Coef.	Std. Err.	Z
Avg-Dem	.0003172	.0439878	.01	Avg-Dem	-.0164601	.0446227	-.37
Membership	.0070714	.0053372	1.32	Membership	-.001004	.0063895	-.16
				Inst_igo	.519074	.2306528	2.25
Constant	-2.502286	.2873664	-8.71		-2.759742	.3310692	-8.34
N		284				274	
Prob>Chi2		.4521				.1036	

Note: Test are Two-tailed. Standard Errors are robust. P<.05

Table 4 IGOs and the Use of a Juridical Organ

Model 4-1				Model 4-2			
Used	Coef.	Std. Err.	Z	Used	Coef.	Std. Err.	Z
Avg-Dem	.0202431	.0859602	0.24	Avg-Dem	-.0435107	.1056617	-.41
Membership	.004431	.0126363	0.35	Membership	-.0065265	.0151968	-.43
				Inst_igo	1.047069	.7256045	1.44
Constant	1.027061	.6345216	1.62		.2571358	.7993829	0.32
N		26		N		25	
Prob>Chi2		.9219		Prob>Chi2		.4834	

Note: Test are Two-tailed. Standard Errors are robust. P<.05

Additional Results

Table number 5 includes Inst_igo as the dependent variable and Membership and Democracy as the independent variables. I decided to use the institutional structure of an IGO as a dependent variable in order to test if the number of members and the level of democracy can explain the institutional structure of an IGO. This is desirable because the institutional structure level of an IGO can include courts and mediation. Table 5 illustrates that both independent variables become highly statistically significant when having Inst_igo as the dependent variable. Additionally, it displays the results given by the ordered probit regression test, which confirms that there is a statistically significant relationship between Membership and Democracy in order for the creation of an institutional structure in an IGO. Hence, I can assume that the higher the membership and the level of democracy in an IGO, the higher the level of IGO institutional structure. Consequently, these results also demonstrate that Membership and Democracy are part of the institutional structure of an IGO making both variables more relevant. As a

conclusion, if *Inst_igo* had originally been used as a dependent variable, I could have hypothetically stated that: the higher the level of democracy and membership in an IGO, the more likely the IGO will have an institutional structure. Additionally, Appendix 2 contains the results given by recoding *Inst_igo* and converting IGOs as “interventionist”, based on the definition by Boehmer et al (2004). The recoding for this variable was necessary in order to test whether or not an IGO is seen as an interventionist in the creation of institutional structure in an IGO.

Table 5 Institutional Structure as a Dependent Variable

Inst_igo	Coef.	Std. Err.	Z
Avg-Dem	.0373325	.0111508	3.35
Membership	.0163468	.0020647	7.92
N			404
Prob>Chi2			.0000

Note: Test are Two-tailed. Standard Errors are robust. P<.05

Table number 6 provides a list of all those IGOs that have any type of juridical organs as well as have made use of it. The bolded IGOs are characterized by possessing and used all of the juridical mechanisms applied for the purpose of this study such as mediation and any type of a court or both. As the table shows, the majority of the IGOs that possess and have used their juridical mechanisms are distinguished as being of economic level type. Some of those organizations are Benelux Economic Union, ECOWAS, and European Economic Community (EC) to name a few. Based on these results, I conclude that besides the Permanent Court Arbitration organization, the European Union and the United Nations, an economic mandate in an IGO combined with

institutional structure is important in order for that IGO to possess and use a juridical organ.

Table 6 IGOs and Juridical Organs

IGO	Judiciary	Mediation	Juridical	Used
ACCT	✓		✓	
Andean Parliament (AALCC)	✓		✓	✓
ASEAN	✓	✓	✓	
Benelux Economic Union	✓	✓	✓	✓
CARICOM	✓		✓	
Central Commission for the Navigation of the Rhine	✓		✓	✓
COMESA	✓		✓	✓
CEMAC	✓		✓	✓
ECOWAS	✓	✓	✓	✓
ECSC	✓		✓	✓
(EC)	✓	✓	✓	✓
EU	✓	✓	✓	✓
GCC		✓	✓	✓
LAS		✓	✓	✓
SDN	✓		✓	✓
MIGA	✓	✓	✓	✓
NAM		✓	✓	
NC		✓	✓	
OIC	✓	✓	✓	✓
OAS	✓	✓	✓	✓
Permanent Court Arbitration	✓	✓	✓	✓
SADC	✓	✓	✓	✓
UEMOA	✓	✓	✓	✓
UN	✓	✓	✓	✓
WIPO	✓	✓	✓	✓
WTO	✓	✓	✓	✓

Conclusion

The objective of this thesis has been to determine whether the number of members, the level of democracy and institutional structure contribute to the creation and use of juridical mechanisms in IGOs. The results here do not generally support most of my hypotheses. I concluded that neither the number of memberships nor the average level of democracy are direct factors in the decision of IGOs to create juridical mechanisms or organs. These variables instead had an indirect effect on increasing the level of institutional structure in IGOs, which in turn increases the chance that IGOs will have a juridical structure. However, the results show that the level of institutional structure in IGOs is strongly related to the possession of some form of juridical mechanism, such as a court, a mediation mechanism, or both. This though is not surprising given the nature of the original Boehmer et al (2004) data coding.

Moreover, the number of members in an IGO correlates highly with the possession of formal mediation when there is no institutional structure involved in that IGO. Despite the fact that the number of memberships was of higher significance than the level of democracy in each of the tests, the results obtained were not as statistically significant as had been expected at the outset of this thesis. Furthermore, it is necessary to mention that the results that were found for the level of democracy in each of the models reveal that democracy is neither relatively directly bonded with the creation, nor with the use of a juridical organ in an IGO. The significance of the results on membership demonstrates that there is a need of juridical organs in larger IGOs in order to have a better conflict-resolution mechanism. Therefore, the necessity of juridical mechanisms in IGOs is important in order to organize, implement and create new laws.

The presence of a juridical mechanism tends to facilitate the resolutions of conflicts between the members of IGOs and obtain better benefits for all of its members.

One of the possible answers to why the majority of the results were not that strongly related to the possession and use of a juridical organ is that the sample size of IGOs that have a juridical mechanism, a court, or mediation is relatively low, in turn rendering the results insufficiently statistically significant. As a consequence, neither of the independent variables was highly related to the use of any form of juridical mechanisms, which means that IGOs might opt for other forms of conflict resolution besides mediation or a court. On the other hand, the results yielded by adding the institutional structure variable as a dependent variable make the results statistically significant. These findings demonstrate that there appears to be a strong relationship between the size of membership and democracy on the creation of an institutional structure.

The reason I used *Inst_igo* as an independent and dependent variable was to prove that the level of democracy and membership are important parts in the formation of the institutional structure of an IGO. Without the *Inst_igo* variable most of the results had not been statistically significant. Additionally, a higher level of institutional structure in IGOs is highly related to the possession of any type of juridical mechanisms or organs, but not for its use. Therefore, I can conclude at this time that the fact that an IGO possesses a juridical mechanism cannot be linked to its use.

As already mentioned at the beginning of this study, there is a lack of literature on this topic. Many scholars have focused their attention on IGOs such as the UN and juridical organs such as the ICJ and leaving aside the relationship between other IGOs

and juridical organs. Therefore, the exploration of why some IGOs have their juridical mechanisms and others do not is necessary. Moreover, the lack of research on this topic could be linked with the final results provided by the cross-sectional study. The study relies on a sample where out of 295 IGOs only 23 IGOs possess some type of a court, while only 19 of 294 have a mandate for formal mediation and 27 have a court or a mandate for formal mediation or both. As a result, only 21 of those IGOs have used their juridical mechanisms. As it is observed, the number of observations utilized in each of the tables was very low, making the results to become not sufficiently statistically significant. Furthermore, another characteristic that might have affected the results given in this study could have been time. There is the possibility that a pooled time series of IGOs for the collection of data could have yielded stronger results. However, this would require more data collection. It is important to mention that all those IGOs that possess and have used a juridical mechanism for this study are considered of economical type. As a result, having a higher economical level between the members of an IGO could determine on the use of any type of a juridical mechanism.

After all, the scope of this study was to detect the possible factors that contribute to the creation and use of a juridical mechanism. Giving an answer to this question is that, unfortunately, membership and democracy were not prevalent variables. The importance of these variables also determined that the sample size selected for this thesis caused the number of observations to decrease. This thesis also demonstrates that there are other reasons besides membership, the level of democracy, and the level of institutional structure that make IGOs create and use their own juridical mechanisms. Perhaps, some of those states prefer to use those juridical organs already established by

other institutions such as the ICJ or their members do not have the financial support and a reliable social status to create a juridical organ. Furthermore, there is the possibility that some conflicts are resolved bilaterally outside of IGOs.

Despite the lack of scholarly research on this topic, this study can be seen as stimulation for other scholars to begin focusing more on various aspects concerning IGOs and juridical organs. This study contributes by starting to fill in the knowledge about what characteristics or factors, members of IGOs base their criteria in order to possess and use a juridical mechanism inside of their institutions. The integration of new variables, such as the average of economic level of development of an IGO and the level of autocracy each IGO has, can also be studied as independent variables for future studies. There is the probability that a higher wealth between the members of an IGO can stimulate the creation and use of any type of juridical mechanism. Therefore, as the interest to know the origins for the creation and use of juridical organs inside of an IGO is expanding, the development of this type of analysis will eventually intensify.

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Appendix 1: IGO Institutional Structure Coding Explanation

The institutional structure (Inst_igo) variable was divided into four categories. For each of them an indicator that combines the second, third and fourth categories have been created. The first category was extracted from the data set created by Boehmer, Gastzke, Hewitt and Nordstrom (2009). The last three categories were selected from the article Do Intergovernmental Organizations Promote Peace? by Boehmer, Erik Gartzke, and Timothy Nordstrom (2004).

No Institutional Structure (0)

It refers to the absence of institutionalization in an IGO. IGOs are scored as zero.

Minimal Structure (1)

This category is composed of two IGO types. First, some organizations exist almost exclusively on paper. There is little evidence of any apparatus or organization. The English Commonwealth (prior to 1965) or the Group of Ten fall into this category. These organizations often give themselves a name and then the heads of state of member states or other ministers meet on a regular basis, whether annually, biannually or otherwise. For example, the Central African Customs and Economic Union seem to hold meetings only of heads of states. These organizations lack any bureaucratic, executive, or judicial organs that possess any formalized power.

Second, some IGOs contain minimal organizational structure, often committees or councils where ministers or other representatives of member states meet and discuss issues. There may be a few rules on procedures, such as voting, that are nonbinding or do not compel states to take action. The ability to enforce agreements and the implementation of decisions is optional for member states. The most centralized feature in these organizations is often a secretariat or similar executive organ that generally possesses few autonomous powers or functions beyond the logistics of organizational meetings and communication. There are many examples of this type of organization, among them, the Arctic Council and the Central American Common Market.

Structured IGOs (2)

Almost every organization appears on paper to possess several deliberative and administrative organs, but most often the linkages between bodies are unguided by codified procedures and little work is done beyond committees. At the intermediate institutionalization level, however, member states relinquish minimal amounts of their sovereignty to support IGO projects and missions. Organizational decisions are made by formal voting, and/or other codified procedures guide member interactions.

Organizational operations (appointments and elections to positions) are also well specified. Additionally, a bureaucracy often exists to carry out decisions—some of which are binding on member states—and manage programs that produce concrete benefits. In cases where there exists no extensive bureaucracy, other bodies or organs assume concrete administrative powers over organizational programs without directly relying on state decisions. For example, the secretariat of the Central European Initiative makes some binding decisions. Of course, all member states have the ability to ignore

IGO dictates, but most IGOs never attempt to directly influence state behavior in this manner. Intermediate-level structural IGOs are scored as two.

Interventionist IGOs (3)

These IGOs possess clear mechanisms for coercing or influencing state behavior. This can be realized in several ways. First, these IGOs include organizations with overt security of conflict-resolution statements in their official missions that allow them to inject themselves into interstate conflicts through established structures and mechanisms of mediation, arbitration, and adjudication. These organizations typically also possess many of the institutional characteristics regarding extensive codification of rules and procedures between and within the executive, legislative, and judicial structures. Any organization that possesses a judiciary structure is included in this category. The European Union is one such example. Another example is the League of Arab States (more commonly known as the Arab League). Second, some of these IGOs have the ability to influence state behavior by directly manipulating the opportunity costs associated with interstate conflict. IGOs may sanction states by withholding economic benefits in the form of grants, loans, credits, or access to other resources. The World Bank and IMF are high-profile examples. All IGOs in this category are scored a three.

Appendix 2: Inst_igo Recoded Variable: Additional Results

The following table shows the results for the institutional structure variable recoded based on the third category of institutional structure described above. The new variable is called *Interventionist*. The variable determines whether or not IGOs intervene in the creation of institutional structure through the level of democracy and membership. This variable is classified as dichotomous and it equals 1 when an IGO is interventionist in the creation of institutional structure and 0 otherwise. Comparing these results to those on table number 5 demonstrate that democracy and membership continue being statistically significant even when IGOs are used as an interventionist variable.

Table 7 Institutional Structure as Interventionist Dependent Variable

Interventionist	Coef.	Std. Err.	Z
Avg-Dem	.1234474	.0609666	2.02
Membership	.0372951	.005501	6.78
Constant	-4.279505	.4732821	-9.04
N		404	
Prob>Chi2		.0000	

Note: Test are Two-tailed. Standard Errors are robust. P<.05

Curriculum Vita

Janeth Diaz was born in Ciudad Juarez, Chihuahua. She graduated from Austin High School, El Paso, Texas in the spring of 2000 and entered The University of Texas at El Paso in the fall of the same year. While pursuing a bachelor's degree in electronic media, she received the Scripp Howard Scholarship in Phoenix, Arizona, for the summer of 2006 at the ABC 15 T.V. station. She remained at the University of Texas at El Paso working towards a master's degree in political science since the spring of 2006. During her graduate studies she worked as a teaching and research assistant for the Political Science Department and the Liberal Arts Center for Instructional Technology (LACIT). Currently, she is working towards obtaining an Alternative Teaching Certification.

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