

**INTERNATIONAL INSTITUTIONS, GLOBALIZATION AND DEMOCRACY:
ASSESSING THE CHALLENGES**

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The advance of globalization has involved additional governance capacity at supranational levels and thereby raised concerns about democracy, which has traditionally been based on the nation-state. For the most part, these governance arrangements take the form of intergovernmental fora, where nation-states are the principal players. In some policy areas where globalization is more pronounced, such as international finance, governance appears to feature some autonomous institutional development. Autonomy may come in the form of a relatively strong international organization with a mandate anchored in international law such as the World Trade Organization (WTO), or of the institutionalization of norms and values that give the intergovernmental forum an autonomous and distinct global perspective. As Held (1995) has observed, democratic theory has assumed that the nation-state is the relevant decision-making unit. The migration of political authority to supranational levels thus has the potential to undermine long-standing democratic arrangements.¹

In recent years a number of political theorists have begun to address this problem and have proposed changes in the theory and practice of democracy. The concept of *cosmopolitan democracy*, most thoroughly developed by David Held, has been the most prominent innovation (Held 1995; Archibugi, Held and Köhler 1998). Cosmopolitan democracy would involve the expansion of democracy in new global sites of power, through the expansion of the role of global civil society, and reforms to existing international organizations and law. For some theorists, there are certain advantages for democracy in constructing new institutions in international settings in which the heavy hand of the state is relatively weak, such as the decentralized and often informal international regimes which regulate particular issue areas and industries (Dryzek 1996:87). Rosenau (1998:38) suggests that “a decentralized world of diverse and multiple rule systems” provides openings for the

development of functional equivalents at the international level to territorial democracy. Archibugi (1998:200) adds that the “endogenous fabric” of existing arrangements furnishes opportunities for building up democracy in a “bottoms up” manner. Others such as Robert Dahl (1999) are much more pessimistic.

This essay seeks to contribute to this important new area of research by highlighting the problem of institutional variation across the emerging sites of supranational authority. The theoretical work on cosmopolitan democracy has so far tended to treat these sites as institutionally similar, shaped by system-wide changes such as economic globalization or the emergence of global civil society. We argue that this theoretical tendency takes insufficient account of the wide variation in the character of international institutions that have been constructed already and on which new institutions will need to be based. We argue further that this variation is due not only to differences in the pace of globalization across issue areas. It derives as well from variations in the relative importance of two related but often underestimated challenges to democracy: the increased international importance of private authority and of technical authority. It is important, therefore, to develop criteria for democracy that can be practically applied to the very different institutions, which we are likely to continue to see across supranational sites of authority.

We develop these arguments in four steps. In the first section, we discuss democracy and the three challenges posed to it. In the second section we develop a specific critique of Held’s notion of cosmopolitan democracy. Third, we review institutional developments in the international system and stress the importance of their variation across issue areas, linking this to the challenges to democracy. In the final section of the paper, we suggest a set of criteria for assessing the degree of democracy at a given site of supranational decision-making, and apply these criteria to two rather different policy areas, financial services and agricultural policy.

DEMOCRACY AND GLOBALIZATION

There is a voluminous literature on democracy and on globalization, and a full exploration of these concepts is neither possible nor necessary in the present essay. The debate about the merits and significance of these two features of contemporary society is and will continue to be ongoing. Accordingly, we propose to set those debates aside for the moment in order to explore briefly the value of democracy, before considering challenges to it from globalization.

The dominant tradition in international theorizing, political realism, has been hostile to democracy, seeing it as a dangerous interference with the professional conduct of statecraft. This hostility has been reinforced by more contemporary arguments that suggest that the management of global markets and of other highly technical international issue areas is best left to experts. We find these claims questionable for three reasons.

First, research at the nation-state level has shown democratic institutions to be crucial to the legitimation of the efforts of governments. With the migration of aspects of decision-making to the regional, international and global levels, the legitimacy of decisions becomes a crucial question. If globalization creates a need for such supranational decision-making, then it is politically important to ask what grounds of legitimacy might exist for such decisions, and whether democracy is relevant to creating such grounds. Second, some also point to the practical benefits of democracy. In analyzing Tocqueville's work, Elster (1988:97) notes that the short-term inefficiencies of democracy are counterbalanced by longer term benefits, in the form of innovation and prosperity. Finally, the values that are associated with the practice of democracy--the exercise of political and civic rights, the fulfilment of associated duties, its positive impact on distributive justice--have at least as strong an ethical claim on our attention as other values, such as security and order, which have traditionally

motivated students of international affairs.

The alleged vices of the *demos*, such as a fondness for irresponsible monetary or fiscal policy, have to be weighed against the potential dangers associated with unaccountable global, technical or private authority, rather than against an abstract ideal. Distinctive to late modernity is the procession of professions in which the detrimental effects arising from accepting without question the authority of experts are being countered by the involvement of lay actors: patient involvement in medical decisions, citizens' involvement in arms control and environmental issues, and parental involvement in education are prominent examples. Democratic deliberation will normally make it more possible to consider technical questions in the context of reflection on long-term goals and fundamental values.

Globalization refers to processes whereby the boundaries and imagination of social relations become more autonomous from physical location, and time and distance become less of an obstacle to building human relationships in these new spaces. Individuals and the communities and organizations to which they belong become more conscious of the resulting changes in their social situation and place these changes in a global context. To the extent to which globalizing processes, whether economic, ecological, military or cultural, transcend usual territorial boundaries, they challenge democratic self-governance in three ways; economic and cultural boundaries fit less well with democracy's political boundaries, technical knowledge rises in importance, and private sources of authority become more prominent.

Economic relationships, political boundaries and legitimacy

Reinicke (1998:64) characterizes well the growing mismatch between economic and political geography. "Whereas the political geography that defines markets continues to be structured by

mutual exclusion, the economic geography on the basis of which these markets function has become increasingly inclusive, defying the territorially fixed nature of the nation-state by creating its own non-territorial space.” Increased levels of economic interdependence between states undermine the congruence between the ‘people’ being governed and their supposed governors (Scharpf 1998:5). States increasingly seek to address the mismatch between economic processes and the territorial limits to the exercise of political authority by pooling sovereignty. As the institutions created by states in this way increase in strength and autonomy they can further erode citizens' input into policy processes.

The danger is that the mismatch between economic and political geography will truncate the role of demands of citizens and thus undermine notions of popular sovereignty associated with democracy, what Scharpf (1999:6) refers to as ‘input-oriented’ legitimation. To the extent that the demands of citizens have difficulty entering the political process, further questions arise about other core elements of democracy, particularly accountability. The concept of accountability includes the idea that political leaders will explain to citizens how their actions have addressed the articulated wants and preferences of the ‘people’. The problem of accountability is compounded by the fact that the participants in policy-making frequently do not represent the full range of populations affected by their decisions (Woods 1999). Not only do rules for representation tend to be restrictive, but also the proceedings at these sites often lack transparency. Without adequate representation and transparent policy processes, the possibilities for a mismatch between policy outputs and citizens’ preferences widen considerably.

Democracy and technical authority

Many of the political problems being addressed in intergovernmental fora are cast as technical ones,

requiring the application of specialized, expert knowledge. In the area of international trading rules, for example, the issues are framed as legal questions, thereby requiring the expertise of lawyers, or as economic questions, demanding the contributions of economists. International finance has come to rely increasingly on the concept of risk analysis, with highly sophisticated knowledge of financial instruments and of risk allocation being in demand. Ecological problems are interpreted in terms of risk as well, with the physical and applied sciences being asked to estimate the risks and then to produce the technologies needed to reduce these risks to economically viable levels (Beck 1992). Science-based risk analysis is now also the arbiter in international trade disputes involving consumer safety issues, as regulated by the new Sanitary and Phytosanitary Agreement of the WTO.

To the extent to which supranational policy-making relies heavily on technical information and expert knowledge, it creates obstacles for political participation. Policy community membership tends to narrow to include politicians and ‘relevant’ experts only. Expert knowledge thus becomes an exclusionary device; only those who have the requisite ‘credentials’ are assumed to be relevant for policy-making (Murphy 1987). In the absence of parliaments and other representative fora available at the nation-state level, which might provide opportunities for ‘non-expert’ input, the use of technical knowledge becomes an even more serious challenge to democracy at the supranational level.

Democracy and private authority

The reliance on technical knowledge in supranational policy-making is, in turn, a contributor to a third challenge to democracy: the growing importance of private authority (Cutler, Haufler and Porter 1999:4). Governments may sometimes presume that the policy areas are so complex and technically demanding that the private sector is best suited for designing appropriate rules and

procedures. Or governments might not be willing or able to cooperate to pool sovereignty. In the absence of state collaboration, if economic pressures are intense, private actors may take it upon themselves to set up an international market framework. Such institutions of private authority may not involve governments at all, but still be accepted as legitimate because of the expertise and economic strength of the participants.

Private authority poses challenges for democracy because the norms, practices and rules that flow out of private institutions may affect the social and economic well-being of members of societies well beyond the firms or other actors involved. To the extent to which such private cooperation does become government-like, it challenges basic notions of political authority and legitimacy (Cutler, Haufler and Porter 1999:6). At the nation-state level, private authority is normally backed by a rescindable mandate from the state (Streeck and Schmitter 1985). Thus, if citizens are negatively affected by the actions of private authorities, governments can hold these authorities to account. In the absence of equivalent public authority at the global level, the usual notions of democratic accountability would seem unavailable. Moreover, if democratic arrangements imply that all members of the affected collectivity enjoy effective equal rights to take part in decision-making (Archibugi 1998:199), private authority is rather difficult to reconcile with this criterion.

Taken together, these three challenges pose serious threats to democracy. If, as we have argued, democracy has value, then we should be concerned with solutions to this problem. We turn now to Held's ambitious attempt to provide one such solution, cosmopolitan democracy.

IS 'COSMOPOLITAN DEMOCRACY' LIKELY TO ADDRESS THESE CHALLENGES?

Perhaps the most ambitious specific effort to address contemporary challenges to democracy is found

in David Held's *Democracy and the Global Order* (1995). Held's book is a pathbreaking and widely cited effort to rework democratic theory in response to the challenges posed to it by globalization. The first half of the book identifies the problems posed by globalization, looking at various "disjunctures between the idea of the state as in principle capable of determining its own future, and the world economy, international organizations, regional and global institutions, international law and military alliances which operate to shape and constrain the options of individual nation-states" (p. 99). The second half moves on to a reconstruction of democratic theory and an advocacy of cosmopolitan democracy, a universal democracy which cuts across and operates above nation-states and borders. Despite a great variety of thought-provoking and useful ideas, however, the prescriptions in the second half of the book have limited relevance when viewed in light of the challenges to democracy described above.

Four concepts are at the core of the book's second half: autonomy, sites of power, democratic public law, and cosmopolitan democracy. In presenting each of these, Held seeks to address institutional considerations. Held defines autonomy as follows:

persons should enjoy equal rights and, accordingly, equal obligations in the specification of the political framework which generates and limits the opportunities available to them; that is they should be free and equal in the determination of the conditions of their own lives, so long as they do not deploy this framework to negate the rights of others (p. 147).

With this concept, Held is seeking the core general principle behind democracy that is not tied to the specific institution of the territorial state: "the idea of autonomy is a hypothetically projected reconstruction of the rules and norms of democracy" (p. 209). He recognizes that the notion of autonomy is very abstract and that it needs to be linked to more concrete institutional considerations.

He seeks to develop the institutional implications of the concept of autonomy further by distinguishing seven *sites of power*. A site of power is "an interaction context or institutional milieu in and through which power operates to shape the capacities of people" (p. 173). The seven are: (1) the body; (2) welfare; (3) culture; (4) civic associations; (5) economy; (6) coercive relations and organized violence; and (7) legal and regulatory institutions.

Held's stress on democratic public law provides a further elaboration of the institutional implications of the concept of autonomy. Democratic public law specifies a "range of entitlement capacities for members of a democratic society" which recognize citizens "in and across the seven domains of power" providing "a meta-framework which can legitimately circumscribe and delimit politics, economics and social interaction" (p. 200).

Held also devotes considerable attention to concrete proposals for institutionalizing cosmopolitan democracy. He sets out eight features of cosmopolitan democracy, distinguishing it explicitly from both the Westphalian and UN models (pp. 270-2). The key differences are that cosmopolitan democracy involves "multiple and overlapping networks of power" involving Held's seven sites, and rights and institutions are strengthened and extended.

When one attempts to apply Held's proposals to many important international issue areas, however, three problems arise, due to inadequate consideration of institutional factors.

First, the seven institutional sites identified by Held have little actual relevance in an organizational sense at the international level. There are quite identifiable institutionalized issue areas in world politics, the boundaries of which are recognized by actors involved in them. These include, for example, the trade regime, the environmental regime, the decision-making effectiveness of the European Union, 'world' literature or peacekeeping. Each of these has an identifiable history, actual

institutions that sustain it, and a set of distinctive democratic challenges. By contrast, several of Held's categories, such as the body, culture, and even economy have no corresponding general institutional presence in the form of organizations or regimes at the global level.

Second, Held's emphasis on law and rights goes far beyond the range of activities to which these could usefully be applied at the international level. The development of international human rights law is one of the most important accomplishments of the post-World War II era to be sure, but changes are limited and have come slowly (Crawford and Marks 1998). These are very important in the specific areas in which this law has been developed, including for instance prohibitions on torture, protection of women's rights, and the range of activities included in the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights.

Nevertheless, there are two reasons why an emphasis on rights is inadequate as a generalized foundation for democracy at the global level. First, the concept of rights is too static to be applied in many of the crucial issue areas in which there is an ongoing shaping and reshaping of contemporary life at the global level. New standards, developmental trajectories, policy areas, markets, and areas of "unawareness" or even catastrophic "unintended consequences" (Beck, 1998:90) are set into motion long before citizens are likely to be able to identify rights, let alone codify them in treaties and national legislation. Second, rights are continually in dispute, which is what gives them their distinctive relevance. As Donnelly (1989: 13) notes, "one *claims* a right only when its enjoyment is threatened or denied." Thus it is the *process* through which rights are developed, promoted, monitored and enforced that is more important than the codification of the right in law. An excessive emphasis on the development of democratic public law, then, can draw attention away from the more complicated and relevant question of how the principles, norms and rules which such laws codify are

pursued.

Finally, despite references to "overlapping networks of power" (Held, 1995: 271), "cross-cutting political communities" (pp. 272), and the "creation of a diversity of self-regulating associations and groups in civil society" (p. 280), Held's vision overall is quite centralized and formal. It foresees establishing and strengthening courts, parliaments, assemblies, charters, and a supranational militarized coercive power at the international level (p. 276-7). As Held acknowledges, this vision is a long-range one.

There is indeed merit in continuing to reflect on alternative worlds, a tradition that can be traced back through the world order models project of the 1970s, the supporters and architects of the League of Nations and the UN, and Kant's reflections on the conditions for perpetual peace. In the most prominent and pressing globalizing issue areas, however, there is a need to pay much closer attention to the constraints and opportunities involved in the actual institutional arrangements that are developing at the global level.

In sum, despite its very significant contribution in highlighting and beginning to tackle the problem of democracy under conditions of globalization, Held's work is of limited use in addressing challenges to democracy in the specific issue areas into which international interactions have come to be organized. A more specific methodology, set of criteria, and conceptualizations are needed for analysing the varying forms that problems of democracy take in particular institutional settings. It is to these tasks that we turn in the next two sections.

BUILDING ON EXISTING INSTITUTIONAL ARRANGEMENTS

Encouraging democratic practices at supranational levels requires sensitivity to the crucial

constraining and enabling role of institutional factors. *Institution* here refers to both formal organizations and informal social relationships consisting of norms and rules connecting and constituting recognized roles. Institutions have an inertia that has three important implications for responses to the challenges to democracy which we address in turn.

First, the character and seriousness of the challenge posed to democracy and the feasibility of solutions to it vary significantly across institutional settings. Prescriptions based excessively on generalizations about globalization or other trends are likely therefore to fail. In part, this variation is due to the path dependency created by institutions and their spatial embeddedness. For example, the norms of secrecy traditional among central bankers have been built into international institutions associated with the Bank for International Settlements (BIS), the central bankers' bank. Such norms help explain some of the differences in the degree of democracy in this issue area relative to others, as we show below. The institutional setting also affects the degree of seriousness of the three challenges to democracy noted above. Some issue areas are highly technical, some are characterized by the prominence of private authority, and some are more global than others.

One of the key insights of international relations theory of the past two decades is that international governance has developed through relatively decentralized, often informal, issue-area specific institutions, labelled *regimes*. In part, this pattern is due to the enduring centrality of the competitive state system, a point to which we return below. It is also, however, due to the ineffectiveness of overly centralized arrangements in a world in which the demands and challenges of governance vary sharply across issue areas.

Accordingly, the second implication of institutional inertia is that new processes are most likely to be built carefully on existing institutions, particularly on the great variety of inter-state

institutions that have developed over the past two centuries, rather than being created *de novo* (Bohman 1999). At the domestic level, formal procedures are an important element (for some, even a defining feature) of democracy. In contrast, at the international level, formal procedures that run too far ahead of the constraints imposed by unequal configurations of political and military power will just be bypassed. Multilateral decision-making will give way to unilateral actions of great powers or to less accountable unilateral processes that operate behind formal systems. In addition, it is unrealistic to expect to compensate for this lack of formal procedures by romanticizing the potential of non-governmental organizations to fill the gap (Higgott 1999). At a minimum, not all issues for which democracy is relevant capture the attention of NGOs.

A third implication following from the institutional inertia in the system of states is that a simple expansion of existing democratic practices is likely to be inadequate; institutional innovation will also be necessary. This need for innovation can be illustrated by noting briefly the deficiencies of three existing ways in which globalized, technical and private authority have been legitimized in the past. The *globalization* of authority has traditionally been legitimized by stressing the democratic credentials of the governments that agree to such shifts; by requiring treaties to be ratified by legislatures; and by claiming that participation in international institutions is voluntary and thus cannot in itself be judged to involve a constriction in states' freedom. These traditional arguments are increasingly unconvincing. Often treaties will be negotiated with minimal debate among citizens at large. Informal agreements not requiring the involvement of legislators are frequently used in place of formal treaties. Finally, entanglements in one set of institutions or agreements draw a country into negotiations on another in ways that would not have been acceptable to citizens if a coherent picture of the issues at stake had been presented in one piece.

The growth of *technical* and *private* authority has traditionally been legitimized by claiming that these matters are not political, and therefore do not need to be integrated into democratic processes. Hence, legal procedures are devised to safeguard the public interest, by providing recourse for citizens who are the victims of technical errors (Mashaw 1985:11). These procedures also seek to segregate technical or scientific matters from political questions. Unfortunately, the complexity of contemporary issues renders such segregation efforts less than effective. For instance, Edley (1990:74) notes that the familiar administrative law trichotomy of science, fairness and politics, which was, in turn, associated respectively with bureaucratic regulation, adjudication and legislation, involves "collapsing categories". In short, with the division between private and technical matters on the one hand, and public policy matters becoming increasingly ambiguous, democratic processes become more relevant.

Bohman (1999:510) has argued that international regimes may create opportunities for new structures of accountability, providing that a global public sphere and civil society emerge. This proviso, however, is important and far from trivial. The notion of a global public sphere implies a degree of integration and evenness that is not likely to be present for the foreseeable future. It is crucial then that international regimes and other sources of authority be viewed critically with regard to their compatibility with democratic practices, as Dahl (1999:33-4) has emphasized. The following section outlines a set of criteria that should assist in this evaluation process.

AN ALTERNATIVE APPROACH TO STUDYING DEMOCRATIC PRACTICE

Our previous sections have highlighted two types of complexity that complicate analysis of democracy under globalization. First, we stressed the threefold character of the contemporary challenges to democracy associated with the mismatch between economic markets and political

boundaries, technical expertise and private authority respectively. Second, we emphasized the variability across issue areas and associated institutions of the character of challenges as well as the types of solutions that are feasible and desirable. In this section we develop an approach to analyzing democracy that takes these two types of complexity into account.

Our approach has two parts. The first specifies criteria that can be used to assess democracy in contemporary international issue areas. These criteria extract key underlying principles of democracy that have been evident at the domestic level, but present them in a way that does not tie them to political institutions, like legislatures, that only exist domestically. The second clarifies the significance and applicability of the criteria as a whole. We do this both by discussing the common features of the criteria and by illustrating their use in two international issue areas, global finance and agriculture.

*Six criteria:*²

1. *Transparency.* Can all interested observers inform themselves fully on the core questions and tradeoffs under consideration? Often policies are developed in locations or technical languages that remove them from the scrutiny of citizens. Transparency can be enhanced by such techniques as the posting of policy documents and other reports in technical and lay language on web sites. Often NGOs can play a crucial role in mediating between dauntingly complex discourses that develop in international institutions and the general public.
2. *Openness to direct participation.* Bohman (1999:501-2) stresses that global governance only becomes democratic when political influence within processes of deliberation and decision-making is equally accessible or available to affected or concerned parties. Similarly, because the interests at stake in an issue area may change as it develops, it is problematic to restrict access permanently to a specified set of actors. Evidence that an international institution is

satisfying this criterion therefore will be found primarily in the recognized presence of mechanisms for obtaining access to a policy process rather than actual widespread involvement. Such mechanisms could be formal, as with an established procedure for interested parties to submit comments, or informal, as with a record of openness to dialogue with individuals and NGOs.

3. *Quality of discourse.* All three challenges to democracy can involve the separation of a policy process from the political mechanisms which, in domestic democratic processes, play a central role in legitimizing them democratically. Habermas has insightfully highlighted the unique legitimizing role in post-traditional societies played by democracies' deliberative politicized law-making. The interaction of legislative debate and "the communicative structures of the public sphere" (Habermas, 1998: 300) grounds and integrates otherwise discrete administrative practices and issue areas, ethical and moral considerations, compromises based on bargaining, and the critical gatekeeping role played by the need to defend initiatives with reason. Such institutions are largely absent at supranational levels. Accordingly, supranational governance arrangements must create their own public spaces where such discourses can take place. Evidence for such discourses should be readily available. For instance, a record of reports and press conferences which are solely framed in the technical terms arising from a particular administrative practice would fail to meet this criterion. Such discourses are shorn from the other elements, such as bargaining or ethical reflection, which would normally arise in processes of democratic deliberation.
4. *Representation.* Representation is a formal and institutionalized mechanism for aligning the interests of citizens at large with the smaller number of actors which are required if bargaining, deliberation or decisions are to be effective. Practices which are well established

at the domestic level, such as the electing of representatives on the basis of majority voting in territorial constituencies, are often inapplicable at supranational levels (Scharpf 1998:2-3). Nevertheless it is usually possible to identify the most relevant categories of actors with an interest in the policy process. Meeting this criterion requires that a policy process institutionalize the links between the key decision makers and these external constituencies. This criterion differs from the second, openness, in this stress on institutionalizing links with identified constituencies.

5. *Effectiveness.* The absence of governance in an issue area, whether deliberate or not, can have significant political implications. Although often overlooked in the liberal concern with citizens' ability to constrain the oppressive potential of the state, the presence of a minimum level of institutional capacity needed to develop and implement policies can be an important precondition of democracy. Debate with no possibility of collective action can be merely a facade which obscures the interests which benefit from a lack of action. Effectiveness here refers to the development of an executive-like grouping with small enough numbers to engage in meaningful interactions. It also includes more conventional indicators of capacity, such as relatively autonomous sources of funding or hiring of administrative staff based on expertise rather than political loyalties.
6. *Fairness.* Fairness refers to a set of rules about rules which are based on shared principles of justice rather than simply tradition, empirical modelling, or political expediency. Equals should be treated equally, and unequals unequally. Fairness is useful in resolving disputes for which these other bases of decision making are inadequate. More importantly, rules based on fairness are an indication of the minimum level of social solidarity needed to sustain democratic processes and to avoid defection by those whose interests are not

obviously and immediately served by the outcomes of deliberative processes. *Procedural* fairness refers to the types of considerations which have been discussed in the above four criteria. *Substantive* fairness refers to the distribution of benefits from policy outcomes. Both independent assessments of fairness as well as an explicit recognition of fairness as a consideration can provide indications that this criterion is met.

It is useful to highlight several common features of these criteria. First, although they could be seen as echoing the functions of the various elements of domestic political systems, including interest groups, legislatures, executives, bureaucracies, and constitutions, they can be satisfied without the high level of institutionalization currently present domestically. Second, the criteria complement one another: representation, for example, is, in part, a prerequisite for effectiveness. Despite this complementarity, however, each criterion can also be seen as referring to a distinct requirement of democracy. Third, the criteria are operationalizable. Some specific indicators have been provided as examples and others could be developed. Rather than assessment based simply on abstract principles of democratic theory, agreement on such indicators is important if the type of institutional analysis needed at the supranational level is to be carried out. Fourth, there are also tensions between the criteria. For example, input criteria such as openness remain in tension with the centralizing and professionalizing implications of the criterion of effectiveness. One of the key accomplishments of democracy domestically is to manage such tensions. At supranational levels, where we cannot take such management for granted, disaggregating an assessment into five criteria is important in assessing the obstacles to democratic practices across issue areas with differing institutional arrangements.

In order to apply the criteria, we have chosen two issue areas: the regulation of global finance and of agriculture. These issue areas illustrate the value of the criteria because the challenges

to democracy differ in each, with the problems being deeper in finance than in agriculture. More abstract approaches such as cosmopolitan democracy would not see these distinctions as particularly relevant. We show that they are.

The Regulation of Global Finance

Institutions concerned with the regulation of global finance (as opposed to monetary policy or development assistance) have tended to fall into two distinct categories. The first includes those concerned with *prudential regulation*--rules that aim to limit the likelihood that financial firms might fail or that financial crises might occur. The second group seeks to promote *financial liberalization*--the reduction of barriers to the cross-border flow of finance and financial services.

The migration of authority to an emerging international regime for prudential regulation has its origins in the financial instability that followed the breakdown of the Bretton Woods monetary system in the early 1970s. The Group of Ten (G-10) responded by forming the Eurocurrency Standing Committee in 1971 and what is now named the Basle Committee on Banking Supervision (BCBS) in 1974, both with secretariats provided by the Bank for International Settlements (BIS). Along with similar BIS-based committees, these bodies provide a flow of high quality technical reports. Their analysis has clarified the nature of international financial risks. This work contributed to developing recognized best practices for regulators responding to these risks. The BCBS reinforced its authority by building institutional capacity, including the power to foster compliance with agreed formal standards. It extended its reach beyond its formal membership of the G-10 plus Luxembourg, by linking up with international organizations of securities and insurance regulators and with a series of regional bank supervisors' groups.

Supranational authority developed further in 1999 when, faced with the growing integration

of risks and institutions across financial industry sectors, the G-7 set up a BIS-based Financial Stability Forum, with 21 G-7 national representatives and 14 representatives from public international institutions concerned with regulation. Although questions might still be raised about the adequacy of these institutional arrangements, given the severity of international financial crises in the 1990s, there is little doubt that authority at the global level has strengthened and developed significantly over the past three decades.

The migration of authority associated with financial liberalization evolved quite differently. In part, cross-border and extraterritorial financial flows were driven by changes in information technologies and by unilateral initiatives by the US, the UK and other states seeking to attract or retain competitive financial markets in their territories. During the 1990s, however, the drive to promote financial liberalization took on a more organized character. A key milestone was the growth of authority at a regional level with the NAFTA, which developed unprecedentedly strong financial services and investment rules, and created the right of firms to bring cases against governments. These provisions involve a developing country, Mexico, as well as Canada and the US. The 1997 final agreement in Uruguay Round financial services negotiations created a new authority for financial services liberalization at the WTO. The Organization for Economic Cooperation and Development also sought to add to authority at a supranational level, by building on its earlier codes on investments and capital movements as host of the ill-fated Multilateral Agreement on Investment negotiations from 1991 to 1998. Finally, the International Monetary Fund began heavily promoting financial liberalization in the 1990s, through its technical and policy reports and through conditions attached to loans. By 1998, it was seeking a revision of its Articles of Agreement, to make liberalization of countries' cross-border capital flows a formal part of its mandate.

In addition to the development of authority at a global level, challenges to democracy come from the growing importance of both technical knowledge and of private authority. The regime for prudential regulation has been developed primarily by central bankers. These actors commonly share a world-view based on established central banking practices such as secrecy, an aversion to political interference, and a commitment to the primacy of economic and technical knowledge in decision-making. The large banks of the G-10 that dominate international banking have a similar commitment, and prefer to work with smaller informal committees focused on technical matters related to risk and market development. At the same time, there has been almost no involvement of citizens' groups in the issue area of prudential regulation or liberalization of financial services. The exceptions are the investment provisions of the NAFTA and the MAI, which drew the fire of existing non-governmental organizations in other issue areas such as environment, trade, and development, for which these treaties were seen as having negative consequences.

The firms in this issue area are sufficiently large and geographically concentrated in a few financial centres to create important centres of private authority, whether in the form of loan or bond syndicates, the inter-bank market, the management and use of electronic networks for payment and settlement, or self-regulation of various global securities markets. The private authority of these firms is enhanced further because the integration of public regulatory institutions concerned respectively with banking, securities, and trade liberalization has lagged well behind the integration of these functions in the universal bank structure common to the dominant global financial services corporations. This lag stems, in part, from long-standing institutional traditions developed at the nation-state level, in which these activities were regulated by different bodies with quite different styles.

These distinctive features of this issue area have, then, implications for the six criteria

developed above. *Transparency* traditionally has been low due to traditions of secrecy and the highly technical character of the issue area. This tradition has been changing significantly in recent years, due to the emerging centrality of private sector transparency in prudential regulation. Such a focus has then increased pressures for transparency in public institutions, because of the recognition by the public institutions of the need for legitimacy as the issue area has become more politicized. On *openness to participation and representation*, this issue area has been dominated by G-10 officials, with little involvement by others. In recent years, there have been a number of steps taken to integrate emerging market regulators, for example through various regional committees, but in almost all cases this involvement is much more informal and peripheral than the G-10 involvement, and is at the pleasure of the latter. The involvement of industry groups is much stronger than citizens' groups, compared to the situation in issue areas such as the environment.

On *quality of discourse*, the institutional fragmentation of the issue area reduces significantly the opportunities for raising important political issues such as the desired choice of systemic risk/regulatory cost trade-off, the distribution of risks and post-crisis costs, and the feasibility of certain policies (such as making liberalization dependent on the adequacy of prudential regulation, or using the mechanisms established for prudential regulation for slowing cross-border flows). On *effectiveness*, despite considerable strengthening over recent decades, the informal nature of the prudential regime has reduced its capacity to promote compliance with strong detailed rules. The failure of the MAI, in part due to the institutional inadequacies of the OECD, is significant. Discourses of *fairness* are virtually absent from this issue area, despite the limits of technical discourses in resolving some of the questions noted above with regard to the quality of discourse. Moves have been made to include emerging market regulators but these and other institutional initiatives are not accompanied by reflective discussion of principles of fairness which could govern

them--rather they are ad hoc, technically-driven, or done behind closed doors.

These shortcomings of the regime for regulating global finance with respect to democracy were especially evident in the official debate on the international financial architecture at the end of the 1990s. Despite widespread recognition of the degree to which global financial crisis could have negative consequences for citizens' daily lives, the debate about architectural reform remained remarkably technical, narrowly focused on incremental advances in existing policies, and restricted to a relatively small circle of officials and firms. Neither the G-7, nor the US-led hastily assembled main vehicle for the debate, the ad hoc G-22 group of G-7 and developing country regulators, had a strong claim of legitimacy. As is usual in this area, they had to rely on references to the technical discourses well established in this issue area, and on the political power of the sponsors of the process.

Similarly, the Financial Stability Forum (FSF), the main institutional innovation to result from the debate, was heavily dominated by G-7 countries with additional representation from technically oriented international regulatory bodies. Efforts were soon made to address the legitimacy deficit of these arrangements by broadening the FSF, giving more responsibility for financial matters to a renamed Interim Committee of the International Monetary Fund. They thus sought to draw on IMF legitimacy that stems from its status as a formal and more universal international organization. The G-7 also formalized, renamed, and made more permanent the G-22 as the G-20 in September 1999. Nevertheless these further efforts continue to be controlled by the G-7 and heavily influenced by the narrow technical approaches, which have been characteristic of global financial regulation.

The Agricultural Sector

The Agricultural Agreement in the GATT Uruguay Round marks a significant move of authority

over agricultural policy from the domestic arena to the World Trade Organization (WTO). This shift in authority takes place with respect both to traditional agricultural price and income support policies and to food standards and safety. Agricultural price and income support policies had largely escaped the scrutiny and discipline of the postwar liberalizing world trade regime. Exempted by various provisions of the GATT, agriculture's exclusion was further completed when the United States obtained a waiver from most of its GATT obligations concerning agriculture in 1955 (Josling, Tangermann and Warley 1996). Other countries followed suit, most particularly the European Economic Community, with the implementation of the Common Agricultural Policy (CAP) in the 1960s.

The 1994 Agreement at Marrakesh took a comprehensive look at agricultural policies by dividing them into three groups. First, all border measures were converted to tariffs, and member states then agreed on a process for their gradual reduction. They also agreed on guaranteeing minimum access to markets. Second, the agreement provided for staged reductions in the volume and the value of export subsidies. Third, all other domestic support measures were assessed according to the degree to which they distorted trade. A common metric called the Aggregate Measure of Support (AMS) was devised for making these calculations, and member states agreed to reduce the value of support to producers delivered through trade distorting policies. As such, domestic agricultural policies, long protected from international oversight, have come under regular scrutiny by the WTO.

Second, the 1994 GATT agreement solidified international authority in the area of food standards. In 1962, the Food and Agriculture Organization and the World Health Organization jointly established the Codex Alimentarius Commission (CAC) to create, negotiate and agree upon international food-safety standards, and to promote fair practices in the world food trade. During

the past three decades, the CAC has developed a large array of international standards for a range of individual food commodities, food safety, pesticide residues, food contaminants and so on. The CAC gained additional authority in the 1994 agreement when it was included in the Agreement on the Application of Sanitary and Phytosanitary Measures. A memorandum of agreement now exists between the CAC and the WTO to use Codex standards where applicable. The SPS agreement thus represents a significant attempt to strengthen international discipline in the use of food standards as trade barriers, and to increase oversight of national regulations in the area of food safety.

Both of these sets of changes have increased the importance of technical knowledge in the agriculture field. The reform of traditional agricultural policies is anchored in the discipline of agricultural economics where several scholars pioneered a metric to measure the value of trade distortion in any support policy. Adopted by the OECD in the mid-1980s, this “producer subsidy equivalent” measure allowed for the first time a systematic cross-national comparison of the subsidies involved in domestic agricultural policies. It also provided the foundation for the AMS that was incorporated directly into the Agriculture Agreement of the GATT. With the agreement, member states now must submit on an annual basis an evaluation of their respective policies, calculating the cost of ‘distorting’ support. These steps have increased the importance of agricultural economics in the policy community. With agriculture now more fully integrated into the international trade regime, international trade law has also become a more important component of policy discourse.

The alliance between the CAC and the WTO adds to the importance of science for standards setting. According to the SPS agreement, an SPS measure must be “based on scientific principles” and cannot be “maintained without sufficient scientific evidence” (article 2.2, para 21, no. 3). The Agreement stipulates that all measures must be adopted on the basis of an assessment of the risks

to human health. In response, the CAC “agreed that science must be the basis for developing food standards, and in 1997 incorporated four guiding principles into its procedural manual” (FSIS 1999, p. 2). In accepting these priorities, the CAC then moved to strengthen the scientific basis for formulating standards, and incorporated harmonized risk assessment procedures into the standard-setting process (GNZ 1999; CAC 1999).

The international oversight of long-standing price and income support policies has not brought with it any significant increase in private authority. In contrast, the additional internationalization of food standards has brought further into the foreground private scientific experts and research. The CAC already had constituted independent expert advisory groups in its work on food additives and pesticide residues. Such advisory groups will increase in importance under the new regime. The recent disputes settlement panel of the WTO on the use of hormones in beef also highlights how independent scientific studies will come into greater play in policy-making. Important here is the shift in agricultural and food research from the state to the private sector (Busch 1994). Faced with domestic budget cutting and other pressures to reduce expenditures, most countries have sought to shift the burden for research from public organizations to private corporations. When issues of food safety emerge, governments direct the private firms to carry out the research and to demonstrate that their products are safe. These studies tend then to be evaluated by public authorities. Under the new SPS-CAC regime, this corporate research will become even more important in the establishment of standards.

The challenges to democracy brought on by these changes would appear to be less severe than in financial services. Admittedly the technical discourses associated with economics, international trade law, and science pose some problems for *transparency*, but the WTO has at least made many documents publicly available under the Trade Policy Review Mechanism and the

Disputes Settlement Procedure. As one NGO representative said, “The WTO has evolved from opaque to translucent” (Cited in Scholte, O’Brien and Williams 1999:217). *Participation* is formally broader in that the WTO has a more comprehensive global membership than the G10. It is also formally democratic in that each member has one vote, with no weighted voting (Qureshi 1996:6). With a separate Agriculture Committee now created at the WTO and the traditional linkages between the domestic ministries of agriculture represented on this committee and a wide range of farm and environmental interests, the prospect for broader, albeit indirect, involvement of citizens is more significant than in financial services.

Nevertheless, some accessibility issues remain. The technical discourses involved pose significant obstacles for many developing countries, even to the point of complying with the notification processes. In addition, third party representation in the trade policy review and disputes settlement processes is restricted to governments only, despite attempts by civil society actors for more access (Scholte et al. 1999: 119). Panels do meet behind closed doors where international trade lawyers tend to dominate. In his speech to the 50th Anniversary meeting of the GATT, US President Clinton called for more transparency and for access for non-governmental organizations at the WTO. The strength of farmers’ interest associations at the national level plus the heavy involvement of consumer and environmental organizations in food standards and safety issues has forced higher *quality of discourse* in policy discussions. The CAC has historically been very open to third parties and non-government organizations, and this tradition is bound to have an impact on the WTO.

Although every country has a right to *representation* on WTO committees, many find that they cannot participate effectively. The Committee on Agriculture lists 61 countries as represented in early 1999, including quite a few developing countries. Still, this number is less than half of the

128 members of the WTO. Obstacles created by the need for technical expertise and for adequate resources to participate well remain high for many developing countries, creating the possibility that WTO Committees will be dominated by OECD states in the immediate future (Bellmann and Gerster 1996:60). It is probably too early to judge the *effectiveness* of the new committee structures at the WTO, but some issues arise about the continuation of ‘consensus’ decision-making. With each WTO member having one vote, the possibility of stalemate arises in any large decision-making forum. This prospect has led to some discussions about moving toward an EU style ‘qualified majority’ system (Krueger 1998:405). Some indications of *procedural fairness* are available in that developing countries have made considerable use of the disputes settlement process at the WTO (Jackson 1998:165), something extremely rare under the old GATT. Whether the outcomes from this process are *substantively fair* remains an open question. Again this factor would appear to rest somewhat on the technical resources that developing countries can draw upon in participating in the disputes settlement process. Reinforcing this problem is the lack of staff resources and analytical capacity at the WTO itself (Vines 1998; Krueger 1998:404). Considerable discretion is left to member states in implementing dispute settlement requirements and the WTO has very little capacity to monitor or to discipline when implementation is less than adequate.

CONCLUSION

In looking at two rather different issue areas, we have shown that both of these exhibit the three challenges to democracy identified in the first section of the paper. We have also illustrated how the challenges differ in the two sets of institutions. The governance of finance is more technical, less open to a range of actors, less transparent, and less representative. Despite shortcomings, there are traditions of fairness in the trade regime, including deliberate and explicit construction of agreed rules

governing decision processes and principles of open participation, which now apply to agriculture but which are not present in the regime for prudential regulation. The presence of civil society organizations is weaker in finance than agriculture, despite Codex and the G-10 both having been formed in 1962. Codex has been involved with ministries of agriculture that have strong relations with civil society actors representing farmers and advocates of food safety. In contrast, central banks have focused on the safeguarding of monetary systems, while keeping their distance from civil society actors.

Accordingly, if more democracy is to come to policy-making in these two areas, the paths of reform will likely vary. The WTO, Codex and the international trade regime have a foundation in international and nascent global law. With some rule of law established and with the General Council of the WTO given the power to make arrangements for consultation and cooperation with non-state actors under Article v.2 of the trade agreement, those interested in reform have a focus for pushing change. They can work to democratize an already existing legal framework.

In contrast, the international finance regime is rooted in more informal norms and traditions transplanted from the domestic level, and further reinforced by a quarter century of international cooperation. What is more, domestic policy-making is less democratized in its own right. Accordingly, even after the severe financial crises of the 1990s, the solution devised--the Financial Stability Forum--strongly reflected these institutional constraints. It built incrementally on the developmental trajectory of the BIS-based committees, added enhanced management by the great powers in the form of G-7 dominance, but steered away from any effective, formal authority. Accordingly, more democracy at the global level will likely require changes in practices at the domestic level.

The two cases also demonstrate the inadequacy of proposals for universally applicable institutional arrangements. Held's seven sites of power do not correspond in any meaningful way with existing international institutions relevant to the governance of finance and agriculture. Considerations relevant to the body, welfare, civic associations, economy and legal and regulatory institutions are all present in agriculture, but not as an expression of a *regime for the body*, a *regime for welfare*, and so on--it is the *agricultural* regime tied to the WTO and Codex that includes the crucial institutions. Neither centralized cosmopolitan organizations nor *rights* as specified in the evolving body of cosmopolitan law surrounding the human rights regime are of much relevance when dealing with more specific questions, such as, who should evaluate risks in finance, or whether science is the appropriate arbiter in trade disputes surrounding agricultural biotechnology.

In both agriculture and financial services, then, decision-making has migrated sequentially from high degrees of national autonomy, to national autonomy plus episodic intergovernmental sovereignty pooling, to multilevel governance where decision-making takes place systematically at both levels. In a situation of multilevel governance, we need to think about not only the extent of democratic practice at each level, but also the democratic properties of the governance system as a whole. Reform at one level will have implications for other levels, and will be contingent on institutions at these other levels. The criteria we have suggested are just as relevant for assessing domestic as opposed to supranational policy-making. We offer them as a preliminary guide for assessing the extent of democracy in policy-making, and look forward to their being used as a basis for further discussion of democracy and global governance.

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Endnotes

1. When using the term supranational, we include both intergovernmental networks and institutions, and private or 'transnational' channels.
2. For work that has influenced or is relevant to our choice of criteria see Woods (1999: 46); Held (1995: 207); Ruggie (1992); Franck (1995).