



## *Part I*

### Public accountability: participatory spheres from global to local

The following chapters explore accountability in public institutions, with special attention to intergovernmental or multilateral organizations. Ngaire Woods leads the section by introducing the reasons for public disaffection with multilateral institutions. The challenge of accountability, as she sees it, is twofold: how to make global institutions more effective and more legitimate. She is critical of reform efforts that seek to increase effectiveness by insulating the institutions from politics (by strengthening the roles of independent experts). Instead, her analysis suggests that political pressures are inescapable, and that a more legitimate process – built on carefully structured forms of participation and representation – could also improve effectiveness and implementation. For participation to have impact, however, it must also be buttressed by enhanced forms of transparency, monitoring, and judicial-style accountability.

In the ensuing chapter, Randall Germain builds on this argument, examining a “hard case” of accountability: the highly specialized agencies and networks that constitute global financial governance. He proposes a rethinking of accountability away from a core emphasis on monitoring and compliance and towards mechanisms that “internalize accountability” within key governance institutions in ways that ensure “dissent and a critical engagement across a range of politically contentious issues are allowed to occur *within these institutions themselves*.” He calls this a “logic of participation” rather than a “logic of compliance.” While this is no small task among the tight expert circles of central banks, treasuries, and regulators, he provides evidence that the basis for such a rethinking already exists. Where Woods and Germain especially agree is on a need for more structured forms of participation to enable greater public influence in decision-making among global institutions. But their reviews of the landscape of global governance do not offer many concrete details of how this might be accomplished.

Hence, the third contribution, by Anne Marie Goetz and Rob Jenkins, turns to cases of citizen activism in the public sector in India where gains

in accountability through participation have been achieved. Their cases demonstrate the “logic of participation” in practice. And while there is a need for caution in extending Goetz and Jenkins’ local-level findings to the global sphere, they demonstrate that citizen oversight of complex public policies and processes is indeed possible.



## 2 Multilateralism and building stronger international institutions

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*Ngairé Woods*

International institutions are facing a double challenge of effectiveness and legitimacy. Many dissatisfied or disenfranchised governments and groups are deeply affected by global governance yet feel governance is poorly executed and that they themselves are inadequately represented. As global governance expands, few can hold those who exercise power to account. The implications for democracy are profound. Within the boundaries of the state people enjoy at least a *potential* to hold their governments to account through elections, ombudsmen, court actions, nongovernmental agencies, and the media. Yet increasingly, governments are delegating or ceding control over such decisions to international organizations, networks or other actors. This means that even in democracies, governments cannot be held to account for a widening range of decisions.

The institutions of global governance are mostly intergovernmental. They are constructed to represent member states and to provide a forum for discussion, agreement, and multilateral cooperation. In global governance, no actor can claim to have been directly elected by voters. Nor are many institutions subject to the normal restraints or checks and balances of public office. Multilateral organizations grapple with an unwieldy structure of government representation behind which most decisions are made by a small group of powerful states using a combination of formal and informal influence. As a result, accountability in global governance is complex and difficult to achieve.

The most deeply affected or disenfranchised are peoples in developing countries. In international organizations, developing country governments have little power and influence to wield in decision-making in these organizations and just as little power in holding these agencies to account. For these reasons, the strengthening of international institutions and enhancing of their accountability – especially with reference to developing countries – is vital.

The aim of this chapter is critically to consider the principles which are underlying current attempts to enhance and strengthen international

institutions. In the first section, the chapter discusses the growing disaffection with multilateral organizations. Subsequently, the main part of the chapter examines how the twin challenges of improving effectiveness and legitimacy are likely to be affected by: independence, participation, enhanced transparency, and enhanced accountability.

### **The growing disaffection with multilateral organizations**

Recent years have highlighted a growing contradiction in world politics. Traditional multilateral organizations are being asked to take on ever wider responsibilities in maintaining global security and economic order. Yet they command inadequate respect, support, and compliance from their powerful member states in order to fulfill these ambitions. They face a twin challenge: how to be more effective, and how to be more legitimate.

The new expansion of intergovernmental decision-making takes international institutions into areas previously considered the preserve of national governments. In the security realm since 1990 international institutions and security alliances have been called upon to intervene in order to contain ethnic and intrastate conflicts, to stabilize the regional threat they pose and to alleviate the humanitarian catastrophes which result. The UN in particular has been called upon to assist in peace-making, peace-building and peace enforcement *within* states. In Kosovo, Afghanistan, and Iraq, international arrangements have been put in place to govern countries in the wake of external intervention. Yet, as presciently described in a US Commission in 1999, the major powers are still struggling “to devise an accountable and effective institutional response to such crises” (USCNS, 1999).

The “responsibility to protect” idea extends intervention further than most other proposals for international cooperative action. The principle was laid out in 2001 by an International Commission on Intervention and State Sovereignty (partly funded by the Canadian government). Although the primary responsibility to protect citizens lies with those citizens’ own government, the Commission argued that where a government fails or is unwilling to protect its citizens, then the international community has responsibilities to intervene (ICISS, 2001).

In the international financial system, a new intrusiveness has also emerged in response to the challenges of globalized capital and financial markets. In the wake of financial crises in the 1990s, policy-makers desperate to contain the risks and vulnerabilities involved in highly mobile, globalized capital markets have sought ways to strengthen and

stabilize the system. An early response by the G7 was to call upon the IMF to ensure “forceful, far-reaching structural reforms” in the economies of their members in order (among other things) to correct weaknesses in domestic financial systems and ensure growth and poverty alleviation (IMF, 1998). The World Bank was expected to follow suit. This epitomizes two decades of dramatic rewriting of the role of the multilateral organizations whereby by the 1990s they had doubled the conditionality they demanded of borrowers and expanded their remit into the areas of the rule of law, judicial reform, corruption, and corporate governance (Kapur and Webb, 2000).

In international trade a similar picture emerges. Since 1986 international trade rules have expanded to cover *domestic* or *national* rules on foreign direct investment, the entry of foreign personnel, intellectual property rights (TRIPS), trade-related investment measures (TRIMs), sanitary and phytosanitary measures, technical barriers to trade, anti-dumping, subsidies, and countervailing duties (WTO, Multilateral Agreement on Trade in Goods). This list is now expanding to include issues such as competition policy and government procurement. The international limitations being imposed on national governments are stark. A simple example is that a government wishing to maintain a high standard of food safety or environmental protection is now limited by strict international rules as rulings on beef hormones and the use of dolphin-safe fishing nets have shown (Hoekman and Kostecki, 2001). For some, the failure in 2006 to reach agreement on the Doha Round of trade talks is at least in part a “blow-back” from the expansion of issues achieved in earlier rounds.

The implication of the analysis so far is that global governance is being pushed to rely on deeper cooperation among states not just in terms of interstate rules but equally in upholding standards in respect of states’ domestic arrangements. Yet the UN Security Council, the IMF, the World Bank, and the WTO do not have an inherent or autonomous authority over other global actors. They depend for compliance on the support of their most powerful members. And just as they are being pressed to take on more responsibilities, so too some of their most powerful members are eroding their authority.

Most obviously, the actions in Iraq of the United States and the United Kingdom (and subsequently the coalition of the willing) were taken without the support of the UN Security Council even after that body had apprised itself of the issue of Iraq and taken those actions which its membership as a whole thought were appropriate. Previously the Security Council had already been circumvented when NATO was used to undertake enforcement actions in Bosnia and then in Kosovo. These actions are widely perceived as undermining the multilateral

system. When powerful states turn their back on multilateral procedures and institutions and pursue goals through private–public alliances, “coalitions of the willing,” or regional or unilateral means this creates a sense of injustice on the part of countries and groups required to “play by the multilateral rules.” It undermines the credibility and authority of the multilateral institutions. This is as true in the world economy as it is in global security.

In the global trading system, while multilateral negotiations fail, both the United States and the European Union fall back on bilateral and regional trade agreements through which they secure agreements from countries to comply with a yet more comprehensive list of conditions than are permissible within the WTO. For example, the US–Jordan Free Trade Agreement signed on 24 October 2000, eliminates duties and commercial barriers to bilateral trade in goods and services originating in the United States and Jordan (USTR, 2000). It also provides for intellectual property right protection, trade and the environment, labor, and electronic commerce and side letters concerning marketing approval for pharmaceutical products, and trade in services. These additional elements represent interests the US has been unable to negotiate in the WTO and demonstrates the way the US can seek to achieve trade goals without recourse to multilateral negotiations. The European agreements (EPAs) push forward governance-related conditionalities into relations with trade partners.

What does this mean for global governance? Bilateralism and regional arrangements offer all states an alternative to purely multilateral regimes. However, the states who benefit most from such arrangements are those with the largest market access to offer, the largest security umbrella to share, and the greatest capacity to threaten negative consequences from noncompliance or exclusion. The European Union and the United States have huge trade markets to offer. This means that in negotiations with any one state or small combination of states, negotiations are asymmetrically weighted towards EU or US preferences and policies. However, for both the US and the EU there is a real limit to bilateralism as a global strategy. Bilateral agreements are costly and time-consuming to negotiate, and it is not clear that they can extend beyond small or historically close economies to encompass larger trading partners with whom the US and EU need stable trade arrangements.

Although powerful states are pursuing economic and security strategies outside of multilateral institutions, it is clear that they continue to depend on the efficacy and legitimacy of global agencies. For this reason both the EU and the US are deeply engaged in thinking about how to strengthen international institutions. In this debate several core principles have come to the fore.

### **The debate about strengthening multilateral organizations**

The argument above is that the legitimacy of most international institutions has been outpaced by an expansion in their mandates. In trade, aid, finance, and security, international institutions are being expected to intervene in ways well beyond the dreams of their founders. The result is not just a problem of effectiveness but equally a problem of legitimacy. Most multilateral organizations still have the governance structures with which they were born. The result is a serious gap between what they are now attempting to do, and what they are perceived as having the legitimacy to do. Most are criticized for insufficiently representing their member states or for not permitting adequate participation by wider stakeholders, as well as for being ineffective. The result is a wide-ranging debate about how to enhance the legitimacy and effectiveness of international organizations.

#### *Legitimacy and effectiveness: no clear trade-offs*

Strengthening the legitimacy of international institutions is difficult not least because of a widespread belief that there is a trade-off between enhancing effectiveness and improving legitimacy. Effective institutions are assumed to enjoy “hard power” which means they have a coercive capacity to make rules and to enforce them. At the extreme this implies institutions run by powerful states with little restraint. By contrast, legitimate institutions are assumed to spend too much time ensuring representation and participation, reducing themselves to talking shops.

Legitimacy and effectiveness might be seen as opposite ends of a spectrum.

<b>Legitimate but ineffectual:</b>	<b>Effective but unrepresentative:</b>
(Participatory, representative and inclusive such as well-run Parliaments or the United Nations General Assembly)	(Non-participatory and often strictly hierarchical such as a central bank or military command structure)

The logic which pits effectiveness against legitimacy, has led to some proposals for improving global governance by making institutions less representative of member states and less accountable to a wider political constituency.

*Bolstering the independence of institutions – what implications?*

One set of arguments about reforming international institutions proposes that they should be more independent of governments and run by experts so as to avoid the problems, vested interests, and contradictions which arise from domestically rooted intergovernmentalism. Part of the argument has been elegantly expressed by Ernst-Ulrich Petersmann in the following terms: “governments risk to become prisoners of the sirene-like pressures of organized interest groups unless they follow the wisdom of Ulysses (when his boat approached the island of the Sirenes) and tie their hands to the mast of international guarantees” (Petersmann, 1995, 166). Away from the hurly-burly of domestic politics, policy-makers (we are led to believe) can come to more rational and selfless conclusions. Four examples from the late 1990s illustrate this reasoning.

After the financial crises of the late 1990s, in April 1999 the G7 formed a Financial Stability Forum (FSF) to promote international financial stability through information exchange and international cooperation in financial supervision and surveillance (see Germain, below, ch.3). The new network was self-consciously selective, bringing together experts from the most important players in the international financial system including national authorities responsible for financial stability in significant international financial centers, international financial institutions, sector-specific international groupings of regulators and supervisors, and committees of central bank experts. There was no sense that the FSF should represent all countries or regions of the world. Rather its goal was to coordinate the efforts of various bodies in order to promote international financial stability, improve the functioning of markets, and reduce systemic risk (FSF, 2001).<sup>1</sup>

At the same time as the FSF was formed, a proposal surfaced for making the IMF “truly independent and accountable” so as “to permit it to focus more efficiently on surveillance and conditionality” (De Gregorio et al., 1999). It was argued that the IMF’s Executive Directors should be discouraged from taking advice from their governments. Like a central bank, the IMF should be permitted to work in a more technical, independent way with its accountability ensured through transparency and a different kind of oversight by member governments. The rationale was that just as independent central banks have proven better

<sup>1</sup> That said, the G7 soon found it necessary to expand its membership to include representatives from Hong Kong, Singapore, Australia, and the Netherlands (FSF, 2001).

at fighting inflation, so too an independent world authority would better protect international financial stability.<sup>2</sup>

In the European Union a similar “effectiveness-first” argument was put in 1999 by Romano Prodi: “At the end of the day, what interests them [i.e., people living in the EU] is not *who* solves these problems, but the fact that they are being tackled” (Prodi, 1999). Several years before, this efficiency rationale had led to the European Monetary Union (EMU) and more specifically in the nature and structure of the European Central Bank (ECB) which lies at the heart of EMU. The ECB is an independent and unaccountable body (e.g., compared to its counterparts in the UK, USA, and Japan, all of which publish formal voting records of their decisions), whose legitimacy rests on its technical and expert nature rather than a potential representativeness or democratic accountability.

The World Trade Organization (WTO) offers a final example of an argument for a more effective, less representative organization – here made in legal terms. One argument has been to constitutionalize the WTO, providing a written constitution as “a contractual means by which citizens secured their freedom through long-term basic rules of a higher legal rank” (Petersmann, 1995). Like the argument for a more independent IMF, constitutionalizing the WTO is seen as a way of protecting the application of sensible “long-term basic rules” for trade which might otherwise be shipwrecked on the ragged shores of national politics.

The counter to each of the arguments for more independent governance is that political forces and pressures are inescapable. Delegating power or authority to international institutions does not supersede politics. It simply delivers it into a new and different arena in which different pressure groups and actors will have more power. This can be seen in each of the cases mentioned above. Yet more importantly, in every one of the above-mentioned cases, representation is essential to effectiveness. Most simply put, without the buy-in of key stakeholders, the institution cannot be effective.

Soon after the Financial Stability Forum was created, its participants decided it could not be effective unless it extended its membership. If it were effectively to enhance information exchange and international cooperation in financial supervision and surveillance, it needed to include more members. Hence, in short order it expanded its membership to

<sup>2</sup> The proposal also argued for making the IMF more accountable through: 1) increased transparency with the publication of voting records, Executive Board minutes and performance evaluations; 2) the strengthening and bolstering of an oversight committee comprising Finance Ministers; and 3) a requirement that Executive Directors justify their actions in terms of an explicit mandate such as “to advance economic and financial stability” and face dismissal by the oversight committee if they failed.

include Hong Kong, Singapore, Australia, and the Netherlands (FSF, 2001). Furthermore, the G7 Finance Ministers grouping which created the FSF had itself found its membership too narrow to be effective. In the wake of the East Asian Crisis, the G7 found it needed to hear – and have buy-in – from those countries most affected by the crisis and central to contagion and its containment. Hence they created a wider more representative G20 group of Finance Ministers to consider global institutional reform – although critics would also point to the G20's lack of legitimacy as a representative of all countries (Helleiner, 2001).

The proposal to make the IMF more independent has in part been driven by a weariness with the political bargaining, influence, trade-offs, and compromises which underpin some of the organization's work (these are elaborated in Woods, 2006). Like independent central banks, a stronger IMF would be insulated from political pressures. However, the IMF is involved in advising on a broader range of policies than any central bank. It advises on policies which involve ranking and prioritizing the rights and obligations of different groups of people. It monitors and reports on economic policies and decisions in all of its member countries. Its judgments necessarily involve interpretations about which there are different perspectives among its members – and different interests at stake. This is why the process of decision-making in the IMF is unavoidably one which has to include a process – accepted by all – for adjudicating among different alternatives.

In respect of the European Central Bank and the EU's other institutions, political legitimacy has emerged as a vital issue, leading to a wide debate about institutional reform not just spurred by the exigencies of enlargement, but by the need to ensure the confidence of the public in existing member countries. As European Commissioner Michel Barnier put it in 2001, European policy-makers need to go beyond negotiating the “necessary technical adaptations” to institutions and to consider how to reinforce the democratic legitimacy of the European Union (Barnier, 2001). The anatomy of more legitimate EU institutions was one of the goals of those who participated in the debate and construction of the (failed) Constitution for the EU (see Nicolaidis, 2004).

A more independent WTO raises similar problems. WTO rules encroach more into the national realm, affecting issues of welfare, the environment, labor rights, and intellectual property protection. Effective implementation of such rules requires an acceptance by participating governments that the rules are legitimate. They will not be seen as legitimate because some claim that they reflect some higher legal truth. Rather they are seen as reflecting deeply political priorities and choices over which citizens expect to have some say. This is not a simple contest

between economists who favor liberalization versus NGOs pushing human rights and other values. The outcomes involve subtle adjudications over priorities, means, and ends. Should one form of environmental protection be privileged over another? Should one species of dolphin be protected more than another? Most importantly of all, who should decide and to whom should they be accountable?

For all these reasons, the relationship between representation and efficiency is more complex than the simple spectrum with which we started. International institutions cannot simply be made more independent in order that they might be more effective. A more useful depiction of the relationship between representation and efficiency must at least begin with a recognition that different institutions derive their legitimacy from different sources. A central bank's legitimacy may derive from its fulfillment of narrowly specified and monitorable targets in a transparent way – not from its representativeness. By contrast, a Parliament's legitimacy derives precisely from its representativeness, not from its efficacy in achieving specified and monitorable goals. In each case the source of legitimacy reflects why stakeholders accept the decisions of the institution – making effectiveness possible. Typically legitimacy becomes an issue for institutions when coercion is too costly, too time-consuming, or simply ineffectual.

One way some institutions have sought to bolster legitimacy while enhancing their independence has been through an embrace of “participation.” This deserves examining. But first let's examine the broader argument for making international institutions more participatory.

#### *Making institutions more participatory*

Participation has become a powerful aspiration in global governance. It is embraced as a way to overcome three challenges in global governance. First, it is forwarded as at least a partial solution to the narrowness or limited representativeness of international organizations. Dialogue with global civil society – or more accurately put, nongovernmental transnational advocacy organizations (and the difference between NGOs and global civil society is a significant one for this debate) – opens organizations to more views without having to add seats or further representatives to the decision-makers' table. Second, participation is embraced as a way to enrich global debates by adding a wider set of views and values to the debate. Enthusiasts go further, arguing that “the right way to defeat bad ideas is with better ideas. Just as national democracy entails participation and debate at the domestic level, so too does democratic global governance entail participation by transnational NGOs” (Charnovitz, 2000).

Finally, “participation” is advocated as a way to make international organizations more effective. Put simply, the aspiration is not just that greater participation would result in better informed policy with greater feedback from those affected by the policies of institutions, but that a wider group of “stakeholders” will help institutions implement policy.

Are the governance-improving aspirations for participation well founded? Can an engagement with nongovernmental groups make international organizations more legitimate or effective? And in areas where there is no formal international governance, can global nongovernmental organizations be part of a viable alternative?

The most visible and vocal NGOs in global governance are large transnational nongovernmental organizations based in industrialized countries who lobby for particular principles or issues such as debt relief, environmental protection, and human rights such as Amnesty International, the World Wildlife Fund, or Oxfam. It is worth noting immediately that these groups do not claim to represent countries or geographical groups nor do they represent particular commercial interests (although they are accountable to their donors and members and many are also in the business of delivering aid or similar goods). Their stake in the arena of global governance is more of a deliberative one. They bring principles and values to the attention of policy-makers. They also play a role in monitoring global governance, analyzing and reporting on issues as diverse as the Chemical Weapons Treaty, negotiations on global climate change, world trade, and the actions of the IMF, World Bank.

Multilateral institutions have engaged directly with NGOs in consultations about their work. For example, the World Bank has a formal NGO–World Bank committee and as I have detailed elsewhere, in the 1990s vociferous NGO action led the IMF and World Bank to revise their debt strategy (see Woods, 2006, chapter 6) and has bolstered moves towards greater transparency and accountability (as will be further discussed below). International donor institutions across the board are now also committed to enhancing “participation” on the ground in countries (World Bank, 1989; 1992; 1994; 1996; 1999 and cf. IMF, 1997; 2000).

A further way in which international organizations are leveraging participation is less direct – involving corporate self-regulatory codes and NGOs. The United Nations, for example, is actively trying to leverage self-regulation by corporations increasingly concerned about being branded in their main consumer markets as using “sweatshops” or peddling “blood diamonds.” The UN Global Compact initiative was created to bring together private companies, governments, multilateral organizations, and NGOs to advocate and promulgate nine core principles drawn from the Universal Declaration of Human Rights, the ILO’s

Fundamental Principles and Rights at Work, and the Rio Declaration on Environment and Development.

Nongovernmental organizations are crucial to these multilateral attempts to bolster and expand private sector self-regulation. They have pushed corporations to act in the wake of campaigns and consumer boycotts. For example, after NGOs publicly accused large oil companies such as BP and Royal Dutch/Shell of colluding in human rights violations in countries such as Colombia and Chad-Cameroon, these companies adopted human rights policies strongly endorsing the UN Universal Declaration of Human Rights. The companies also offered to work more closely and openly with NGOs (British Petroleum, 2001; Shell, 2001). In a similar vein, diamond companies such as De Beers have reacted to bad publicity linking them to the mining of “blood” and “conflict” diamonds in countries where the industry funds and perpetuates brutal civil wars such as Sierra Leone (see Smillie, below, ch. 6). In their *Annual Report 2000* De Beers wrote of the “threat to the entire legitimate diamond industry” posed by the “effect of conflict diamonds on consumer confidence” (De Beers, 2000). To ward off this threat, the diamond industry created a World Diamond Council based in New York to develop, implement, and oversee a tracking system for the export and import of rough diamonds to “prevent the exploitation of diamonds for illicit purposes such as war and inhumane acts” (World Diamond Council, 2001). A further example of a self-regulatory code is that promulgated by chemical companies in the wake of the Bhopal incident. The “Responsible Care” code was launched in 1988, requiring members to continually improve their health, safety, and environmental performance; to listen and respond to public concerns; to assist each other to achieve optimum performance; and to report their goals and progress to the public. In 2001 the code had been adopted in some forty-six countries, representing over 85 percent of the world’s chemical production (ACC, 2001).

However, critics point to the limitations of casting the new politics of “participation” as a solution to inadequate representation or effectiveness. They argue that NGOs cannot resolve and should not obscure the gaps in representation in the system. In particular, developing countries are inadequately represented in the formal governance of the IMF and World Bank, as well as in the informal processes which underpin negotiations in the WTO and in dispute settlement proceedings (Bown and Hoekman, 2005). The politics of “participation” pose three questions: who is being represented, through what processes, and with what impact?

The inclusion of NGOs in the discussions around the WTO will not necessarily redress the failure of the WTO adequately to represent some

countries and groups while it over-represents others. Indeed, inclusion might exacerbate rather than redress the lack of voice and influence suffered by developing countries. For instance, of the 738 NGOs accredited to the Ministerial Conference of the WTO in Seattle, 87 percent were based in industrialized countries. Enthusiasts of inclusion need to consider more carefully how NGOs might be included without further distorting the underrepresentation of developing countries and peoples in the WTO.

A second problem arises in the broader nongovernmental sector which is how and who from the private sector the new “participation” embraces. There is a high politics to participation in global governance. For example, it is simply wrong to assume that a constitutionalized WTO would side-step the vested interests which “distort” trade policy at the national level. Even a cursory examination of private sector participation in existing WTO negotiations reveals their powerful influence. Groups such as the US Coalition of Services Industries (CSI, 2001) and International Financial Services, London (IFSL, 2001) were deeply involved in negotiations on the General Agreement on Trade in Services and the WTO Basic Telecommunications and Financial Services Agreements. The Financial Leaders Group – a private sector group of North American, European, Japanese, Canadian, and Hong Kong financial leaders – publicizes its role as “a key player in securing the 1997 Financial Services Agreement and continues its work in the current WTO services negotiations” (FLG, 2001). Naturally, representatives of private sector organizations bring a high level of expertise and ideas to the negotiating table. However, they represent, indeed they have a duty to represent, the narrow sectoral and material interests of their members. It distorts reality to propose that their inclusion necessarily ensures that public interests will be better served.

As NGOs begin to take a part in global governance the question of who chooses which NGOs to include or consult in national or international negotiations becomes crucial. Equally important is how they are included and to what degree their input is influential. In choosing NGO interlocutors, international organizations become powerful gatekeepers and shapers of “global civil society.” Furthermore, in designing rules and processes for engaging civil society, international institutions also greatly influence the impact of NGOs. While the “new participation” has opened up decision-making and implementation to a wider range of stakeholders in some spheres, in others it is little more than a public relations exercise.

Proponents of participation argue that international organizations and large multinational private actors today perceive a need to respond not

just to global markets but to global social and political pressures: “as markets have gone global, so, too, must the idea of corporate citizenship and the practice of corporate social responsibility. In this new global economy, it makes good business sense for firms to internalize these principles as integral elements of corporate strategies and practices” (UN Global Compact, 2001). So too, international organizations themselves have a rationale for opening up. But in answering “open to whom” we are taken back to core principles of multilateralism.

### **Structuring participation**

The need to structure participation, so as to create an effective process, takes us back to existing multilateral organizations which, for all their imperfections, are the best approximation of institutionalized representation and voice at the global level.

#### *Enhancing transparency and monitoring*

Transparency refers to the recording, reporting, and publishing of information about the processes, decisions, and outcomes of an institution. The rise of both the internet and public expectations about transparency have created a quiet revolution in global governance whereby institutions such as the United Nations Security Council, the IMF, the World Bank, and the WTO can and do post documentation about their activities in an instantaneous way. That said, government members in each of these institutions have blocked opening them up further to public scrutiny. Crucial decisions are still taken in private. Individual government positions are often still kept secret. The result is that citizens of member countries stand little chance of holding their own government to account for its actions in international organizations, let alone the international agency itself. This opens up an important way in which institutions could be strengthened – in terms of both their effectiveness and their legitimacy.

Most international institutions are under constant pressure from shareholders and members, as well as outside NGOs and critics, to evaluate their operations and effectiveness in a more thorough, effective, and public way. The new expectation that institutions conduct and publish critical evaluations of themselves was highlighted by the UN’s publication of a very critical independent examination of UN policy in Rwanda, commissioned by the Secretary General in May 1999 (UN, 1999). Similarly the Executive Board of the IMF created an Office of Independent Evaluation in 2000 the objectives of which included: to

improve policy by better learning from past experience; to enhance Board oversight; and to build public understanding and external credibility by undertaking objective evaluations in a transparent manner. The World Bank has now renamed its operations evaluation department – now the Independent Evaluation Group – with similar goals in mind.

The lessons about monitoring and accountability also point to the need for citizens and outsiders not just to access information but to be able to use it effectively. This particularly affects developing countries where typically there is very little capacity to absorb, publicize, and act on information. In industrialized countries, NGOs, the media, politicians, Parliaments and others at the national level all play a role in picking up and publicizing information and translating concerns into pressures on international organizations (see Egger *et al.*, 2005). Among developing country governments, the perception that transparency works to the advantage mainly of industrialized country NGOs and governments has led to regular opposition to increased transparency and monitoring in international agencies. Regrettably such opposition cuts off an important longer-term goal of holding these institutions better and more equitably to account. People in developing countries stand to gain if NGOs push for the kind of transparency and openness which exposes and reduces a bias against the key concerns and priorities of the less privileged. What developing countries need to ensure is better institutionalized consultation and monitoring which structure participation to give key groups a voice.

#### *Using judicial-style accountability*

A further strengthening of the responsiveness of institutions can be achieved through more active judicial-style accountability which usually refers to tribunals, ombudsmen, or other processes of redress. The object is to ensure that organizations act within their powers and in keeping with their own operational rules. Judicial-style panels or actors examine specific actions or decisions taken by an institution in order to adjudicate whether or not some breach has occurred. Often in the case of courts, tribunals, or ombudsmen there are few direct powers positively to direct a wrongdoing institution to take some alternative course of action. Rather the process draws attention to a breach of rules and can result in agencies being asked at least to reconsider their decision.

Two unprecedented steps in global governance have been taken in this regard in the World Bank Group. In 1993 an Inspection Panel was created by the Executive Board of the World Bank to service the IBRD and IDA. The Inspection Panel can receive complaints from any group

able to show that: 1) they live in the project area (or represent people who do) and are likely to be affected adversely by project activities; 2) they believe that the actual or likely harm they have suffered results from failure by the Bank to follow its policies and procedures; 3) their concerns have been discussed with Bank management and they are not satisfied with the outcome. A three-person Inspection Panel has powers to make a preliminary assessment of the merits of a complaint brought by a group, taking into account Bank management responses to the allegations. Subsequently, the Panel can recommend to the Board that a full investigation be undertaken, and make recommendations on the basis of such a full investigation. The Executive Board retains the power to permit investigations to proceed, and to make final decisions based on the Panel's findings and Bank Management's recommendations.

It is worth noting that this form of accountability requires institutions to develop and publish detailed operating principles and procedures for which they can subsequently be held to account. It exists in a different form in another part of the World Bank Group.

A different model of judicial-style accountability was created in 1999 to service two other agencies within the World Bank group: the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). A Compliance Adviser/Ombudsman's office (CAO) was set up after consultations with shareholders, NGOs, and members of the business community. The aim is to find a workable and constructive approach to dealing with environmental and social concerns, and complaints of people directly impacted by IFC, and for MIGA-financed projects. The CAO or ombudsman and her staff are independent of the Bank and IFC and report directly to the President of the World Bank. The emphasis of the office's work is on dialogue, mediation, and conciliation. The CAO has the power to make recommendations but not to act as "a judge, court or policeman."

There are several obvious limits to judicial-style accountability. First, not everyone is in an equal position to use the procedures available, not just in bringing formal complaints but in ensuring that the threat of such actions keeps officials of an institution within their powers and rules. In many cases people in developing countries have relied on Northern NGOs to assist in funding and presenting their case.

Critics allege that the role of NGOs risks skewing the work of accountability tribunals in favor of issues and areas of most concern to people within industrialized countries, as expressed through Northern NGOs, leaving unserved those people in the developing world who have not attracted the attention of such NGOs. A further risk is that the outcomes of a formal process, such as the Inspection Panel, may well end

up being shaped more by the needs of Northern NGOs to garner publicity through confrontation and showdown, rather than by quiet measures which more modestly improve the lives of those directly affected.

A second limitation on judicial-style accountability is that the process can be used to attack good decisions which suffer a minor technical flaw in respect of the rules. It can also be long, costly, and time-consuming, diverting resources away from the central purposes of the institution. For this reason the threshold or cause for complaint which can spark a full inspection or action is crucial.

A final important limitation in judicial-style accountability is that the process examines whether an institution has adhered to its existing policies and operational rules. It does not examine or adjudicate the quality or purposes of those policies or rules. Judicial-style accountability does not substitute or offer recourse against the responsibility of decision-makers to make good policy or rules. It cannot prevent or call to account bad decisions being made within the rules. This means that accountability for the quality of the rules themselves has to be achieved through some other means.

New forms of accountability could usefully expand the scope for holding decision-makers in global governance collectively to account through the recognition of minority or developing country shareholders' rights. It might also hold officials acting in a professional capacity to account for the quality and diligence of their work. Still untouched however are a large range of substantive policy decisions made by international organizations in which people in developing countries have little input in decision-making. Here a real capacity to hold decision-makers to account requires adequate participation in the processes of priority setting, policy-making, resource allocations, and implementation.

### **Conclusions**

Global governance stands accused of being inadequately effective and legitimate to cope with the demands of globalization. The accusation is not altogether unfounded. This chapter has described the erosion of authority in multilateral institutions even as they are expected to perform more tasks and manage more problems. At the same time, it has examined the principles which underpin the debate about how best to reform institutions. Independence does not offer a solution to either the legitimacy gap or the lack of effectiveness of organizations. Rather, a scrutiny of the arguments for independence in the end push back to the need for better representation, more responsiveness, and stronger accountability. Participation, by contrast, has a clear value in spotlighting gaps and

problems in global governance, and in bolstering partial solutions. That said, the structure and nature of participation depends in itself on the rules of pre-existing multilateral institutions.

International organizations need to be strengthened and improved. At the core of better institutions is a structure of representation which gives all members a minimum degree of confidence in the organization – so that they will effectively delegate to it. In turn this requires an effective corporate governance structure which gives voice to the members but at the same time permits strategic objectives, operational decisions, review, and audit to be undertaken independently of one another. This, combined with the principles of transparency, monitoring, and judicial accountability, can assist in building better international institutions.

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