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Democratizing power in the global economy: Pathways to a multi-level system of global democracy?

Introduction

For many people throughout the world, the ideal of democracy is now accepted – at least in principle – as the pre-eminent source of political authority and legitimacy. Accordingly, as global-level systems of power, interconnection and organized political governance have expanded in recent years, the challenge of holding the exercise of power in global politics to democratic account has attracted increasing attention. Most commentators concur that increasing the democratic accountability of those wielding power in the global domain is in principle a desirable goal, and agree with proponents of ‘global democracy’ that the exercise of power at a global level – beyond the jurisdictional boundaries of democratic states – frequently suffers from significant and problematic ‘democratic deficits’.

Despite this widespread recognition of the need for further strengthening of democratic governance in global politics, the paucity of workable ‘blueprints’ for instituting democratic arrangements within the existing global order remains a key obstacle. History demonstrates that such ‘blueprints’ have often played a key role in interpreting, justifying and in some cases steering processes of institutional and ideational evolution. However, such abstractly devised reform programs have often emerged in response to institutional developments driven in the first instance by the pragmatic experiments of ‘practical men’, searching for solutions to local problems of immediate importance to them.

To a significant extent, democracy in its currently recognized form has evolved in precisely this evolutionary, path-dependent manner. The much celebrated ‘birth’ of democratic institutions and ideals emerged as a response to an intensely local and contingent set of problems, as described by (Dunn 1992: v):

“Two thousand five hundred years ago the small Greek city state of Athens made a series of adjustments to its domestic political arrangements. The reforms of Kleisthenes were a severely local response to protracted local difficulties, not an attempt to implement a coherently thought-out general conception of the political and social good for human beings (or even just for Greeks). No contemporary of Kleisthenes could possibly have imagined that his reforms might pioneer a form of regime that would come to serve as a virtually unchallenged standard for political legitimacy for all the peoples of the world.”

In this chapter I review some of the normative and empirical challenges confronting contemporary pathways to global democracy, conceiving them as part of an ongoing process of historical and path-dependent institutional evolution. Accordingly, the central purpose of the chapter is to describe and interpret the democratic practices emerging in response to the

rise of unaccountable corporate power within a globalising economy, which is a contemporary problem of concentrated power and weakened accountability.

Specifically, my analysis focuses on the emergence within the global garment industry of democratic practices in the form of agendas of corporate accountability and worker empowerment. This industry provides an ideal case study for elucidating the dynamics of global democratisation, since it is extensively ‘globalized’ through supply chains connecting some of the world’s poorest and most politically marginalized workers with affluent and powerful consumer markets and corporate entities in the global north. The disparities of power within the institutions connecting these groups generate significant accountability deficits, since the workers have few channels for exercising democratic control over the corporate actors wielding decision-making power over important dimensions of their lives. The resulting imperative to achieve democratic accountability within this industry has been asserted in recent years by political coalitions of non-state actors, who have promoted ‘stakeholder empowerment’ and ‘corporate accountability’ as means of placing democratic constraints on the exercise of corporate power. My empirical analysis of this case draws on field research conducted in 2003-2005, including around 150 interviews with key stakeholders and decision makers within garment supply chains reaching from Nicaraguan factories, to consumer markets in the US and to investors and civil society activists in the US, Europe and East Asia.¹

Drawing on evidence from this empirical case study, I track the evolution of these emerging global democratic practices, and interpret and assess their implications in relation to two central questions, the first of which is descriptive and interpretive: what kinds of global democracy models do these pragmatic and iterative responses to this problem appear to be leading towards? The second question is evaluative: how institutionally effective and normatively justified are the emerging democratic practices, as judged by their capacity to promote core democratic functions and goals? My responses to these questions are intended to provide clearer understanding of existing trends towards global democratisation, in terms of both their demonstrated achievements and limits, and their ongoing feasibility and justification.

I work throughout with a ‘non-institutionally specific’ understanding of democracy (Macdonald and Macdonald 2006). On this definition, democracy is not defined with reference to specific institutional forms or practices such as regular elections, but rather in relation to core *democratic purposes and functions*. From this perspective, the legitimacy conferred by democratic institutions is derived from their capacity to promote these purposes and perform these functions, rather than from any intrinsic value embodied in particular institutional mechanisms. Working with such a definition requires specification of the central normative function of democracy. I take *autonomy* and *equality* to be the core values that democratic institutions should promote. Democracy can therefore be substantively defined as a system that gives institutional expression to the fundamental democratic values of individual autonomy and equality (Held 1998; Macdonald 2008).

¹ The Nicaragua-based garment supply chain is characterised by factories that are predominantly financed and controlled by Taiwanese, US and Korean capital, and export almost exclusively to US consumer markets (Centro de Exportaciones e Inversiones de Nicaragua 2001). This case study is presented here for illustrative purposes only; similar arguments could be made with respect to many other production sites in the global garment industry.

Working with this understanding of democracy, I argue that the progressive democratisation of power within certain sectors of the global economy is already producing significant forms of democratic institution building. Such democratisation is shown to be emerging from the creation of systems of direct democratic accountability which 'track' existing transnational systems of organized power. These are helping to restore democratic principles within transnational economic systems, despite both their important functional weaknesses and the tendency for a pluralist system of global democracy to generate problematic patterns of political (in)equality between different groups of democratic stakeholders.

I develop this overarching argument in four stages. **First**, I document the ways in which democratic deficits are emerging within global production systems as transnational systems of power extend beyond the boundaries of territorially delimited institutions of democratic governance. **Second**, I show that pluralist mechanisms of democratic accountability are already being constructed, and identify some of the most significant implications for democratic control and equality. **Third**, I highlight some functional limitations that currently constrain these emerging democratic institutions, but argue that most such weaknesses could at least theoretically be rectified within the terms of a pluralist institutional model. **Fourth**, I explore some of the challenges to political equality presented by pluralist processes of institution building, since significant discrepancies in democratic empowerment appear to be emerging between stakeholder groups.

Despite the identified challenges to a pluralist model of global democracy, I conclude by defending the potential for such a model to develop in ways that are both institutionally feasible and normatively defensible. Moreover, at least judging by current trajectories of institutional and normative transformation, such a model appears considerably less utopian than many non-pluralist democratic blueprints.

1. Transnational power and an emerging democratic deficit

The emerging democratic practices on which this chapter focuses need to be understood against the backdrop of an emerging democratic deficit. Many observers of contemporary global governance and democracy have suggested that such deficits result from a disjuncture between territorially bounded systems of democratic governance on the one hand, and transnational systems of power and interconnection on the other (Held 1995; Rodrik 2000; Scholte 2000). Such a disjuncture is clearly evident within the transnational institutions through which production in the global garment industry is organized and governed.

Decision-making power within this industry's production structures is currently distributed through 'buyer-driven production chains', in which power to control production processes is skewed towards those brands and retailers that control marketing and design activities. Within these 'buyer-driven' chains, the control of northern brands and retailers over strategic marketing and design activities enables them to wield extensive power over decision making throughout the global chain (Gereffi et al. 2005). We can therefore characterize the power exercised by these northern corporate entities over poor and relatively powerless workers in the global south as 'public power', in the sense that the impacts of corporate decisions often have significant implications for workers' living conditions and available life choices.

While these forms of transnational power can be easily traced to particular agents, in some important respects the control of identifiable decision makers over the core wellbeing of

others is *structurally constrained or diffused*. Control is diffused ‘vertically’ between actors within supply chains, although the extent of such diffusion varies between individual chains depending on the relative power of particular buyers, intermediaries and producers. Control is also diffused ‘horizontally’ across a broad range of decision makers beyond the supply chain, including some actors participating in global markets and some integrated within social, labour and market relations at production sites. Such structurally diffused patterns of transnational power and interconnection exert important influence over dimensions of core wellbeing related to issues such as ‘poverty wages’ and wider patterns of unemployment and exclusion, all of which are structurally reproduced via complex dynamics, both local and transnational in origin.

Taken as a whole, this industry’s transnational configurations of autonomy-limiting power and interconnection can be characterized as multi-level or ‘pluralist’ in structure, in the sense that control over important dimensions of worker autonomy is diffused among a heterogenous and decentralized range of actors and institutional forms.

Simply the existence of autonomy-limiting relations of power and interconnection over transnational scope would not in itself be sufficient to establish the existence of a democratic deficit, since territorially bounded democratic governance should in theory be able to constrain and govern such external sources of power. In practice, however, the way in which the Nicaraguan economy is integrated within a global production system substantially constrains the capacity of the Nicaraguan government to discharge its designated responsibilities for governing such corporate power via national-level democratic processes.

Nicaragua’s constitution and labour laws codify extensive safeguards of working conditions and other entitlements of workers (CENIDH 2003), but the Nicaraguan government’s performance in monitoring and enforcing these rules has demonstrated significant weaknesses. The main proximate cause of such ineffectiveness is inadequate resources and penalties available to inspectors within the Ministry of Labour. According to the Ministry’s own records, they carried out only 75 inspections in the country’s 62 free-trade-zone factories over a period of four years, despite rules requiring periodic visits (CENIDH 2003). The penalties themselves are also very weak, with the maximum fine payable by companies violating the labor laws being only 10,000 *cordobas* (approximately US\$630 in 2004). This absence of strong coercive mechanisms dilutes the impact of the enforcement regime, even in cases where penalties are imposed.

However, the weakness of such regulatory regimes is in turn attributable to direct pressures placed on governments by investors, who enjoy considerable mobility with respect to production locations due to the labour-intensive nature of assembly production, and who openly express their preference for investing in countries where labour legislation will not cause them “problems”.² Such pressure from investors is exerted upon host governments not only in relation to the overall legislative framework of the labor law, but also in the context of specific labor disputes. While many of the smaller single-enterprise investors operating in Nicaragua’s free trade zones engage only rarely in direct forms of political engagement with the Nicaraguan government, there are many examples of larger firms explicitly wielding such forms of power.³

² Interview by the author at Nien Hsing head office, Taipei, 10th March, 2004.

³ The role of Lucas Wong from the Nien Hsing group is referred to repeatedly by many observers, but there are also examples of US (and to a lesser extent Korean) firms engaging in such forms of dialogue and pressure.

As a result, while the Nicaraguan government is almost exclusively assigned public responsibility to govern and regulate the impact of transnational corporate decision-making on workers, it is unable effectively to govern such transnational decision making systems. Consequently, there is a significant disjuncture between territorially bounded systems of national democratic governance and transnational systems of corporate power.

Consequences for democratic autonomy and equality: identifying democratic deficits and democratic stakeholders

The autonomy-limiting impacts of these transnational systems of corporate power are experienced most directly and intensively by workers, whose 'vital interests' as well as broader 'life chances' (Held 2004) are affected in multiple ways.

A key complaint of workers is that their wages fail to cover the basic cost of living – a claim that is unambiguously supported by official estimates for a basic basket of goods. With regard to health and safety, common problems described by workers relate not only to immediately obvious dangers, but also to both poorly designed work environments (in interaction with long working hours), and poor hygiene, particularly in the bathrooms and eating areas. Other problems and deprivations commonly reported by workers relate to a broad range of variables affecting their personal and political agency within the workplace. These problems include discrimination in hiring and firing, denial of access to personal and medical leave, denial of sufficient time to go to the bathroom and to eat, compulsory overtime, excessive pressure regarding levels of work intensity, and general mistreatment by company managers and supervisors, most commonly in the form of verbal abuse, but also in some cases involving physical or sexual abuse.

From this viewpoint, corporate decision-makers can be identified as primary agents of public power within the global garment industry, while the workers within these production structures can be identified as key democratic stakeholders with entitlements to hold these corporate 'principals' to account within democratic accountability relationships. And to the extent that those exercising autonomy-limiting forms of power are able systematically to escape democratic accountability, a global democratic deficit can be identified.

At least in theory, workers are not the only category of democratic stakeholder in these transnational systems of power. Throughout the supply chains (in both production facilities and brands and retailers), firm managers and shareholders have a stake in these systems of power and interconnection of kinds argued to have what (Held 2004) classifies as a 'medium' impact on their autonomy (affecting the quality of their 'life chances'). The autonomy of consumers may be similarly classified as affected 'weakly' (affecting their lifestyle choices).⁴ Taking into account all these possible channels and dimensions of effects, hundreds of millions of people across the globe may be affected to varying degrees by these transnational systems of corporate decision making.

Nevertheless, democratic obligations to these broader categories of stakeholders have not so far been recognized, and corresponding institutional mechanisms of democratic accountability have not been created.⁵ This could be interpreted to suggest that the threshold

⁴ To this extent such actors could be regarded as both stakeholders and agents of public power.

⁵ This is not to deny that other stakeholder groups frequently have legitimate claims to other (non-democratic) forms of accountability, many of which are already institutionalised via conventional structures of corporate governance and underlying systems of corporate law.

for identifying democratic stakeholders is currently being drawn at the level of ‘strong’ forms of autonomy limitation, with implications only for ‘vital interests and needs’. Within this threshold, workers remain the only category of stakeholder to whom democratic entitlements have been recognized and at least partially extended. I discuss some of the problematic features of existing patterns of stakeholder-identification below; in the following sections, I simply take workers to be the only recognized class of democratic stakeholder, and examine those mechanisms of democratic accountability that emerge on this basis.

2. The democratic response: a plural system of democratic accountability

The plural, decentralized configurations of democratically unaccountable transnational power described above support better understanding of correspondingly plural systems of democratic institution building. As (Nagel 2005) reminds us:

“In thinking about the future, we should keep in mind that political power is rarely created as a result of demands for legitimacy, and that there is little reason to think that things will be different in this [contemporary, global] case. ... First there is the concentration of power; then, gradually, there grows a demand for consideration of the interests of the governed, and for giving them a greater voice in the exercise of power”.

Viewed from this perspective, processes of democratic institution building within global supply chains can be seen as *responses* to the transnational systems of corporate power identified above. The creation of new non-state systems of *democratic accountability* therefore operates *directly* to democratize pluralist configurations of transnational corporate power.

Such direct mechanisms of democratic accountability are emerging from sustained activist campaigns designed to promote ‘corporate accountability’ in the global garment sector. Major initiatives driving such changes have included ‘anti-sweatshop’ campaigns targeting high-profile brands and retailers; factory-based ‘international solidarity campaigns’ in support of local worker struggles; and retailer and brand-based ‘codes of conduct’, with the latter emerging largely in response to persistent campaigning. Taken together, these various initiatives have promoted the construction of stronger mechanisms of ‘corporate accountability’ within this industry, through which stakeholders can exert new forms of control over corporate decision makers. As described below, such mechanisms are increasing the exercise of democratic control over public decision-making processes within transnational supply chains.

Before further detailing this empirical case, I briefly elucidate the term ‘democratic accountability’. In general terms, ‘accountability’ can be defined as a property of an institutionalized relationship in which the exercise of power by one set of actors is constrained subject to some requirement of *responsiveness* to those over whom their power is exercised (Keohane 2003; Newell and Bellour 2002). While accountability relationships can exist within any institutionalized relationship between the bearers and objects of power, the meaning of *democratic accountability* is more specific, relating to the ability of subjects of public power to exercise control over public decision makers in ways that are consistent with principles of political equality. Thus, democratic accountability represents a particular institutional means of regulating *power relationships* between rulers and ruled, so as to

ensure that power exercised by public political agents remains *subordinate, in some significant respects*, to power wielded collectively by the ‘publics’ subject to it. In short, the key purpose of democratic accountability is to ensure a reasonable degree of *public control over public decision making*.

Democratic accountability can be characterized as having three distinct functional elements: transparency in the exercise of public power; collective preference formation and signalling among affected ‘publics’; and public enforcement. Achieving *transparency in the exercise of public power* requires transparency at two levels: in the identification of public agency; and with respect to the actions and outcomes resulting from the exercise of such agency. *Collective preference formation and signalling* functions require some capacity for collective choice between stakeholders, and a means of communicating these preferences to decision makers. *Public enforcement* requires an effective sanctioning or enforcement mechanism to compel compliance with these preferences (or ultimately, some means of disempowering public decision makers from continuing to exercise public power).

In the remainder of this section, I analyse emerging practices of democratic accountability in the global garment industry by examining the embryonic mechanisms contributing to each of the above three constitutive functions: public transparency, collective preference formation and signalling, and public enforcement.

Transparency in the exercise of public power

To enable rigorous public evaluation of the performance of those wielding public decision-making power – which is the central purpose of transparency mechanisms – it is first necessary for publics to have some knowledge of what powers are wielded, and by whom, to provide some basis on which to allocate *responsibility* for decisions. Public evaluation of public power also requires transparent disclosure of both the *outcomes* of decision-making processes (that is, the substance of the decisions taken), and the *means* employed to enact them.

One of the most important democratic achievements of corporate accountability campaigns in the garment industry has been their promotion of transparency in the first of the above ways: identification of what powers are wielded by whom. This has been achieved by identification of the significant autonomy-limiting power wielded by major retailers and brands over workers in developing countries, and a corresponding acknowledgement of the public responsibility of corporate powerholders.

In the early 1990s when the anti-sweatshop campaigns began to emerge, public awareness of the direct power wielded by brands and retailers over workers in the global south was very limited (Spar and Burns 2000). Activists persistently pressed the message that “the current international economic order of trade liberalisation and economic globalisation ... places MNCs in positions of extraordinary power and equally extraordinary lack of accountability”.⁶ As companies initially resisted this characterisation of their role – pointing to long chains of sub-contracting as evidence that violations of human rights in individual factories were ‘beyond their control’ – activists worked through the construction of transnational networks

⁶ www.indianet.nl/irene.html. Even more specifically, it was claimed that “sweatshops are the result of corporate abuse, greed, excessive power and the lack of accountability.” National Labor Committee, *No More Sweatshops: Campaign for the Abolition of Sweatshops and Child Labor*: www.abolishsweatshops.org (accessed June 2004).

to explicitly and publicly expose the ways in which corporations in the north exert autonomy-limiting power over workers in the south via their control of ‘buyer-driven’ supply chains.⁷

One of a number of high profile public campaigns targeting familiar consumer brands and major retailers was launched by the US-based National Labour Committee (NLC) in late 1997. The campaign targeted Walmart, K-Mart and JC Penny, and featured an ‘exposé’ of conditions within Nicaraguan factories that was screened on the US *Hard Copy* television programme (Elliott and Freeman 2000).⁸ The NLC and their allies spent months gathering documentation: finding labels and company documents in local garbage dumps and collecting customs and shipping documents, pay slips, and worker testimonies (Ricker 2003; Spar and Burns 2000). Having assembled this evidence, it was then communicated to a broad ‘public’ in the US and Nicaragua via three episodes of *Hard Copy*, in which both the existence of corporate power and its impact on core human rights of workers were starkly illustrated.⁹

Communication of such images was designed to demonstrate the direct responsibility of these northern corporate actors for the public, autonomy-limiting power they wielded over Nicaraguan workers. By the end of the 1990s, companies throughout the industry had begun at least nominally to accept such responsibilities. Prominent reversals of public positions came from a series of high-profile brands, including both Nike and Kathy Lee Gifford – a US TV personality with her own line of clothing in Walmart.¹⁰ The effects of these high-profile media exposes spread quickly throughout the garment and footwear industries, leading to public admissions of responsibility from high-ranking corporate decision-makers such as the CEO of Reebok, who acknowledged in 1999 that: “it is time to confront and accept responsibility for correcting the sometimes abusive conditions in [our] factories overseas.”¹¹

Even more importantly for the democratic function of transparency in the exercise of public power, this recognition has been formally expressed via corporate ‘codes of conduct’, the establishment of which rapidly became an industry norm among major US brands and retailers during the second half of the 1990s. By adopting codes of conduct, firms have institutionalized their acknowledgement of the power and corresponding responsibility that they wield within transnational supply chains. Such codes have therefore provided a formalized framework that is capable of delineating the roles, identities and responsibilities of specific public political actors, thus enabling stakeholders more effectively to evaluate the way in which these companies exercise their public power.

Collective preference formation and signalling

In addition to identifying public decision makers, building an effective system of democratic accountability requires some institutional means by which democratic stakeholders can formulate ‘collective’ preferences regarding how public power should be wielded and then signal such preferences to relevant decision makers.

⁷ Such control of garment supply chains by large northern buyers has been documented elsewhere. See for instance (Macdonald 2007).

⁸ See www.sweatshopwatch.org/swatch/headlines/1997/nica_dec97.html (accessed July 2004).

⁹ See G Rosen, “Neediest, Greediest Sweatshop Companies Listed by National Labor Committee”, Available at: www.houstonprogressive.org/hpn/nlc-swsh.html (accessed July 2004).

¹⁰ See States News Service, *Rep George Miller Joins President in Effort to Stop Child Labor* (1996), August 2

¹¹ Paul Fireman, Reebok’s chairman and CEO, speaking on October 18, 1999, quoted in ‘Life, Liberty and the Pursuit of Fairness’, *Footwear News* (2000), March 6.

The first step requires creation of what are generally characterized as mechanisms of ‘public choice’ (or ‘social choice’).¹² This step is particularly important given that individual workers frequently differ in their views regarding relevant decisions (such as optimal trade-offs between the maintenance of employment security versus a desire to push for higher wages and conditions), so that frequently there are conflicts *between* members of this single category of stakeholder.¹³

To the extent that workers are *equally* affected by the exercise of corporate power, conflicting preferences between workers can be legitimately resolved via familiar *aggregative* institutional mechanisms, such as the election of worker representatives together with appropriate deliberative processes. Collective choice mechanisms have operated on this basis via existing worker organisations, although the weakness and fragmentation of worker organisation has often undermined the effectiveness and representative capabilities of such mechanisms. Usually, aggregative processes of decision making are complemented by deliberative processes that cut across worker organisations of different kinds.

In addition to horizontal mechanisms through which the collective preferences of relevant stakeholders can be negotiated and defined, mechanisms are required through which these preferences can be signalled to relevant powerholders. The most direct kind of signalling mechanism would *directly* link stakeholders to power wielders; codes of conduct and factory-based monitoring and remediation systems are frequently claimed to provide a mechanism whereby stakeholders can communicate directly with decision-makers. However, for the majority of workers these systems are inadequate:

There is no mechanism to communicate the problems – for us the problems go through the administration, and there is no way for us to communicate with the buyers. They don’t give the contact information of the brands to the workers ... In firms where they don’t comply with the standards often there is no union, so there is no way for people to communicate their problems.¹⁴

This failing is compounded by the tendency of the private sector auditors monitoring code compliance in Nicaraguan factories to devote little time to speaking directly with workers, and even when they do this, to conduct such interviews inside the factories where workers are afraid to speak openly and honestly.

Given the absence of adequate means of direct communication, signalling of worker preferences has tended to take place (if at all) via northern *intermediaries* – for example by ‘international solidarity campaigns’. This is a strategy in which international ‘solidarity’ networks comprised of non-state actors such as labour unions and NGOs are formed to support the demands of local unions in specific factories; it offers a means by which complaints from workers at the factory level can be communicated, via networks of activists, to the diverse decision-making sites within global supply chains. A good example of such a

¹² Within conventional, state-bound democratic frameworks, institutions for ‘public choice’ usually involve some combination of mechanisms of public deliberation (through democratic ‘civil society’ institutions as well as through more formalised deliberative processes of various kinds), and mechanisms for aggregation of individual preferences (achieved via electoral processes of various kinds).

¹³ For instance, in the case of Nicaraguan factory disputes such as that in Chentex (described below), there have been very pronounced conflicts between the two opposing union confederations, and between the unions and the influential women’s organisation Maria Elena Cuadra (Macdonald 2007)

¹⁴ Focus group with workers from Chentex, CTNa union, November 2004, Managua.

strategy is provided by the campaign launched in 2001 in support of workers at the Taiwanese-owned Chentex factory in Nicaragua's Las Mercedes Free Trade Zone, with the support of both local unions and a range of labour and human rights NGOs (Macdonald 2007). In Taiwan, the participating coalition of labour activists, Taiwan Solidarity for Nicaraguan Workers, exerted pressure on the Taiwanese owner of the Chentex factory (the Nien Hsing consortium) by protesting outside the stockmarket and at the company's annual meeting. In Nicaragua, the Sandinista-based Chentex union placed direct pressure on local management via widespread protests and strikes. In the US, labour campaigners organized consumer boycotts and protests at retail outlets across the country, directed against major clients of the Chentex factory. Coordinated, de-legitimising signals were therefore sent directly to each major point of decision-making within the global production chain, communicating the preferences of workers for changes in supply chain decision making that would more adequately protect relevant elements of their autonomy.

Enforcement of collective preferences

Such signalling mechanisms are of little use unless sanctions can be imposed on decision makers in ways that enforce responsiveness of decision makers to collectively determined and communicated preferences. In addition to mechanisms for public signalling of stakeholder preferences, the effective operation of democratic accountability mechanisms also requires enforcement mechanisms (either centralized or decentralized).

The anti-sweatshop campaigns undertaken by activists within this industry have deployed the communicative and coordinating capabilities of their transnational networks to construct complex webs of influence, exerting pressure at strategic nodes of decision-making power. In the short term, greater consumer awareness and concern regarding working conditions in offshore factories facilitates the strategic mobilisation of consumer action as an independent coercive weapon able to be wielded in support of campaigners' demands. Such sanctioning mechanisms operate through both direct consumer boycotts and deeper processes of socialisation manifested as broader reputational damage to company brands. Although these strategies can offer effective means of sanctioning corporate decision makers, the effectiveness of such strategies varies significantly between companies.

By gradually constructing institutional mechanisms that contribute to the three functional elements of democratic accountability – that is, public transparency, formulation and communication of public preferences, and public enforcement – the non-state accountability systems outlined above have contributed importantly to strengthening the democratic accountability of decision making within global garment supply chains.

3. *Functional weaknesses within existing global democratic practices*

Despite these significant achievements in building global democratic institutions, the accountability mechanisms described above have remained underdeveloped in a number of ways. A range of *functional weaknesses* undermine their capacity to strengthen the democratic control of public power within the global economy. These weaknesses undermine the extent to which emerging democratic practices can promote each of the three functional dimensions of democratic accountability identified above; such weaknesses have therefore limited the contribution of these emerging systems to the protection of democratic control and equality.

Transparency in the exercise of public power

The public power wielded by major corporate brands occupying lead positions within global supply chains is becoming increasingly transparent at the level of general role delineation, as described above. However, progress towards greater transparency regarding specific actions and impacts of corporate decision makers has been much weaker.

Workers in any given factory are often not aware of the *specific* identify of the brands for which they are producing. Even in cases where workers are able to access such information and understand its significance, the labour and human rights groups who commonly act as intermediaries in such communications do not have systematic access to information regarding factory locations, since most brands regard this information as ‘proprietary’ and refuse to disclose it publicly. In the conduct of particular campaigns, activists typically depend on evidence (such as clothing labels) gathered by workers at the expense of significant time and effort, and often also substantial risk to their own job security. Such means of collecting information therefore fail to fulfil the democratic requirement that information be systematically and routinely available so that it can be accessed at affordable cost.

Additionally, most workers have very limited knowledge of the content of codes, or in many cases, even the fact that they exist.¹⁵ They also typically lack information about auditing methodologies, as well as outcomes of audits in specific factories. This makes it extremely difficult for individual workers, or organisations seeking to represent their interests, to independently verify the accuracy of reported audit findings within individual factories.

Current failings in the transparency of public political action are even more serious in relation to the *internal* decisions of relevant companies. Workers are typically given information regarding internal rules and regulations they are expected to follow (and sometimes even reasons for these), but receive little information or reason-giving in relation to other forms of ‘internal’ decision making. This is true even in cases where such decisions have direct implications for the realisation or denial of workers’ core entitlements, such as determination of the terms of contracts with buyers which have direct implications for the imposition of extended and often obligatory overtime. In cases where workers solicit such information (something that usually occurs only in rare cases where a union is present), firms tend to vigorously reject such requests, deeming the information to be ‘confidential’ or ‘proprietary’.¹⁶

In resisting demands for increased transparency of corporate decision making, companies explicitly invoke discourses of ‘private’ entitlements to label such information ‘proprietary’, confidential and privileged. This occurs despite the fact that such decision-making impacts upon workers directly, in autonomy-limiting ways, and should therefore be considered to constitute the exercise of *public power*, as explained above. In framing such decision-making within the protected realm of ‘the private sphere’, firms seek to defend the absence of democratic transparency with respect to the power they exercise over workers. To this extent, strengthening transparency in the exercise of public power in these private sites of decision-making would entail a direct conflict with principles of proprietary rights from which

¹⁵ Focus group with workers participating in the *Mesa Laboral* (a grouping of Sandinista affiliated unions), September 2004, Managua

¹⁶ This view was advanced for example by representatives of the Taiwanese garment sector during author interviews in Managua in November, 2004.

discourses of 'privileged and confidential' business information are derived, and the existing liberal public-private dividing line in which these are grounded.

Collective preference formation and signalling mechanisms

Functional failings in existing non-state systems that facilitate collective choice and signalling of collective preferences are also weakening the extent to which such systems are able to promote principles of political control and political equality. Weaknesses can be observed at several levels.

First, such weaknesses are manifested 'horizontally', at the level of collective choice systems for democratic stakeholders. The primary problem here has been the weaknesses of local organization noted above, together with the absence of centralized or other systems to both incentivize and facilitate such organization. While in theory these weaknesses could be at least partly compensated via provision of centralized mechanisms corresponding with the boundaries of relevant stakeholder publics, no such initiatives have been forthcoming.

Second, weaknesses arise due to the asymmetric power relations between workers (democratic stakeholders) and the northern intermediaries who currently enable communication of workers' collective preferences. In particular, such asymmetries undermine principles of democratic equality, to the extent that power is distributed disproportionately to stakeholders with *weaker* autonomy-limiting stakes in the outcomes of public decision making processes. Although solidarity campaigns are nominally driven from the factory level, campaign structures tend to reflect the structure of global production chains. Accordingly, the 'transnational advocacy networks' through which many of these campaigns are conducted tend themselves to embody asymmetric power relations in which it is often northern participants rather than workers themselves who play the dominant decision-making roles.¹⁷ As a result, while the 'de-masking' and de-legitimation of certain expressions of corporate power has been one of the big achievements of the sweatshop movement, such signalling has not always taken place in direct response to stakeholders, as democratic criteria require. Because networks lack a centralized or hierarchical decision-making structure, they are poorly equipped to facilitate deliberation and conflict resolution. Such forms of inequality have therefore been particularly problematic in those cases where substantively conflicting preferences between workers and network intermediaries have emerged (Macdonald 2007).

Third, existing collective choice mechanisms provide few means by which democratic stakeholders can exercise *control over trade-offs* between potentially competing goals (such as working conditions and employment opportunities). In a descriptive sense, this reflects the absence of any democratic process at the transnational level able to resolve trade-offs between competing goals in relation to both different constituencies and different issue-areas. At a more theoretical level, this weakness of appropriately constituted coordinating capabilities can be understood as a product of the underlying absence of a constitutional structure able to articulate between different issues and governance objectives on a global scale.

States are able to perform such coordination functions by utilizing hierarchical and centralized administrative and legal structures within their territorial jurisdiction. The

¹⁷ This concentration of power in the hands of US members of the network results both from their greater ease of access to corporate headquarters, and from their disproportionate access to financial resources and communication technology.

capacity of the state system to perform this function depends not only on centralized administrative capacities, but also on the *boundedness of state jurisdiction* and thus the containment of all relevant actors and issues within a single, articulated decision making system.¹⁸ Non-state supply chain accountability systems in their current form have neither of these features, and are therefore ill-equipped to perform such coordination functions. Consequently, such rule- or procedure-based coordination functions are not being effectively performed by either state or non-state actors within current supply chain governance and accountability systems. Instead, interactions among non-state initiatives (such as activist campaigns and corporate codes of conduct) and between non-state and wider state based systems occur via decentralized, non-hierarchical dynamics, in which neither processes of deliberation, nor any other norm- or procedure-governed mechanisms, are used to determine outcomes or resolve conflict.

Enforcement mechanisms

Despite the construction of non-state systems of enforcement as described above, current forms of these have significant functional weaknesses. Whereas states are able to use legal mechanisms backed by certain coercive powers to create strong, consistent and durable enforcement mechanisms, institutions within transnational non-state governance systems typically lack these qualities. This is problematic not only from the perspective of democratic control; it also undermines principles of political equality in the limited, formal sense of a common, consistently applied set of rules, as weak enforcement mechanisms generate uneven and morally arbitrary patterns of standards enforcement.

Because non-state enforcement systems depend on market-based sanctions, their effectiveness varies substantially between companies with different organizational structures, business strategies, and target consumer markets. For example, companies such as Walmart, which dominates production volumes in Nicaraguan factories, base their commercial success more on high volumes, low margins, and 'everyday low prices' than on carefully constructed brand image, and are therefore much less vulnerable to such sanctioning mechanisms than are firms such as Nike. These differences limit the extent to which market-based sanctioning mechanisms can be effectively deployed to promote democratic accountability.

The excessive costs for workers of non-state enforcement mechanisms in targeted factories are also problematic, as strategies of 'naming and shaming' have frequently led to firings and even factory closures. In addition, activists do not have the resources to run these kinds of campaigns every time a problem arises in a factory. In Chentex, for instance, the campaign involved mobilisation and involvement of thousands of actors over a two year period. To a significant extent, such mechanisms operate in practice more as implicit threats than routinized sanctioning mechanisms, making it even easier for 'laggard' firms to resist demands of stakeholders and those claiming to speak on their behalf.

Some activists have sought to redress such problems by seeking to harness or reshape existing legal instruments: some have mobilized mechanisms to enable extra-territorial litigation (such as the Alien Tort Law), while others have pursued mechanisms to hold 'private' actors directly accountable for 'public' implications of their activities (such as attempts to draw on Californian contract and business practices law to sue companies for human rights and code of conduct violations) (Cutler 1997; McBarnet et al. 2007). In this

¹⁸ By a single, articulated decision making system I mean that it is centralised and/or constitutionalised.

way they seek to *reconstitute* the legal obligations and entitlements of corporate actors in ways that would strengthen the ability of emerging accountability systems to promote democratic principles. In general, however, the ongoing provision of indemnities from public obligations for ‘private’ actors, and persistent resistance to the development of extra-territorial jurisdiction that might enable corporate decision makers to be effectively pursued across territorial dividing lines, have tended to work against such transformative efforts.¹⁹

Consequently, while current enforcement mechanisms have been highly effective in a number of specific and highly publicized cases, overall they fall considerably short of the requirements of democratic principles.

Functional weaknesses reflecting incomplete pathways to a pluralist model

Despite current problems, I suggest that these functional weaknesses are primarily due to the incomplete ways in which global democratic principles have been institutionalized, rather than being an intrinsic, insurmountable weakness of the evolving pluralist model of democracy itself.

Many of the weaknesses identified above have resulted from the excessive reliance of existing systems of transnational democratic accountability on *non-state mechanisms* (primarily networks and markets), which are poorly equipped to perform coordination and enforcement functions, compared with state-based alternatives. Such weaknesses have been compounded by the absence of an overarching ‘constitutional’ structure through which distinct systems of decision making and interaction can be coordinated; this undermines workers’ capacity to *control trade-offs between different goals*. Moreover, the maintenance in most legal jurisdictions of strong confidentiality protections for corporate actors compounds the weakness of non-state accountability systems as means of facilitating transparency of public power.

Although each of these weaknesses presents significant obstacles, each could potentially be remedied to a significant degree *within the terms* of existing pluralist institutions of democratic accountability. This could take place via the appropriate harnessing of state as well as non-state mechanisms. For illustrative purposes, several potential means of remedying such weaknesses are suggested below, though these suggestions are by no means exhaustive.

First, such weaknesses could be addressed via transnational *juridification* of redefined corporate responsibilities within emerging global democratic systems – a change that would require legal reconstitution of the public-private dividing line in some significant ways.²⁰ The application of (democratic) principles of public law to institutional spaces of private transactions, and to the body of private law through which they are facilitated and legitimized, would represent a shift of enormous significance; democrats would need to espouse and entrench it at multiple levels – political discourse, law, and the wider social understandings in which these are grounded. Furthermore, such changes would need to be reconstituted over appropriate transnational scope; at a minimum this would mean addressing

¹⁹ Chentex could only be sued under the Alien Tort Law because it happened to have business operations based in the United States; activists have been unable to utilize such legal instruments in their engagements with most non-US companies.

²⁰ This point has much in common with arguments elsewhere advocating ‘constitutionalisation’ (Black 1996) or ‘juridification’ (McBarnet et al. 2007) of non-state governance initiatives.

existing limits to the standing of marginalized groups within those extra-territorial jurisdictions where decision makers wielding direct forms of influence over their wellbeing are located. If instituted, however, such changes could significantly strengthen the capacity of these pluralist systems of democratic accountability to promote both transparency and enforcement.

Public transparency could be improved in this way via introduction of legal obligations for companies to comply with certain mandated reporting requirements. Of particular importance would be enhanced information about factory locations and supply chain identity (together with more effective communication of this information directly to workers), to help raise workers' awareness of the specific brands and retailers exercising power over their factory working conditions. In relation to the design and administration of codes of conduct and associated programs of monitoring and enforcement, information should be available to workers regarding the content of codes of conduct, the processes via which monitoring and audit visits occur and the outcomes of these audits. Additionally, we could for example imagine certain principles of public law being applied directly to contract law, via some requirement that contractual arrangements between clients and factories with direct implications for overtime and workload demands placed subsequently upon workers be subject to similar freedom of information provisions as are currently applied in many traditional public sector sites of *administrative* decision making.²¹ Transparency at all these levels would be required to enable workers to scrutinize and evaluate the appropriateness of these rules and the effectiveness of the monitoring and remediation processes designed to enforce them.

Public enforcement mechanisms could also be substantially strengthened via appropriate modification of legal mechanisms enabling affected workers to hold retail clients *directly* accountable in law for damages suffered in the conduct of their corporate sourcing policies. In this context, changes to a range of legal instruments may be appropriate; company law, labour law, tort law, contract law and laws regarding unfair or restrictive business practices are all obvious areas in which change would probably be required (McBarnet et al. 2007).

The development of such mechanisms would require significant legal innovation across a range of jurisdictions. Reforms would need to be adopted by countries in which companies were incorporated, and/or in which they conducted retail operations. In the case of Nicaraguan workers, this would require adoption of legal reforms by governments and/or courts in the US, and potentially also South Korea and Taiwan.

Contemplation of such forms of extra-territorial judicial authority raises important questions about the boundaries of democratic or constitutional systems in which judicial authority is legitimated. These questions are particularly challenging for pluralist institutional models in which a unified constitutional framework is absent, meaning that the kind of 'standing' authorization enabled (at least potentially) by the constitutional embedding of judicial authority is not possible. Instead, judicial authorization within a pluralist model would require

²¹ According to such provisions, companies can be required to release to relevant public bodies "privileged and confidential" business information with implications for public decision making, while information remains protected from wider public release subject to some kind of public interest test. See for example Committee on Government Reform, *A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records*, House of Representatives, 108th Congress, 1st Session, Report 108-172, available at: www.fas.org/sgp/foia/citizen.html.

some kind of more decentralised mechanism, sufficiently flexible in scope to enable alignment with relevant transnational constituencies in any given case.

Functional weaknesses within a pluralist model could be further remedied via appropriate forms of institutional strengthening at the local level to facilitate stronger mechanisms of *public choice*. Workers' capacity to participate directly in signalling processes could be substantially improved via adoption of monitoring procedures through which workers could communicate their views to trusted organisations, in locations perceived as safe from management scrutiny. Such forms of local capacity building could also support goals of *transparency*, for example via increased involvement of local groups in processes of monitoring and remediation, provision of ongoing worker training and relevant information within workplaces and public reporting of audit findings for *specific* factories.

Moreover, establishment of some organized means of communicating and coordinating between distinct, decentralized decision making sites would facilitate choices about *trade offs* between different goals via more transparent and purposively chosen processes. This would not necessarily require the creation of centralized or hierarchical institutions, but it would need some degree of 'constitutionalisation' of the pluralist system, at least in the minimalist sense of formally identifying the constituent elements of the system and their normative and institutional modes of interaction (McGrew 1999; Teubner 1983, 1996, 2000).

4. The uneven dynamics of pluralist institution building: a challenge to political equality?

Further challenges to a pluralist project of global democratisation result from the significant *unevenness* of the processes through which pluralist institution building appears to be unfolding. As discussed above, a concern for political equality requires democratic control over public decisions to be distributed *proportionately* to the scope or intensity of different individuals' or groups' autonomy-limiting stake in any given decision. This requires reasonably close mapping of processes through which new transnational democratic entitlements are recognized and institutionalized onto configurations of autonomy-limiting affectedness. In practice, however, there appear to be significant inconsistencies in the extent to which pluralist institution-building addresses the democratic deficits of different groups of democratic stakeholders, generating troubling patterns of political inequality between different stakeholder groups.

First, global democratic entitlements associated with the exercise of corporate power have tended to be recognized only in relation to a narrow group of stakeholders: that is, *workers participating very directly in existing relationships of transnational production*. Defining democratic stakeholders on the basis of criteria of autonomy-limiting affectedness requires complex empirical analysis of material interconnection as well as normative judgements regarding relevant thresholds of autonomy limitation at which democratic obligations are invoked. For workers in this situation, there is sufficient ambiguity to make it plausible to suggest that they constitute the only category of stakeholder whose autonomy is sufficiently affected by the exercise of corporate power to create normative obligations of democratic accountability. Nevertheless, the vital interests of groups such as those with the *potential* to be employed in this situation (some of those employed in other low-skill sectors, or currently unemployed) are also significantly affected by decision-making patterns within garment

supply chains, despite (or in some respects because of) their lack of proximate integration into these transnational chains.

Norms of political equality demand that such groups should also be empowered to exercise appropriate shares of political control over relevant forms of corporate decision making. Yet pluralist processes of institution building have tended to neglect such groups – neither recognising their status as democratic stakeholders, nor building institutional mechanisms through which their democratic entitlements may be exercised. This failure of pluralist institutions to democratically empower those stakeholders who are affected in more *indirect* ways by corporate power contributes to problematic patterns of political inequality between different stakeholder groups.

This appears to reflect a broader weakness in the capacity of pluralist processes of institution building to identify and respond to forms of corporate power that are exercised via relatively diffuse and indirect processes. Because structurally diffuse patterns of corporate power are *not* experienced “primarily in small-scale interactions, with clearly demarcated lines of causation, among independent individual agents” (Marion Young 2006; Scheffler 2001), activists have often struggled to identify responsible corporate agents to whom democratic obligations can be assigned. It has therefore proved much more difficult to place effective democratic constraints on structurally diffused forms of corporate power, compared with more direct and easily traceable forms of corporate ‘harm’. This has implications for determining not only which democratic stakeholders receive recognition, but also the range of corporate decisions identified as being the legitimate target of democratic accountability processes. For example, it has proven easier to assert constraints on corporate power in relation to the physical abuse of workers or directly observable health and safety violations than in relation to the more diffuse exercise of corporate power over issues such as wage-setting. As a result, workers affected by such neglected forms of corporate power are usually unable to exercise a proportionate share of control over that corporate power.

Political inequality between different groups of democratic stakeholders also appears to result from disparities in the scope and strength of democratic accountability mechanisms that are created in relation to different economic sectors and firms. To a significant extent, the success of pluralist institution-building depends on a range of factors unrelated to relevant normative criteria of autonomy-limiting affectedness. Rather, the effectiveness of institution building in any given case is typically determined by factors such as relative market share and purchasing volumes of different companies, relative strength of the marketing mechanisms of different companies, and relative strength of civil society organizations and their communicative and advocacy strategies in different industries and different territorial locations. Such factors lead political control to be distributed via morally arbitrary processes that cannot consistently promote the democratic goal of political equality.

How harshly we should judge the current processes of pluralist institution building depends on whether we consider these problems to be primarily contingent and realistically surmountable, or as intrinsic characteristics of a pluralist model. This judgement in turn depends on the degree to which pluralist institution building processes tend over time to cluster in path-dependent and cumulative ways (gradually/progressively reinforcing inequalities), or whether they tend to promote *diffusion* of transnational democratic institution building to a broader range of issues and individuals. This is clearly a complex empirical question whose resolution is beyond the scope of this paper. Nevertheless, to the extent that the diffusion of institution-building processes might outweigh path-dependent clustering

effects, those who remain deeply uneasy in the face of the political inequality patterns documented above may nonetheless wish to support pluralist *pathways* of institutional transformation on the basis that such pathways represent the best of currently feasible options, and potentially also the first step along a pathway towards increasingly progressive and cosmopolitan democratic transformation.

Conclusion: a pluralist model of global democracy for a partially joined-up world?

Taken as a whole, the above analysis outlines a pluralist institutional pathway to the widely-embraced normative goal of strengthening the democratic basis on which power is exercised within global politics. The pathways towards global democratisation along which we are currently advancing appear to be unfolding in accord with plural, decentred configurations of established corporate power in the global economy. Plural distributions of power in the global economy are then giving rise to a pluralist democratic response, in which paradigmatically 'private' institutional systems are being directly democratized.

Importantly, some notable advances towards development of transnational institutions of democratic accountability described above *have already been achieved*. This analysis departs from the democratic scepticism voiced by prominent liberal scholars such as Robert Dahl and Robert Keohane,²² suggesting instead that there are some firm grounds for optimism about prospects for establishing effective democratic governance and accountability in the global domain.

Nevertheless, this chapter has also highlighted some of the significant conceptual and institutional challenges that continue to confront those aiming to establish democratic systems of decision making within the global garment industry, and within global institutions more broadly. Emerging mechanisms of global democratic accountability remain incomplete and non-constitutionalized, undermining their current functional efficacy in spite of the potential for such weaknesses to be remedied in important ways by entrenching democratic principles within a reconfigured system of pluralist, transnational law. An even more significant challenge confronting pluralist models of global democratisation is presented by the unequalising dynamics through which pluralist democratic entitlements are being recognized and democratic accountability mechanisms created.

Those who doubt the feasibility of overcoming some of the current limitations of pluralist democracy might still be willing to endorse the current pluralist *pathway*, on the basis that it represents the least-worst solution of those currently feasible, given the lack of normative consensus around more expansive cosmopolitan obligations and the associated obstacles to utilising nation states as vehicles to enact more ambitious agendas of global democratic reform. Based on such a view, this emerging democratic system – while profoundly imperfect in many ways – at least represents a practicable means of overcoming some part of the democratic deficit that persists at the global level.

Certainly, the challenges confronting present efforts to promote pluralist processes of global democratic institution building do not warrant abandoning the project of global democracy,

²² See Dahl, 'Can International Organizations be Democratic? A Skeptic's View', in I. Shapiro and C. Hacker-Cordon (eds), *Democracy's Edges* (1999), and Keohane, 'Global Governance and Democratic Accountability', in D. Held and M. Koenig-Archibugi (eds), *Taming Globalization* (2003).

as some democratic sceptics appear willing to countenance. By harnessing the democratic potentials within these emerging accountability institutions, and creatively seeking further directions for institutional innovation, it appears possible to achieve real progress along a pluralist pathway to global democracy that is both democratically legitimate and institutionally feasible.

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