

The liberal battle-fields of global business regulation*

Abstract: The global justice movement has often been associated with opposition to the broad programme of 'neo-liberalism' and associated patterns of 'corporate globalization', creating a widespread impression that this movement is opposed to liberalism more broadly conceived. Our goal in this article is to challenge this widespread view. By engaging in critical interpretive analysis of the contemporary 'corporate accountability' movement, we argue that the corporate accountability agenda is not opposed to the core values of a liberal project. Rather, it is seeking to reconfigure the design of liberal institutions of individual rights-protection, adjusting these for new material conditions associated with economic globalization, under which powerful corporations alongside states now pose direct and significant threats to individual rights. This activist agenda is therefore much less radical in its challenge to the prevailing liberal global order than it may initially appear, since it functions to buttress rather than corrode many core normative commitments underpinning the liberal political project.

Keywords: liberalism; corporate accountability; business regulation; human rights; global justice movement

Introduction

The loose network of activist groups sometimes called the 'Global Justice Movement' is a significant source of political agency driving some current agendas of global institutional reform. Many scholars have analysed the political impact of various large-scale street demonstrations organised to protest the policies and unaccountable power of prominent International Organizations and decision-making groups such as the World Trade Organization, the World Bank, the World Economic Forum, and the G8.¹ Others have documented the infiltration of formal decision-making processes within these institutions by thousands of Non-Governmental Organizations (NGOs) – as well as the powerful roles of NGOs and broader activist communities within the regulatory and governance activities that take place outside such formal decision-making forums.² One important question, however, has so far received much less systematic analysis in the growing literature on the Global Justice Movement: how should we understand, in broad principled terms, what it is that this movement stands for, and what features of the institutional status quo it opposes? In other words, what generalised ('theoretical' or 'ideological'³) normative assumptions and commitments underpin the diverse range of specific policy demands advanced as part of the global justice agenda, unifying them with a shared political rationale?

An especially perplexing question is where this movement is situated in relation to the powerful *liberal* ideologies that provide the principled foundations for the international and corporate institutions that have been the main targets of political protest and opposition. The growth of the global justice agenda out of a movement associated strongly in its early years with 'anti-globalization' slogans, and with opposition to the broad programme of 'neo-liberalism' and associated patterns of 'corporate globalization', has created a widespread impression that this movement is opposed to liberalism more broadly conceived. Some activists themselves support this

appraisal, viewing liberalism as a tainted political ideology with which they have no good reason to identify. This interpretation is also shared by many in the corporate boardrooms and diplomatic cocktail parties on the other side of the political barricades, who characterise these protesters and activists as dangerous radicals of some suspect egalitarian persuasion, disrespecting and undermining the values and accomplishments of a liberal society.

Our goal in this article is to challenge this widespread view of the Global Justice Movement as hostile and oppositional to liberalism; instead, we argue that some important elements of this activist agenda can be better interpreted as functioning to salvage and reassert certain core liberal values, which have been undermined by tensions emerging within the liberal project itself in the present era of intensifying economic globalisation. We develop this argument through an interpretive analysis of one specific campaign agenda that is extremely prominent within the wider network of global justice activism: the ‘corporate accountability’ agenda. Drawing on some detailed empirical case study material, we argue that the corporate accountability agenda is not opposed to the core values of the liberal project – which we take to be concerned with securing equal protection for individuals’ liberties through the most effective available institutional mechanisms. Rather, it operates to reconfigure the design of liberal institutions, adjusting for the new material conditions associated with economic globalization; under these new conditions, powerful corporations alongside states now pose direct and significant threats to individual liberties, and traditional sovereign state-based institutions of rights-protection are often ineffective in regulating and containing these threats. Although the institutional reforms advanced as part of the corporate accountability agenda entail very different *regulatory mechanisms and structures* from those associated with politically dominant liberal paradigms such as ‘liberal internationalism’ and ‘neoliberalism’, the *normative values advanced* by these reforms are deeply liberal in character. This activist agenda is therefore much less radical in its challenge to the prevailing liberal global order than it may initially appear, since it functions to buttress rather than corrode many core normative commitments underpinning the liberal political project.

Our argument proceeds as follows. Since the kind of argument we are offering here has some unusual methodological features, we begin in section one by setting out in more detail the interpretive method we employ to develop our argument, and explaining its theoretical purpose and significance. In the next section we outline the core normative commitments of liberalism that we claim can be understood to provide the principled foundations for the political agenda of the corporate accountability movement. We then follow by setting out some empirical evidence about the normative values advanced through this reform agenda, and explaining how it can be interpreted as an extension of the political project of liberalism under contemporary conditions of corporate globalization.

The methodology and theoretical significance of our interpretive argument

The kind of interpretive analysis we offer in what follows is somewhat unusual insofar as it cannot be neatly categorised as either a purely explanatory or descriptive analysis (aimed at illuminating the causes or meanings of the corporate accountability movement, or of the actions of those who constitute it), or a purely normative or prescriptive analysis (aimed at evaluating the corporate accountability agenda, or determining what some set of actors ought to do with respect to it). Instead, what we are offering can perhaps best be characterised as a *critical interpretation of the*

values advanced by these activist agendas – which has important implications for both descriptive and normative analysis of these agendas. It will help to elaborate this further in three dimensions by explaining: the *subject* of our interpretive analysis; the sense in which this interpretation is *critical*; and the wider *significance* of the interpretive analysis we present in what follows.

First, we have said in very broad terms that we are offering an interpretation of the corporate accountability agenda within the wider Global Justice Movement, which draws out and highlights its liberal credentials. To avoid misunderstanding of what this project entails, we must emphasise that our aim is *not* to analyse the beliefs, intentions, or motivational sets of the political activists working to advance this agenda. An analysis of this kind would require the use of psychological or sociological methods of a very different kind from the critical interpretation we employ here; moreover, such an empirical analysis would not deliver conclusions with the normative character we are seeking, about the liberal credentials of the agenda. Rather, our aim is to analyse the content of *the justificatory reasons underlying* the agenda – or in other words, the values and principles in terms of which a coherent and plausible justification of the agenda can best be constructed.

This aim raises a methodological challenge: how can we best assess the character of the normative principles underpinning a political agenda being advanced by activists? One straightforward approach might be to employ some kind of rationalist ‘discourse’ analysis, and examine the rational content of what activists advancing the corporate accountability agenda *say* about the values and principles underpinning their reform proposals: do they consistently identify themselves as liberals or something else? Do they draw coherently upon liberal or some other ideology in the political argument and rhetoric that they advance in favour of their agenda? Or if they do not make claims and arguments in explicitly theoretical or ideological terms, but rather offer more contextualised justifications for specific reforms and proposals, to what extent must they presuppose liberal (or other) values and principles to make rational sense of these contextualised justificatory claims and arguments?

While some insights might be gained through this kind of approach, the difficulty of applying it to the case we examine here is that very little of the advocacy surrounding the corporate accountability agenda appeals to systematic frameworks of normative principle or political ‘ideology’ – liberal or otherwise. Activists come from diverse backgrounds and belong to organisations with a wide range of nominal philosophical commitments (ranging from overtly-liberal human rights organisations through to radical Marxist-inspired workers’ unions), and unity is found largely in shared commitment to a common institutional reform agenda rather than any particular ideological discourse. Moreover, a good deal of the advocacy work surrounding this agenda – as is true more broadly of much human rights and global justice advocacy – is conducted through appeals to what Richard Rorty has called ‘sentimentality’ – telling stories about victims of corporate abuses designed to appeal to human sympathy and compassion, rather than through the rational appeal to any shared and coherent set of justificatory principles (liberal or otherwise).⁴

Given the absence of a clearly-established rational justificatory discourse surrounding the corporate accountability agenda, we do not attempt in what follows to analyse what activists *say* about the justificatory grounds for their reform agenda. Instead, we examine the content of the institutional reforms these activists actively *promote* (through material support for elements of institutional reform they can directly influence, and advocacy directed at those elements they cannot), and

analyse *the normative rationale underlying* the content of these reform activities. In other words, we examine what it is that they are materially acting to support, and then reflect ourselves – through a process of critical analysis – on how this fits with normative commitments of liberalism. Rather than trying to identify the normative presuppositions required to make activists' *claims as articulated in discourse* coherent and justifiable, we try to identify the normative presuppositions required to make the *priorities and values advanced through political action* coherent and justifiable.

It should be clear from what we have said so far that the kind of interpretation of political practice we are offering here does not have an explanatory purpose or methodology. Analysis of the justificatory reasons underlying the political practice of corporate accountability activism must proceed instead through what we are calling a 'critical' interpretation – which involves an attempt to align the content of the practice with some rational set of principles or justificatory grounds. The critical standards that we apply in this analysis are twofold. First, we apply standards of 'coherence' rationality, by seeking a unified and consistent set of principles that can justify all central elements of the institutional reform agenda advanced by corporate accountability activists – or in Rawlsian terms abstract principles that can achieve a 'reflective equilibrium' with the commitments revealed in these political practices.⁵ Second, in seeking principles able to provide this kind of rational grounding to the practices, we focus primarily on the range of justificatory principles articulated within the *liberal* tradition of normative political thought. In doing so, our purpose is to show that these agendas should not be seen as in any significant tension with the core normative commitments of liberalism, but rather that corporate accountability reforms can be justified in terms of liberal values and principles.

In the final section of the article, we supplement this primary argument with some additional (though less fully-developed) arguments in support of the further claim that liberalism provides not just *one possible* justificatory rationale for the agenda, but a *more convincing rationale* than could be constructed on egalitarian grounds (associated with ideas of socialism or egalitarian distributive justice). We take egalitarianism to be the most plausible alternative foundation on which this agenda could be rationalised, in view of its status – within both contemporary political philosophy and public debates about global institutions – as the main principled alternative to liberalism. Clearly we cannot consider and refute *all logically possible* egalitarian rationales for the corporate accountability agenda, and without doing so we cannot conclude decisively that liberalism provides *the only or the best* rationale for the reforms. However, by highlighting some deep sources of tension between this reform agenda and the general institutional requirements of an egalitarian political project, we show that there are not strong grounds for viewing these reforms as some kind of Trojan horse for a radical global egalitarian agenda; in doing so, we provide some additional support for their liberal credentials.

Demonstrating this principled compatibility between long-standing liberal values and the principles underpinning the corporate accountability movement has significance at several levels. First, at the level of political practice, this argument – if it were to be successful and widely accepted – could have important implications for how corporate accountability agendas are received within the powerful political audiences (in International Organisations, corporations, and Western publics) to whom the advocacy of activists is largely directed. More specifically, the agendas might be viewed as less threatening and attract broader support from these powerful actors if the liberal credentials of

the agendas were clearly articulated, since these actors are themselves, for the most part, committed to liberal normative principles.⁶

Moreover, the argument may have significance for how activists can mobilise, coordinate and strengthen their political activism within the corporate accountability movement itself. This is so since the political efficacy of a social movement can often be bolstered by articulating a clear normative vision based on a coherent set of shared principles; this can help in the development of more durable social allegiances and better-coordinated collective action than might be expected to spring from the short-term political alliances that form around very specific policy issues and decisions. As Donatella della Porta has put it in her analysis of the broader Global Justice Movement, “[t]he establishment of a global movement requires the development of a discourse that identifies both a common identity – the ‘us’ – and the target of the protest – the ‘other’ – at the transnational level.”⁷ Developing a clear conceptual account of the principled justificatory grounds for the corporate accountability agenda can therefore assist activists not only to strengthen the arguments they advance in support of their agendas to the political actors whose support they seek, but also to systematise their thinking, organise their priorities, and coordinate their collective decision-making in the development of the agenda itself.

Our argument will only have this significance for corporate accountability and broader global justice activism, of course, if activists do in fact – or are likely to be willing to upon further reflection – endorse the liberal rationale for this agenda that we set out. As we have said already, we are not offering here any empirical analysis of the beliefs, intentions, and motivations of activists; moreover, there is no logically necessary connection between the best justificatory grounds for the corporate accountability agenda and the actual beliefs and motivations that animate activists’ conduct in advancing this agenda. However, if we are right to claim that liberalism provides the most convincing rationale for the agenda, then it is nonetheless likely to be the case (in lieu of widespread irrationality or delusion among activists) that many of the activists do in fact appreciate this and endorse these liberal justifications. Or it is likely at least that if they have not yet reflected seriously upon this issue that they would, upon further reflection, come to endorse the liberal rationale once they appreciated its merit as a justificatory basis for the agenda to which they are committed at the level of political practice.

Our interpretive argument may have significance not only for political practitioners engaging in reasoned debate and contestation around corporate accountability; it may also possess a deeper normative significance. Critical interpretation of the normative principles underpinning political practices has normative significance insofar as it helps political actors to ensure that political agendas they promote or support are consistent with their deepest political values and principled commitments, and to design reformist agendas to advance these most directly and robustly. Since critical interpretation is intended to appeal to and resonate with the intuitions and judgements of relevant political actors, an interpretation will count as authoritative or successful (as an account of the principles that should guide political action for these actors) to the extent that it is successful in achieving this resonance.

Michael Walzer has articulated a very similar philosophical account of the normative significance of critical interpretation,⁸ though in his work he critically interprets the normative belief-systems of whole (paradigmatically ‘closed’) societies – effectively idealised nation-states – as distinct from

the normative commitments underpinning narrower political movements, of the kind we are examining here. The normative significance of a critical interpretation of the principled basis for a social movement agenda is not directly equivalent to that of the kind of interpretative project undertaken by Walzer: most significantly, the principled commitments unifying a single global social movement cannot provide the basis for the legitimacy of wider institutions of global ‘governance’ or ‘public power’, in the same way that interpretation of the principled commitments unifying whole political communities are supposed to do for the legitimacy of state institutions (on Walzer’s account).⁹ This is because the principles articulated through critical interpretation have normative authority only for those agents with whom they resonate as the principles that underpin their normative judgements and constitute their ‘practical identities’;¹⁰ the principles underlying the agenda of a particular political movement will provide the basis for legitimate institutions within a wider community only if that broader community is committed to the same underlying principles.

This difference still allows, though, that the principles underlying the agenda of a social movement can have normativity (that is, be action-guiding) *for participants in that movement*. Moreover, insofar as our argument shows that the corporate accountability agenda is compatible with core liberal principles that are shared by others outside the corporate accountability movement, it identifies points of principled normative convergence that could potentially provide a basis for collective public reasoning within a broader community of global actors sharing a stake in the institutions through which transnational business activity is regulated. In doing so, it could help over time to build the foundations for the legitimacy of these governance institutions. (In line with our earlier caveat, we note that our critical interpretation will only have this normative significance to the extent that activists do in fact – or are likely to be willing to upon further reflection – endorse the liberal rationale for this agenda that we set out.)

Liberal Values and Liberal Institutions

To provide a theoretical foundation for our critical interpretation of the corporate accountability agenda, it is helpful to set out the various tenets of liberal thought that are most salient to the normative assessment of this agenda. In particular, we need to explain the basis for our departure from the common view of corporate accountability activists as radical opponents of liberal values, to which we alluded in our introduction to this article.

It is not surprising that the corporate accountability agenda should be widely viewed as illiberal, since there is one specific and very prominent bundle of liberal ideas and political prescriptions to which it is unambiguously and vigorously opposed. Proponents of the corporate accountability agenda – along with a looser band of supporters within the broader Global Justice Movement – have forcefully challenged the dominant international institutional and policy programme of recent decades, which has travelled under the various liberal banners of ‘economic liberalism’, ‘liberal internationalism’, and in particular ‘neo-liberalism’. The institutional agenda associated with this dominant international political programme has included a strong commitment to protecting the freedoms of individual and corporate capital-owners from regulatory interference, and building a state-based international system of governance responsible for protecting individual rights. In recent decades, the political prominence and power of this institutional and policy programme has led many people to view it as being definitive of liberalism; a commitment to this kind of programme, in many people’s minds, is just what liberalism *is*. Viewed in these terms, it is quite natural to

conclude that the corporate accountability agenda constitutes a challenge to liberalism, since it seeks to achieve greater public regulation of corporate activity, as well as to shift some of the burden of responsibility for individual rights-protection onto the corporate sector. As a result, the agenda is often interpreted as a by-product of some kind of socialist or radical egalitarian political project, aimed at dismantling the global institutional foundations of liberty in pursuit of greater global resource redistribution for the benefit of poor workers.

In order to see what is wrong with this common interpretation, it is necessary to challenge the assumptions it is making about the points of difference between liberal and more radically egalitarian normative principles – and in particular the assumptions about the *types of institution* that can be justified on the basis of liberal principles. This of course raises a vast theoretical topic, which we cannot tackle in any depth within the constraints of this article. Here, we confine ourselves to setting out in brief our own views on these questions, which provide the theoretical basis for the argument we go on to develop about the liberal credentials of the corporate accountability agenda.

First, while we must acknowledge that liberalism traverses a wide and contested theoretical terrain, our present purposes can be served by characterising liberalism in very simple terms as a commitment to the protection of individuals' liberties as the first priority of a social institutional scheme. Liberalism viewed in this way can incorporate a deep commitment also to the value of socio-economic equality, but what distinguishes a view as liberal, rather than egalitarian, is that when a conflict arises between the goals of protecting individuals' liberties and increasing socio-economic equality, a liberal will give priority to the protection of individual liberties. (In contrast, an egalitarian gives first priority to some kind of social equality, however this is more specifically conceived.) A much more elaborate theoretical account of liberalism understood in this kind of way can be found in John Rawls's theory of justice, in which he identifies liberalism with a commitment to the 'liberty principle' as the first principle of justice (taking priority over his egalitarian 'difference principle', concerned with the distribution of income and wealth and positions of social authority). In Rawls's terms, this requires that an institutional scheme should be designed in such a way as to ensure, as a first priority, that "[e]ach person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all", and that "liberty can be restricted only for the sake of liberty".¹¹

What then follows from this view of liberalism for the question of what kind of social institutions are required by or justifiable in terms of liberal principles? Again, this is a vast topic, but there are two points with particular salience to the argument we wish to make in this article. The first of these concerns the general *function* of institutions that are required to satisfy liberal principles. The priority that liberalism gives to the protection of individual liberties (over the equal distribution across a population of social goods) will – under most contemporary social conditions – require institutions that place priority on the discharge of various functions required to secure such protection, such as: the codification and public dissemination of rules prohibiting violations of liberties by powerful social actors; the monitoring of compliance with these rules; and the provision of sanctioning and redress mechanisms for cases where individual liberties have been violated. Very commonly (though not necessarily) liberals pursue this functional requirement through the establishment of institutions that categorise and protect some set of individual liberties as 'rights',

conceived as claims that ‘trump’ (have priority over) other – welfarist or redistributive – institutional goals.¹²

Here we can see a clear contrast with the general functional requirements of egalitarian institutions. While the institutional functions required to uphold egalitarian principles in social practice will vary greatly depending on the social dimension in which a particular egalitarian theory seeks equality, one functional feature of egalitarian institutions will be shared by all: egalitarian institutions must place priority on the discharge of distributive or allocative functions operating at the level of the society as a whole, rather than on achieving given outcomes at the level of particular individuals.

The second point we wish to make about the kind of social institutions that are required by or justifiable in terms of liberal principles concerns the *instrumental rather than intrinsic value of particular institutional forms* (such as states and state-based mechanisms of rights-protection) within the liberal project. As we have just discussed, the core normative principles that are taken to provide the justification for institutions will usually have some broad implications for the structure of justified institutions, insofar as different functions (protecting individual liberties versus achieving some egalitarian distributive pattern across society as a whole, for example) will have different general operational requirements for their successful discharge. The point we want to emphasise, however, is that any normative commitments to particular institutional forms that may be associated with liberalism via this kind of connection are wholly contingent on it being the case, as an empirical matter, that the institutional forms in question provide the most effective strategic means of protecting individual liberties under the prevailing political circumstances. In simple terms, it is individual liberties, not any particular institutional designs, that have *intrinsic* value within liberalism; institutional forms have value only *instrumentally*, as (more or less successful) means for the protection of individual liberties. Again, we can draw on Rawls’s theory of justice as an example of this kind of liberal thinking about the instrumental value of particular institutions: we take this to be the point of Rawls’s “four-stage sequence” of liberal institutional design, which begins with a commitment to general principles of liberal justice, and then designs constitutions, laws and policies, and institutional applications to cases, in light of strategic and context-specific consideration of how these principles can best be upheld given relevant facts about the material conditions and particular circumstances of the political society in question.¹³

The implication of this point most relevant to our present discussion is that familiar state-based institutional forms of rights-protection commonly identified with modern liberalism do not have any intrinsic liberal value or credentials. Throughout the so-called ‘Westphalian’ era of global politics, characterised by the concentration of much public power within institutions of sovereign states, the institutional mechanisms developed by liberals for protecting individual liberties (usually as rights), have been highly state-centric. By this, we mean that liberal institutions have been designed on the assumption that states constitute both the main threat to, and the most promising means for protecting, core liberal values. On the one hand, mainstream liberal mechanisms for regulating public power have focused on ensuring the publicity and accountability of state power; on the other hand, states have been allocated exclusive responsibility for protecting the rights of individuals. Unlike state institutions, market institutions have been viewed as relatively benign with respect to core liberal values – as sites for production and for the realisation of individual liberties, not as sources of threats to rights or as bearers of responsibilities for their protection. As a corollary of this, the liberal division between ‘public’ and ‘private’ institutional spheres has commonly been

understood to map fairly directly onto the institutional divide between state and non-state institutions. Corporations operating within the global economy have therefore been designated as ‘private’ agencies entitled to rights-protection, rather than as public agencies with responsibilities for protecting the rights of others.

It is very important to emphasise, however, that this historical legacy of state-centrism in liberal institutional design does not reflect any intrinsic value being placed on these state-based institutional mechanisms by liberal principle. Rather, the liberal value of these familiar mechanisms is entirely *contingent* upon it being the case that they remain, under contemporary conditions of economic globalization, the most effective means available to satisfy the requirements of the liberty principle (in its Rawlsian or some similar formulation). This recognition is important because it shows that non-state mechanisms of rights-protection should be preferred by liberals (they will be more consistent with liberals’ normative principles) if they will be more effective at upholding the liberty principle under given conditions. This provides the basis for the argument that we will now go on to make: that the challenge posed by the corporate accountability movement to the private status of economic corporations does not challenge any core liberal principles, but can rather be seen as compatible with liberalism so long as the new institutional mechanisms being proposed are intelligible as strategic means for upholding liberal values.¹⁴

Transnational corporate accountability as a liberal project of institutional reform

Having laid out above our interpretation of the core normative commitments of liberalism, and distinguished these from the contingent state-centred institutions with which they have traditionally been associated, the remainder of the paper develops a critical analysis of the institutional reform agenda being advanced by the contemporary corporate accountability movement. We explain how these practices can be interpreted as an extension of a liberal political project under present conditions of corporate globalization. Specifically, we suggest that the movement’s institutional reform agenda is oriented toward the reconstruction of liberal political institutions of *rights protection* to accommodate changing configurations of global public power.

As we explained above, a liberal normative commitment to protecting equal liberties for all individuals as the first priority in the design of political institutions can be given expression via a range of institutional designs. The overarching direction of institutional reform that corporate accountability campaigners have supported has been one oriented to limiting corporate power and holding corporations responsible for any threats they pose to individual liberties. Here we focus on one specific element of this institutional reform agenda that has become increasingly widespread among corporate accountability activists: codifying – in the language of individual rights – substantive constraints on what corporate power can be mobilised to *do*. In this way, corporate accountability activists have contributed to limiting corporate power in relevant ways, and to allocating corporations new responsibilities for safeguarding individual rights.

This institutional reform agenda of strengthened rights-protection has been advanced via activist support for two more specific reforms. First, activists have publicly identified corporations as posing significant threats to individual liberties in ways that governments are not equipped effectively to regulate. By doing so, activists have effectively characterised corporations as the

kinds of agents that should be accorded the special political responsibilities associated with the status of 'public' power in liberal thought.¹⁵ To illustrate the liberal rationale for this aspect of the corporate accountability agenda, we show how changed material conditions have weakened the capacity of state-centred liberal political institutions effectively to protect individual rights from the exercise of corporate power.

Second, participants in the corporate accountability movement have worked to build new transnational institutions of rights-protection, which have the potential to substitute in important ways for state-based liberal institutions for protecting individual rights. We map the key elements of institutional mechanisms that are being initiated, promoted and materially supported by participants in the corporate accountability movement, and show how these mechanisms contribute important building blocks towards the creation of transnational liberal institutions, able to perform functions of rights-protection that are equivalent to those traditionally performed by state-centred liberal institutions.

As we have discussed at length elsewhere,¹⁶ the capacity of these emerging institutional mechanisms remains limited in important ways. In particular, inconsistencies of enforcement weaken their capacity effectively to protect liberties for all individuals. Our goal here is simply to show how the content of the reforms that corporate accountability campaigners promote contribute progressively to building and strengthening new transnational institutions, the first priority of which is to advance the liberal goal of individual rights-protection.

Identifying corporate power as a threat to individual rights

We begin by examining the institutional reform agenda around which the diverse participants in the contemporary corporate accountability movement have organised their activities. This agenda has been fundamentally concerned with threats to individual rights presented by the changing relationship between the power of transnational companies and state-centred liberal institutions of rights protection. The logic of the agenda is to recognise that the liberal project currently confronts changed material conditions in two related respects. First, the growth of buyer-led global supply chains has created new institutional means through which transnational companies can threaten individual rights. Second, state-centred liberal institutions are structurally constrained in their capacity to subordinate such forms of transnational corporate power to public control. As a result, transnational corporate power acquires an unregulated capacity to threaten individual rights.

The intensified capacity of corporate actors to exercise transnational power that threatens individual rights is associated with the growth of new private organizational infrastructures in the form of global supply chains. Transnational corporate power is now organised and exercised not only through hierarchically organised TNCs, but also via supply chains that are controlled by major retailers and brands, who then exercise considerable control over intermediaries and factories at the producing country level.¹⁷ Power is distributed among companies of many kinds, ranging from the head offices of large transnational companies, through to subsidiaries, sub-contractors, intermediary trading companies, and a range of individual production facilities such as factories and farms.

Such power is often able to threaten the rights of a many individuals, in particular workers and producers participating directly in transnational production processes. In the garment industry, for

example, dominant companies use their power within global supply chains to push down wages and increase workloads, with significant and direct implications for wellbeing of workers. Many workers complain that their wages fail to cover the basic cost of living – a claim that is supported in many cases by official estimates of baskets of basic goods.¹⁸ Non-voluntary overtime is another common consequence of corporate demands for fast turnaround of production in response to changing consumer demand. As a result, traditional liberal assumptions about the benign and non-threatening character of power exercised by ‘private’ (non-governmental) actors are undermined by the increased capacity of transnational companies directly to threaten individual rights.

Associated with the development of these new forms of non-state institutional power has been the erosion of regulative capacity on the part of national governments, to whom responsibilities for rights-protection have traditionally been assigned within state-centric traditions of liberal institutional design. Corporate power over workers and producers has always existed in some form, and has always had at least some potential capacity to threaten individual rights. However, traditional state-centred approaches to liberal institutional design have assumed that such power would interact with and be subordinated to state power, thereby enabling states to regulate corporate power in whatever way necessary to prevent it from threatening individual rights. For a variety of reasons that we have elaborated elsewhere,¹⁹ there has been a progressive shift in the balance of power between states and corporate systems of power, such that neither is subordinate to the other. As a result, these systems of corporate power take on the capacity to threaten rights in ways that existing state-centred liberal institutions are unable effectively to contain. The capacity of states to threaten rights of course continues, but alongside it are corporate forms of power that are no longer subordinated to the public authority of the state. The state is therefore no longer able to perform its traditional function as the exclusive regulatory agent of public power.

It is unregulated rights-threatening power of this kind that has comprised the central target of critique by the corporate accountability movement. As we have documented in some detail elsewhere,²⁰ corporate accountability activists have played an important role in identifying and challenging the power of transnational companies to commit substantively unregulated rights violations of these kinds. Through high profile media campaigns and widespread grassroots networks targeting retail outlets of familiar brands, activists have significantly increased public awareness of the direct power of such companies over the lives of workers and producers. In this way, participants in the corporate accountability movement have helped to publicly identify transnational corporations as posing significant threats to individual rights in ways that national governments acting alone are no longer equipped effectively to regulate.

New agendas of liberal institutional design

In response to such concerns, corporate accountability activists have also worked to build new transnational institutions designed to perform equivalent functions of rights-protection to those traditionally performed by state-centred liberal institutions.

As we outlined above, the priority that liberalism gives to the protection of individual liberties typically requires institutions that place priority on the discharge of specific functions required to secure such protection. Establishing transnational institutions capable of performing these functions requires development of a number of complementary institutional mechanisms, each contributing to

rights-protection in complementary ways. *First*, such institutions require some mechanism for clearly allocating responsibilities for rights-protection among the numerous state and non-state actors possessing unregulated capacities to threaten individual rights. *Second*, mechanisms must be created that are able reliably to identify instances of rights violations when these occur. *Third*, it is necessary to establish mechanisms through which appropriate remedies for rights violations may be accessed and enforced.

We discuss each of these institutional mechanisms in turn, showing how participants in the corporate accountability movement are contributing to the development of new institutional mechanisms capable of performing each of these distinct functions. The multiple mechanisms being developed in this way have been initiated, advocated or implemented by different social agents operating in different times and places, many of whom have not directly coordinated their institution-building activities with one another. Nevertheless, these distinct initiatives contribute to a common agenda of strengthened rights-protection, and their cumulative product has been the progressive emergence of a transnational system of liberal institutions.

Distributing responsibilities for rights-protection

The first challenge of institutional development to which participants in the corporate accountability movement have directed their energies has been establishment of mechanisms for clearly allocating responsibilities for rights-protection. Traditional state-centred approaches to liberal institutional design embrace a simple solution to the problem of assigning responsibility for rights protection: the centralisation of responsibility exclusively within state institutions. As illustrated above, however, this approach can no longer serve the function of protecting individual rights under conditions whereby power to threaten individual rights is not effectively subordinated to state control.

New agendas of liberal institutional design have therefore set about searching for means of distributing responsibilities on a transparent and principled basis between the numerous state and non-state actors that possess an unregulated capacity to threaten individual rights. The first step in this process has entailed progressive establishment of a general principle of corporate responsibility for social and human consequences of corporate activity. The quick and steady growth of companies that have publicly recognised such responsibilities has been striking. To take one prominent example, by the end of 2007 the UN Global Compact, the world's largest CSR initiative, had approximately 3,600 participating companies, out of what UNCTAD estimated to be a total of 78,000 Transnational Corporations (TNCs) and 780,000 affiliates operating worldwide.²¹

Over time, the articulation of such responsibilities within an explicit rights-based language has become increasingly institutionalised. The 'business and human rights' agenda developed under the auspices of the United Nations human rights regime has played an important role in this process, which corporate accountability activists have publicly endorsed and actively supported.²² In 2005 the United Nations Commission on Human Rights mandated the appointment of a Special Representative of the Secretary-General (Professor John Ruggie), who has been working since that time to advance the goal of clarifying the responsibilities of private business enterprises under international human rights law. Reflecting the state-centred approach to institutional design traditionally endorsed by liberals, international human rights law has traditionally been viewed as

applying directly only to states. In contrast, the framework developed under this mandate has taken the view that business responsibilities under human rights law should in some cases also apply *directly* to business enterprises.²³

Participants in the corporate accountability movement have sought to codify such general principles of corporate responsibility into more detailed obligations via a range of non-governmental standards systems, through which corporate responsibilities for their impact on individual rights can be publicly acknowledged and formally institutionalised. A broad range of private standards systems aiming to codify corporate obligations for human rights has been created by NGOs, often working together with companies and sometimes governments. Some standards systems have been developed within specific sectors, such as the Common Code for Coffee Communities in the coffee sector, and the Fair Labour Association, Workers Rights Consortium, or Ethical Trading Initiative in the garment sector. Others, such as SA-8000, Fairtrade, or the newly created standard system ISO-26000, operate across a range of different economic sectors as well as geographical locations.

Identification of rights violations

The second main cluster of institution-building activities that participants in the corporate accountability movement have initiated and supported has focused on the establishment of a range of mechanisms through which individual rights violations may be identified when they occur.

One common approach to developing such new institutional capacities has involved the establishment of transnational institutional systems empowered to engage in regular monitoring of corporate activity identified as being associated with risks of rights violations. This constitutes what we might think of as a ‘top-down’ approach to identifying violations. Corporate accountability activists have supported many different mechanisms of this kind. For example, multi-stakeholder initiatives such as the Fair Labor Association and Worker Rights Consortium adopt such top-down monitoring and audit activities as core elements of their institutional design.

In other cases, corporate accountability advocates have supported the creation of ‘bottom-up’ mechanisms for uncovering rights violations, in the form of transnational complaints or grievance mechanisms instead of top down audits. A number of multi-stakeholder regulatory initiatives have developed grievance mechanisms of this kind. For example, the Ethical Trading Initiative (ETI) - a multi-stakeholder initiative involving companies, trade unions and NGOs across a number of sectors - offers an informal complaints system through which local organisations have been able to channel complaints on a number of occasions.²⁴ Grievance mechanisms of this kind have also been established at the transnational level in the form of governmental grievance mechanisms such as the National Contact Point mechanisms associated with the OECD Guidelines on Multinational Enterprises. In a number of individual cases this has enabled communities or individuals affected by the offshore operation of MNEs to take complaints to specialised institutional forums provided by home country governments. Similar grievance systems have been established by companies involved in large projects financed by International Financial Institutions, such as the European Bank for Reconstruction and Development (EBRD) or the Multilateral Investment Guarantee Agency (MIGA). For example, in Georgia, as part of the construction of a multi-country gas pipeline, two international grievance mechanisms were provided directly by multilateral funders of

the project: the International Finance Corporation-Compliance Advisor Ombudsman (IFC-CAO) and the EBRD Independent Recourse Mechanism.²⁵

Although such mechanisms continue to exhibit significant weaknesses, progressive efforts to expand their coverage and strengthen their operation has gradually bolstered the ability of individuals whose rights are threatened by the activities of transnational companies to identify violations, and bring claims to an appropriate institutional forum in which alleged violations can be addressed.

Accessibility of appropriate and enforceable remedies

The capacity to reliably identify instances of alleged rights violation is of little value unless there is also some institutional means of responding to demonstrated violations in the form of an appropriate remedy. This may take the form of enforcement of standards of conduct, sanctioning for violation of such standards, provision of compensation and/or some means of disempowering decision-makers in relevant ways. Corporate accountability campaigners have worked actively both to initiate and materially support development of transnational institutions of this kind.

Dispute resolution systems associated with the grievance mechanisms discussed above have in some cases provided means of remedying demonstrated rights violations, and in turn reinforcing wider institutional systems through which relevant corporate activity is regulated. For example, use of the IFC-CAO mechanism in the Georgian pipeline case provided a useful forum for negotiation over some small claims, facilitating the provision of remedy even in the absence of formal powers of enforcement. Likewise, BTC Co.'s internal grievance mechanism provided a forum within which some small complaints were able to be resolved.²⁶

In other cases, participants in the corporate accountability movement have contributed to building more ad hoc and informal mechanisms of remedy in the form of market-based sanctions for non-compliance. As documented elsewhere,²⁷ anti-sweatshop campaigns in a number of industries have deployed the communicative and coordinating capabilities of their transnational networks to exert punitive forms of pressure on relevant corporate decision-makers throughout global supply chains. To some extent, increased consumer awareness and concern regarding working conditions in offshore factories and farms has enabled activists to strategically mobilize and deploy consumer action as an independent coercive weapon. Such sanctioning mechanisms have operated both through direct consumer boycotts and through deeper processes of socialization manifested as broader reputational damage to company brands. In some cases such market-based mechanisms have been further reinforced by activist attempts to creatively harness private law mechanisms of various kinds. Of particular importance has been the creative deployment of tort laws, trade practices legislation, and in some cases also transnational criminal liability in cases of alleged corporate complicity in criminal activity.

A work in progress: ongoing agendas of institution building

Although efforts by the corporate accountability movement to initiate, promote and materially strengthen these three types of mechanisms have contributed significant support for core liberal values, significant functional weaknesses in these mechanisms persist. Market-based mechanisms

have proved weak at communicating complex multidimensional information regarding performance of individual companies. Their performance has also been very inconsistent, with sanctioning capacity varying significantly depending on individual firm and sector vulnerabilities. Moreover, such mechanisms often lack durability, with networks unable to sustain pressure through time. Attempts by activists to harness existing legal enforcement mechanisms have proved difficult and costly to access, and have been successfully deployed only in a tiny proportion of cases. While company or multi-stakeholder grievance mechanisms have been reasonably accessible in some cases, it has proved very difficult to enforce remedies in cases where significant corporate interests or resources have been at stake. Persistence of such weaknesses reminds us that this agenda of transnational institution-building for individual rights-protection remains very much a work in progress.

Importantly, however, such functional limitations are clearly recognised as such by participants in the corporate accountability movement, who continue to deploy their initiative and resources in pursuit of strengthened transnational institutions to protect individual rights from corporate power. One notable example of ongoing efforts to consolidate and strengthen such mechanisms is a proposal that has been initiated in the UK by a prominent group of corporate accountability campaigners – the Corporate Responsibility (CORE) Coalition. This proposal aims to strengthen institutions of redress and enforcement regulating the transnational activities of UK firms and their impact on human rights. The CORE Coalition has proposed that the UK Government should create a specialised *Commission for Business, Human Rights and the Environment*, able to operate as a hub in broader networks of actors working in the UK and abroad. The Commission would have coordinating, capacity building and informational roles, while also operating as a dispute resolution body with a mandate to receive, investigate and settle complaints against UK parent companies relating to abuse in other countries. It has been proposed that the Commission would offer remedies including financial award, publication of apology (and/or explanation), and orders to companies in relation to specific breaches. This proposal is the subject of ongoing campaigning, and has recently been endorsed by the UK's Liberal Democrats in a Party policy document.²⁸

Although this proposal will face a long and difficult political journey before potential implementation in any form, its initiation and advocacy by key participants in the corporate accountability movement serves to illustrate the ongoing energies and resources being invested by corporate accountability campaigners into the progressive strengthening of institutions for individual rights-protection which provide significant support for core liberal values, despite departing from the traditional state-centred models that liberals have traditionally endorsed.

Egalitarian deficits of the institutional agenda

The above evidence regarding the institutional reforms initiated and promoted by corporate accountability activists supports our central contention that these agendas should not be seen as standing in any significant tension with the core normative commitments of liberalism. What though of the possibility that these reforms may *also* be justifiable in terms of egalitarian principles, which eschew the liberal commitment to the priority of individual liberties? As we explained above, our primary purpose here is not to argue that liberalism provides the only or the best way of justifying the activist reform agenda; rather, our central goal is the more modest one of showing that this agenda is *compatible* with liberalism, and this we have already done. Nevertheless, we also

believe that there are good grounds for accepting the stronger claim that liberalism provides not only one, but the strongest, justification for the activist agenda. Since we think our argument (in the various dimensions we discussed earlier) will have more interesting implications if this can be demonstrated, we want to briefly outline some grounds on which this stronger claim seems highly plausible.

Our basic point is that institutions of individual rights-protection, when appropriately developed and implemented, are relatively well-targeted means for performing the specific liberal function of protecting individual rights (as the first political priority). In contrast, such institutions suffer intrinsic functional limitations as means for performing egalitarian functions of distributing social goods of some kind equally across the whole population of global society.

As we noted earlier, while the institutional functions that will be required by egalitarian principles will vary greatly depending on the social dimension in which a particular egalitarian theory seeks equality, one functional feature of egalitarian institutions will be shared by all: egalitarian institutions must place priority on the discharge of distributive or allocative functions operating at the level of the society as a whole, rather than focusing on outcomes at the level of particular individuals. That is, these institutions require some means of systematically redistributing material goods of whatever kind across the comprehensive scope of a normatively relevant social group. In egalitarian institutions, in contrast to liberal ones, institutional powers will therefore generally need to be coordinated much more strongly at a centralised or society-wide level, to enable monitoring and control of distributions of relevant goods across society. This capacity is of particular importance as a means of enabling egalitarian institutions to resist and mitigate dynamics of *cumulative disadvantage*.

Centralised or constitutionalised structures typically associated with ‘sovereign’ or state-like institutional forms have proved themselves especially well-equipped to perform functions of these kinds. This is because the multifunctional institutional character of constitutionalised or centralised institutional structures enables such institutions to monitor and regulate interactions across different spheres of social and economic interaction, where necessary making ‘side-payments’ across spheres via clearly monitorable, effectively coordinated, and systematically accountable structural mechanisms. In this way they can attempt systematically to mitigate ‘spillovers’ between different spheres of social life that undermine the equality of individuals within the society as a whole. For example, states are able to perform such cross-payment functions via the extensive capabilities they are assigned to mobilise and strategically deploy social resources, in the form of powers of taxation and control over elaborate infrastructures of public administration. In this way, centralised or constitutionalised institutional forms have distinctive capacities to defend egalitarian principles across a whole social grouping.

Highly decentralised institutions, in virtue of their very structure, lack the capacity to perform these ‘cross-payment’ functions. And yet the institutions that corporate accountability activists have created through the institutional reform agendas described above have been highly decentralised. First, responsibilities for rights protection are allocated to individual corporate agents, rather than to a centralised agent such as a state. Moreover, monitoring, enforcement and redress mechanisms have typically been created at the level of individual firms or sectors, thereby also taking a highly decentralised form. Such mechanisms link *individual* rights-bearers to *individual* corporate

responsibility-bearers, in the absence of any overarching institutional structure capable of making ‘cross-payments’ across firms, economic sectors, geographical locations, and so on.

For this reason, the rights-protective institutions being promoted by corporate accountability campaigners are structurally limited in their capacity to tackle cumulative disadvantage of the kind that is of central concern to egalitarians. In contrast, such decentralised institutional structures are relatively well equipped to perform functions of rights-protection, particularly those rights-protective functions that are directed towards threats to individual liberty coming from decentralised structures of corporate power.

The fact that the institutional reforms promoted by corporate accountability activists are relatively well-equipped to defend liberal principles, but deeply structurally limited in their capacity to defend egalitarian principles, provides support for our contention that liberalism provides a better rationale for activists’ institutional reform agenda than does egalitarianism.

Concluding comments

The assumption within many traditional liberal approaches to institutional design that the state should be accorded exclusive responsibility for functions of rights-protection is deeply entrenched, to the extent that it sometimes appears to constitute an intrinsic element of the liberal normative project in its own right. As we have shown, however, the justification for allocating responsibilities for rights protection exclusively to state institutions is wholly contingent or strategic, being justified on the basis of liberal values only under material conditions where states retain an exclusive capacity to threaten and in turn to protect individual rights. The claim that transnational companies now pose substantively unregulated threats to individual rights, in need of regulation by new transnational mechanisms of corporate accountability, should therefore not be interpreted as standing in opposition to a normative liberal project. Rather, it offers a basis for reconfiguring the liberal project for a changed set of material conditions, thereby salvaging and reasserting the underlying values and purposes of liberalism.

We have suggested in this paper that the institutional reform agenda being advanced by the contemporary corporate accountability movement has served to protect and strengthen liberal institutions of individual rights-protection that have been threatened by the transnational exercise of corporate power. Participants in this movement have contributed to bringing corporate power under control via their efforts to build new kinds of non-state, transnational institutions oriented towards the protection of individual rights. Moreover, we have suggested some reasons for thinking that that liberalism may well provide not just *one possible* justificatory rationale for this institutional reform agenda, but a *more convincing rationale* than could be constructed on egalitarian grounds, which we take to be the most plausible alternative foundation on which this agenda could be rationalised.

For those associated with the corporate accountability movement who wish to mount a more radical challenge to the global liberal order, this interpretation should give cause for reflection. Although the deployment of elite values and discourses as critical tools via immanent critique can be a powerful basis for stimulating agendas of institutional change, it is more difficult to deploy such ideas as a basis for more radical challenge. For those who seek to bring about change *within* the

terms of a prevailing liberal order, our argument that the corporate accountability agenda is compatible with core liberal principles that are shared by others outside the corporate accountability movement could provide a basis for constructive public deliberation around the movement's institutional reform agenda. By drawing more explicitly on widely accepted liberal values as a basis for its critical challenge, the corporate accountability movement may be able to engage a broader global community of actors sharing a stake in the institutions through which transnational corporate activity is regulated.

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¹¹ See for example Anne Marie Goetz Robert O'Brien, Jan Aart Scholte, Marc Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements* (Cambridge: Cambridge University Press, 2000).

² See for example Ann Florini, ed. *The Third Force: The Rise of Transnational Civil Society* (Tokyo: Japan Center for International Exchange; Carnegie Endowment for International Peace, 2000); H Anheier, et al, "Global Civil Society," (Oxford: Oxford University Press, 2001 and 2001 [Yearbook]); Terry Macdonald, *Global Stakeholder Democracy: Power and Representation Beyond Liberal States* (New York: Oxford University Press, 2008).

³ We use the term 'ideology' here in the descriptive sense of an interlocking web of concepts and commitments underpinning a set of social and political practices, as in Michael Freeden, *Ideologies and Political Theory: A Conceptual Approach* (Oxford: Oxford University Press, 1996), rather than in the more critical sense in which the term is often employed in the Marxist and neo-Marxist traditions.

⁴ Richard Rorty, "Human Rights, Rationality, and Sentimentality," in *On Human Rights: The 1993 Oxford Amnesty Lectures*, ed. Susan Hurley & Stephen Shute (New York: Basic Books, 1993).

⁵ John Rawls, *A Theory of Justice*, Rev. ed. (Oxford: Oxford University Press, 1999).

⁶ Our comment here about the potential political significance of our argument is intended to highlight why it might matter whether our argument is right or wrong. Our argument about the grounds on which the validity of our argument should be judged is developed independently from this observation about its potential political significance.

⁷ Donatella della Porta, "The Global Justice Movement: An Introduction," in *The Global Justice Movement: Cross-National and Transnational Perspectives*, ed. Donatella della Porta (Boulder, CO: Paradigm Press, 2007).

⁸ Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (Oxford: Blackwell, 1985); ———, *Interpretation and Social Criticism* (Cambridge, Mass: Harvard University Press, 1987).

⁹ Michael Walzer, "The Moral Standing of States," *Philosophy and Public Affairs* 9, no. 3 (1980).

¹⁰ Here we take the term 'practical identities' from Christine M Korsgaard, *The Sources of Normativity* (Cambridge: Cambridge University Press, 1996).

¹¹ Rawls, *A Theory of Justice*. p. 220.

¹² For a characterisation of rights as 'trumps' see Ronald Dworkin, "Rights as Trumps," in *Theories of Rights*, ed. Jeremy Waldron (Oxford: Oxford University Press, 1984).

¹³ Rawls discusses the “kinds of facts” that must be considered in each stage of liberal institutional design in Rawls, *A Theory of Justice*, pp. 175-6.

¹⁴ We recognise that this will be viewed by some as a controversial assumption, and we have defended it in greater depth elsewhere, explaining how liberalism can be de-linked from state-centric institutional forms of various kinds. (See Kate Macdonald and Terry Macdonald, "Democracy in a Pluralist Global Order: Corporate Power and Stakeholder Representation," *Ethics and International Affairs* 24, no. 1 (2010); Macdonald, *Global Stakeholder Democracy: Power and Representation Beyond Liberal States*; Terry Macdonald, "What's So Special About States? Liberal Legitimacy in a Globalising World," *Political Studies* 56, no. 3 (2008).) We cannot rehearse these arguments again here, but we take this point for granted in what follows.

¹⁵ As we have explained elsewhere Macdonald, *Global Stakeholder Democracy: Power and Representation Beyond Liberal States.*, ‘public’ power refers to those forms of power that are the legitimate subject of democratic control. For liberal democrats, social power should qualify as ‘public’ when it prospectively affects in some problematic way the equal autonomous entitlements of individuals such that there is a normative imperative for its democratic control.

¹⁶ Macdonald and Macdonald, "Democracy in a Pluralist Global Order: Corporate Power and Stakeholder Representation."

¹⁷ Gary Gereffi, John Humphrey, and Timothy Sturgeon, "The Governance of Global Value Chains," *Review of International Political Economy* 12, no. 1 (2005).

¹⁸ For example, such estimates are given for the Nicaraguan garment sector in Centro de Exportaciones e Inversiones de Nicaragua, "Nicaragua: Situación Laboral De Zonas Francas," (Managua: Centro de Exportaciones e Inversiones Nicaragua, 2001).

¹⁹ Macdonald and Macdonald, "Democracy in a Pluralist Global Order: Corporate Power and Stakeholder Representation."

²⁰ Terry Macdonald and Kate Macdonald, "Non-Electoral Accountability in Global Politics: Strengthening Democratic Control within the Global Garment Industry," *European Journal of International Law* 17, no. 1 (2006).

²¹ Peter Utting, "Csr and Policy Incoherence," in *Fair Trade, Corporate Accountability and Beyond: Experiments in Globalizing Justice*, ed. Kate Macdonald and Shelley Marshall (London: Ashgate, 2010).

²² Previous efforts had been made to address this question, most notably the ‘UN Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights’. The Global Compact had also contributed to discussions around corporate obligations in relation to issues such as ‘spheres of influence’ and ‘complicity’. However, these instruments had proved highly controversial, failing to provide a basis for making progress in clarifying corporate responsibilities. The appointment of the UNSR was therefore importantly designed to navigate a means through this impasse.

²³ Specifically, the UNSR’s framework has established a principle of ‘corporate responsibility to respect’ human rights, operating together with a state duty to protect against third party abuses, and a principle of access to remedy Human Rights Council, "Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development; Protect, Respect and Remedy: A Framework for Business and Human Rights," in *Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises*, John Ruggie (Human Rights Council, 2008). This framework has been widely accepted in current debates on corporate responsibility and human rights abuses, and efforts to further codify and operationalise this framework are ongoing.

²⁴ Some specific examples are discussed in Kate Macdonald, "The Reality of Rights: Barriers to Accessing Remedies When Business Operates Beyond Borders," (London: London School of Economics and Political Science and CORE Coalition, 2009).

²⁵ Ibid.

²⁶ Green Alternatives et al., "Baku-Tbilisi-Ceyhan Oil Pipeline: Human Rights, Social and Environmental Impacts, Georgia and Turkey Sections," in *Preliminary Report of Fact Finding Mission, 16-21 September 2005* (Green Alternatives, 2005).

²⁷ Kate Macdonald, "Public Accountability within Transnational Supply Chains: A Global Agenda for Empowering Southern Workers?," in *Forging Global Accountabilities: Participation, Pluralism and Public Ethics*, ed. Alnoor Ebrahim and Edward Weisband (Cambridge: Cambridge University Press, 2007).

²⁸ See Liberal Democrats, "Policies on International Development: Accountability to the Poor," *Policy Paper 97* Autumn Conference, September 2010(2010). On p.32 the document states the Party’s aim to 'Create a UK Commission on Business, Human Rights and the Environment, to advise British companies and act as a conduit for complaints.'



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