
Non-Electoral Accountability in Global Politics: Strengthening Democratic Control within the Global Garment Industry

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Abstract

This article challenges the widespread view that democratic accountability is unattainable in global politics because of the impracticality of establishing global elections. Instead, it argues that global democratic accountability can potentially be achieved by instituting non-electoral mechanisms that perform equivalent accountability functions through more workable institutional means. This argument is defended at a theoretical level, and further illustrated by analysing an empirical case study of the institutions through which labour standards in the global garment industry are determined. The article first explains why electoral mechanisms are no longer a viable means for achieving democratic accountability in political contexts such as the global garment industry, that are characterized by the decentralized dispersion of public decision-making power among a range of organizationally disparate state and non-state actors. It then identifies the key democratic function of electoral accountability as that of ensuring a reasonable degree of public control over public decision-making, and argues that this normative function can, in principle, be legitimately performed through non-electoral as well as electoral mechanisms. Finally, it elaborates the key institutional features of a legitimate framework of non-electoral accountability – public transparency and public disempowerment – and illustrates how these functions could potentially be achieved in practice, with reference to the example of the global garment industry.

Introduction: The Challenge of Global Democratic Accountability

In recent years, the challenge of holding the exercise of power in global politics to democratic account has attracted much attention among scholars and practitioners

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concerned with the legitimacy of international law and ‘global governance’. Most commentators now concur that increasing the democratic accountability of those wielding power in the global domain is a desirable goal in principle, and agree with proponents of so-called ‘cosmopolitan’ 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’.¹ However, material progress towards the goal of strengthening democratic accountability in global politics has been stalled by the paucity of workable proposals for instituting democratic accountability within the empirical constraints of the existing global order.

Many of the proposals advanced by ‘cosmopolitan’ democrats involve replicating, at a global level, some version of the legal and electoral structures that are employed within states. ‘Cosmopolitan’ democrats have thus tended to accept the widespread assumption that elections must be central vehicles for accountability within any democratic global order, just as they are the established means of instituting accountability within democratic states.² Given the many pragmatic obstacles to replicating domestic electoral institutions on a global scale, however, such ‘cosmopolitan’ institutional blueprints remain in many respects remote from the contemporary realities of global politics, and accordingly bear little resemblance to any serious practical agendas for global institutional reform.³ In this context, several prominent liberal scholars, such as Robert Dahl and Robert Keohane, have voiced their scepticism about the feasibility of achieving democratic accountability beyond the boundaries of states, and have conceded to settle in practice for less demanding – albeit less legitimate – forms of accountability in global politics.⁴

In departure from such democratic scepticism, we argue in this article that there are in fact some firm grounds for optimism about the prospects for establishing effective democratic accountability in the global domain. Although there are undoubtedly formidable obstacles to the establishment of *electoral* forms of democratic accountability beyond state jurisdictions, we argue that it is possible instead to devise certain forms of *non-electoral* democratic accountability, capable of performing equivalent democratic functions through more workable institutional mechanisms.

¹ David Held is the most prominent such ‘cosmopolitan’ democrat. See D. Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (1995).

² See, e.g., *ibid.*; Falk and Strauss, ‘On the Creation of a Global People’s Assembly: Legitimacy and the Power of Popular Sovereignty’, 36 *Stanford J Int’l L* (2000) 191.

³ For concrete institutional proposals of ‘cosmopolitans’ see, e.g., Held, *supra* note 1; Falk and Strauss, *supra* note 2; Archibugi, ‘Principles of Cosmopolitan Democracy’, in D. Archibugi, D. Held, and M. Kohler (eds), *Re-imagining Political Community* (1998). We discuss in greater depth, in section one of this article, some important practical difficulties confronting attempts to replicate domestic-style electoral institutions in contemporary global politics.

⁴ 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). Keohane is somewhat ambiguous about the status of the legitimacy claims he seeks to make about the non-democratic forms of accountability he outlines for global politics, though Dahl is clear in conceding that democratic forms confer greater legitimacy than their alternatives.

The proposition that we could achieve legitimate democratic accountability through non-electoral mechanisms may strike many democrats, at first glance, as implausible. Since elections are so central to the institutions through which accountability is achieved in practice within contemporary democratic states, non-electoral alternatives may fall beyond the imaginative scope of many democratic minds. Rather than presenting the case for non-electoral accountability in purely abstract terms, we accordingly attempt to bridge this imaginative gulf by illustrating our arguments with reference to an empirical case study of the global institutions through which labour standards in the global garment industry are determined.⁵

The global economy is a helpful starting-point for examining the prospects for non-electoral democratic accountability in global politics, since it is the site of both some of the most striking and widely politicized accountability deficits, and some of the most creative institutional innovations focused on improving democratic accountability. One of the notable features of the economic 'globalization' of recent years has been the growing prominence of powerful corporations acting beyond the effective democratic control of those affected by their decisions. In turn, this democratic deficit has provided a focal-point for much social activism mobilized around democratic agendas of 'corporate accountability' and 'stakeholder empowerment'.

The garment industry provides an ideal case study for examining these political dynamics within the global economy, being extensively 'globalized' through supply chains that connect 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 disparity of power within the institutions that connect these groups generates vast accountability deficits, since these workers have few channels for exercising democratic control over the corporate actors who wield decision-making power over important dimensions of their lives. The resulting imperative to achieve democratic accountability within this industry has been strongly asserted in recent years by political coalitions of non-state actors, who have promoted an agenda of 'core labour standards' and made vocal demands for increased 'corporate accountability' as a means of imposing democratic restraints upon the exercise of corporate power. An important consequence of this politicization has been the instigation by

⁵ Our empirical analysis here draws primarily on interviews conducted in 2003–2004 with key stakeholders and decision-makers within garment supply chains reaching from factories in Nicaragua to both consumer markets in the US and locations of investors and civil society advocates spanning the US, Europe, and East Asia. The particular case of global supply chains based in Nicaraguan production sites is presented here for illustrative purposes only. While similar arguments could be made with respect to many other production sites in the global garment industry, Nicaragua makes a particularly interesting case study, being characterized by high levels of poverty, a strategically prioritized and rapidly growing garment industry, and relatively high levels of NGO and union activity at the local level connected with the transnational coalitions of actors making demands for corporate accountability. The Nicaragua-based garment supply chain is characterized by production structured within a 'maquila' assembly model with extremely limited backward linkages to the local economy, and 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, *Nicaragua: Situación Laboral de Zonas Francas* (2001).

such activists of much creative and experimental institutional innovation, which can help point democrats towards new institutional possibilities for holding powerful actors to democratic account in the contemporary political era of globalization.

Drawing on this case study throughout, we develop our argument in support of the prospect of non-electoral democratic accountability in global politics in four stages. In Section 1, we explain why electoral mechanisms are no longer a viable institutional option for achieving democratic accountability in political contexts such as the global garment industry, which are characterized by the decentralized dispersion of public decision-making power among a range of organizationally disparate actors including powerful non-state entities as well as states. In Section 2, we then defend the theoretical proposition that democratic accountability could instead be achieved, in such political contexts, through non-electoral mechanisms that perform equivalent normative functions. Here we identify the key democratic function of electoral accountability as that of ensuring a reasonable degree of *public control over public decision-making*, and we establish that this normative function can, in principle, be legitimately performed through non-electoral as well as electoral mechanisms. In Sections 3 and 4 we elaborate the key institutional features of a legitimate framework of non-electoral accountability – *public transparency* and *public disempowerment* – by abstracting the key functional elements of a system of democratic accountability from the electoral institutions that perform these functions in democratic states. We further illustrate how these functions could potentially be achieved in practice, by highlighting both some existing embryonic accountability practices within the global garment industry, and some feasible reforms that could prospectively be instituted to enhance democratic accountability in this domain.

1 The Limitations of Electoral Accountability in Global Politics

The extensive operation of powerful economic decision-makers beyond the control of democratic states has been widely analysed in recent years, such that few commentators would now deny the proposition that there are significant democratic deficits in the regulation of the global economy.⁶ There is less consensus, however, on the question of what democrats should do to redress these deficits and restore greater democratic accountability to the decision-making processes. Despite growing social activism in support of non-electoral forms of democratic accountability, many more traditionally-minded democrats remain bound to the notion that elections are the only legitimate means of achieving accountability. As such, these democrats may imagine that the accountability deficits in the globalizing world economy could only be redressed through building some kind of new electoral processes in the global domain. Before we outline and illustrate our framework of non-electoral accountability,

⁶ See, e.g., Held and Koenig-Archibugi (eds), 'Special Issue on Global Governance and Public Accountability', 39 *Government and Opposition* (2004) 2.

it is consequently helpful for us to begin here by challenging the notion that familiar electoral institutions remain a viable option for democratic control within the contemporary global economy.

The central difficulty confronting electoral accountability in this domain derives from certain fundamental changes that have been taking place in the structure of what can be called 'public power' in global politics. 'Public power' is a term that we employ to characterize those forms of power that are subject to legitimate democratic control by some affected democratic 'public' or 'people'. As such, actors wielding public power are the legitimate *agents* in democratic accountability relationships, while democratic publics, or peoples, are the legitimate *principals* in these accountability relationships.⁷

Traditionally, the concept of public power has been linked by democrats to the various political agencies of the state, while the concept of democratic peoples has been linked to the territorial (and often national) populations subject to the power of these state agencies. This conceptual association is understandable given the dominance of the global political landscape by state agencies and jurisdictions in the recent historical era, and the continued importance of states in the contemporary world. However, the designation of states and their subjected populations as the agents and principals within democratic accountability relationships must be recognized as a product of historical contingency.

More broadly, democratic principles create an imperative for instituting democratic control of *any* agents of power (state or non-state) that affect a population of individuals to a degree that potentially jeopardizes their democratic entitlements; this is so since the *scope* of democratic institutions must be delineated in a way that facilitates their normative *purpose and function*. At a general level, we can characterize the purpose and function of democratic institutions in terms of the dual values of autonomy and equality: specifically, their purpose is to provide individuals with equal protections against oppressive (autonomy-limiting) forms of power. To these values we must further add some more general normative account of political responsibility, in order to specify which political agents must be institutionally required to uphold the autonomy and equality of which populations.⁸

Accordingly, to delineate public power in global politics we can ask: What forms of *political impact* – by some responsible power-wielder upon some population – implicate

⁷ It is the distinctive identities of the principals and agents that distinguish democratic from non-democratic accountability relationships; it is possible for 'accountability' relationships to be established between a wide range of actors in global politics, but only those accountability relationships that are between agents of 'public power' and their relevant 'publics' can be considered *democratic* in character.

⁸ Like all 'foundational' or 'constitutive' values, detailed specification of the normative content of these democratic purposes must be determined ultimately through political contestation, resulting in some form of political consensus within each context in which democratic institutions are to serve as frameworks for political legitimacy. Democratic theorists widely agree that the legitimacy of a democratic system must be grounded in some such political consensus on these foundational values (although exactly what form of consensus is a highly contested issue within democratic theory). See J. Rawls, *Political Liberalism* (1996), M. Walzer, *Spheres of Justice* (1983), and M. Walzer, *Interpretation and Social Criticism* (1987), for prominent accounts of the forms of consensus on foundational democratic values that are necessary to confer legitimacy upon democratic institutions.

the autonomy and equality of affected individuals in such a way that they require regulation by democratic institutions? Any responsible agents wielding power with such impacts should then be designated as the appropriate agents within democratic accountability relationships. Correspondingly, to delineate the democratic ‘public’, we can ask: Which populations are *affected*, in ways that implicate their democratic entitlements to autonomy and equality, by some responsible power-wielding agent? We can thus conceptualize the principals in democratic accountability relationships as ‘*stakeholder*’ communities, whereby democratic ‘stakeholders’ are defined as those individuals affected (in ways that implicate democratic values of autonomy and equality) by the responsible exercise of political power.⁹

With this conceptual understanding of ‘public power’ and democratic ‘publics’ in mind, we can consider the empirical question of who are in fact the agents that wield public power in the contemporary global domain, and who are the affected principals – the democratic ‘stakeholders’ – that are entitled to hold these agents to democratic account. Whereas democrats have traditionally assumed that public power is concentrated in states, thus making states the primary targets for democratization, it is now widely recognized that processes of ‘globalization’ have helped shift many important forms of decision-making power away from states towards non-state actors of various kinds.¹⁰ Non-state actors such as multinational corporations (MNCs) and non-governmental organizations (NGOs) now engage, alongside states, in some important forms of public decision-making that impact upon populations in ways that implicate the protection of individuals’ democratic entitlements to autonomy and equality.

A clear illustration of how some forms of public power have shifted to non-state actors in this way can be seen in the case of the global garment industry. 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 brands and retailers who control marketing and design activities.¹¹ Extensive public power is accordingly exercised by these northern corporate entities over poor and relatively powerless workers in the global south, since the impacts of corporate decisions often have significant implications for the living conditions and range of life choices available to the affected workers. Corporate decision-makers can thus be identified as key 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.

⁹ This account of public power and democratic publics is developed in greater depth in T. Macdonald, *We the Peoples: NGOs and Democratic Representation in Global Politics* (D.Phil. thesis, Oxford, 2005).

¹⁰ See, e.g., Strange, ‘The Declining Authority of States’, in D. Held and A.G. McGrew (eds), *The Global Transformations Reader: An Introduction to the Globalization Debate* (2000); Held, *supra* note 1.

¹¹ G. Gereffi, *A Commodity Chains Framework for Analysing Global Industries*, available at <http://www.ids.ac.uk/ids/global/valchn.html>; G. Gereffi and M. Korzeniewicz, *Commodity Chains and Global Capitalism* (1994).

Our identification in this way of democratic principals and agents, of course, requires us to invoke substantive (and potentially contested) criteria of autonomy-limiting 'affectedness'. Since these are the 'foundational' or 'constitutive' values underpinning the legitimacy of democratic institutions themselves, they must be defined in accordance with some thin consensus on their substance among the participants in the relevant political relationships.¹² Accordingly, the substantive criteria that we draw upon here in identifying democratic agents and principals within the global garment industry are drawn from our reading of the shared values articulated and mutually recognized by participants within the political relationships that arise within this industry.

The democratic values drawn on most frequently and vocally by activists in the global garment industry have been core values of autonomy and equality, articulated through the language of 'economic rights' and 'human rights'. Violation of these shared values has been claimed to result from unconstrained corporate practices that produce repressive, autonomy-limiting conditions within 'sweatshops', combined with severe economic deprivation resulting from inadequate wages. The worst cases of such corporate practices have been documented and communicated to broad audiences via dramatic images designed to explicitly invoke such shared norms, such as accounts of underage workers being forced to work long hours under dangerous conditions, for salaries insufficient to adequately feed their families.¹³ The widespread dissemination of such images has led to the emergence of a broad (albeit 'thin') normative consensus in condemnation of such practices on the grounds that they violate these shared norms of core economic and human rights.¹⁴ Within the global garment industry, then, the actors widely recognized as agents of 'public power' and relevant 'stakeholders' on the basis of these core shared norms, have been clearly identified as large northern brands and retailers exerting power via their control of 'buyer-driven' global supply chains in ways that constrain the autonomy of relatively powerless workers in the global south.

Workers employed directly within garment production facilities are, of course, not the only stakeholders affected by the exercise of corporate power. If we adopted a more comprehensive definition of 'affectedness', we would need to include in our definition of affected groups actors such as consumers, investors (in both production facilities and brands and retailers) and *potential* workers (both those employed in other low-skill sectors and those currently unemployed).¹⁵ Taking into account all

¹² See *supra* note 8.

¹³ Such images have been used repeatedly in high-profile cases such as the 'exposé' of conditions in factories producing for Kathy Lee Gifford's clothing line, as well as in the *Hard Copy* television reports discussed in later sections of this article.

¹⁴ This notion was invoked, for instance, by President Clinton during his launch of multi-stakeholder discussions attempting to tackle sweatshops, when he declared that '[n]o-one should have to put their lives or health in jeopardy to put food on the table for their families': States News Service, 2 Aug. 1996, 'Rep George Miller Joins President in Effort to Stop Child Labor'.

¹⁵ Such unemployed are likely to be located both in current producing countries and in countries such as the US which are losing jobs as a direct result of corporate sourcing decisions.

these possible channels of affectedness, hundreds of millions of people across the globe may be affected to varying degrees. For these purposes, however, we adopt the minimalist position of arguing simply that at this point in time, workers constitute the only category of stakeholder whose core economic and human rights are constrained by the exercise of corporate power to such an extent that we can legitimately label such power as ‘public’ power requiring democratic accountability.¹⁶ This claim is, however, premised solely on our reading of the current features of global normative consensus, according to which we would argue that the scope of equality and autonomy that most global citizens would consider themselves obligated to uphold with respect to each other member of humanity, regardless of national citizenship, does not currently extend beyond the protection of basic human and economic rights. To the extent that such consensus is extended over time to encompass more expansive norms of mutual obligation and entitlement, the definition of stakeholder groups to which corporate actors owe democratic forms of accountability will need to be widened accordingly.¹⁷

From this analysis, it is clearly evident that structures of public power (and corresponding stakeholder publics) within the contemporary global garment industry differ in several ways from those within states. In the first instance, the dispersion of public political agency within this global domain among myriad state and non-state actors generates a much more *organizationally complex* network of public political agencies than that embodied in the ‘separation of powers’ within a state. Moreover, these multiple state and non-state actors are *radically decentralized* – in the sense that they are not organizationally connected within any overarching constitutional structure allocating complementary roles and responsibilities towards a shared democratic public, as are the multiple public agencies within the state. Relatedly, these multiple state and non-state actors are differentiated not only functionally (as are the various public agencies within the state); they are also *differentiated jurisdictionally*. By this, we mean that each public political agent can impact upon distinct (though often overlapping) public stakeholder constituencies, rather than impacting more or less evenly upon a unified democratic ‘public’ of the kind constituted through the centralized institutions of a state. For example, the public stakeholder jurisdiction of a corporation (which must be accountable primarily to affected workers within its production chains) can be quite different from the public jurisdiction of a government (which must be accountable primarily to the residents subject to its laws).¹⁸

¹⁶ This is not to deny the fact that other stakeholder groups will frequently have legitimate claims to other (non-democratic) forms of accountability, many of which are in fact already institutionalized via conventional structures of corporate governance, and underlying structures of corporate law.

¹⁷ Such an expansion of democratic stakeholder constituencies would not alter substantively the argument we present in this article. The one significant change would be in relation to appropriate institutional mechanisms via which we could facilitate public choice (reaching a unified ‘stakeholder’ preference to communicate to power-wielders). We discuss this point further below.

¹⁸ A plausible case could be made for identifying a wider community of stakeholders for state governments than the territorial population subject directly to its laws, but it is beyond the scope of the present discussion to defend any specified account of the legitimate democratic stakeholders of states.

Once we recognize these differences between the political structures of states and those prevalent in the contemporary global domain (as reflected in the global garment industry), we can begin to consider their implications for the viability of electoral mechanisms as a means for instituting democratic accountability within these very different political contexts. Elections are generally found to be an effective means of instituting democratic accountability within states, because the centralized structure of a state's public power, and the correspondingly unified nature of its democratic 'public', enables an integrated set of electoral processes to hold all public power exercised within the state's boundaries to legitimate democratic account.¹⁹ This does not generally mean that the public power within a democratic state is centralized within a *single* decision-making agency – such as a paradigmatic 'sovereign' with absolute control; accordingly, it does not mean that accountability is generally achieved through a single direct election of all public officials. Rather, public power is generally distributed, through some (formally or informally) constitutionalized 'separation of powers', among various agencies with complementary public roles and responsibilities; practicality thus requires that the democratic accountability of certain public political agents is sometimes indirect rather than direct.

Most commonly, we see some relatively formalized separation of powers among 'legislative', 'executive' and 'judicial' agencies, as well as a (sometimes less formally separated) domain of 'bureaucratic' or 'administrative' power.²⁰ In some democratic systems, there are separate elections for some of these separate public political agents; it is quite common to see separate electoral processes for legislative and executive agencies, and more occasionally also for judicial appointments. In other systems, however – such as Westminster parliamentary systems – only legislatures are elected, and executives appointed by these elected parliamentarians; judiciaries, in turn, are commonly appointed by either legislative or executive political agencies through some constitutionally determined procedure. 'Bureaucratic' or 'administrative' forms of power, too, are generally not directly elected, but rather appointed – by executives or legislatures, in accordance with some constitutionally determined process.

Although democratic systems thus vary in the precise nature of the relationship between each public political agency and the electoral process of public accountability, the fact that all are connected within the overarching organizational structure of the state means that even those not directly elected can still be held to democratic account *indirectly*. Since the separation of public powers within states is generally functional rather than jurisdictional, each of the various public agencies wields public power over the same population – the entire citizenry of the state. Accordingly, delegation of public power from one of these agencies (such as the legislature or executive)

¹⁹ For explanatory purposes, we are referring here to the structures of a 'state' in its simplest form. Federal structures and other overlapping jurisdictions within states of course complicate the picture, but generally such added layers of jurisdictional complexity are minimal compared with the level of jurisdictional complexity arising in the stateless domain of contemporary global politics that we are concerned with here.

²⁰ It is, of course, this latter form of public power that is the subject of 'administrative law', as a distinct area of public law.

to others (such as to administrative agents) does not break or distort the chain of democratic accountability from the public principals to their public political agents, and democratic accountability can thus be achieved without the need for direct election of each individual public official. Moreover, in states where the procedures governing such delegations are generally entrenched within constitutions that are themselves subject to direct electoral control by the public within the state, the democratic accountability of those agents that are not directly elected is even more firmly entrenched.

The prospects for electoral accountability within the organizationally decentralized domain of the contemporary global economy (and the garment industry more specifically), however, are very different from those within democratic states, as a result of the differences in the structure of public power in this global domain that we outlined above. A central consequence of the distinct organizational characteristics of the global public political apparatus is that they significantly erode the viability of achieving democratic accountability *indirectly*, through delegation of public power from certain directly elected agents to certain others (such as administrative agents) that have not been elected. As we have said, such indirect democratic accountability is only viable within states because the constitutionalized allocation and coordination of public roles and responsibilities, and the unified 'public' constituency of the various public agencies of the state, are able to maintain some effective chain of accountability from the affected publics to the relevant decision-makers. In the absence of such organizational centralization, indirect democratic accountability cannot, however, be achieved, since public power can only legitimately be delegated from one (elected) agent to another (non-elected) agent if both *share the same public constituency*. Since the various (state and non-state) public political actors operating in the global economic domain can have quite different constituencies, with quite different groups of individual stakeholders affected in autonomy-limiting ways by their actions, each of these agents could only be held to legitimate democratic account by its *own* stakeholder community, through some *direct* accountability procedure.

This does not necessarily rule out in principle the possibility of employing electoral mechanisms to meet these multiple overlapping demands for democratic accountability, which arise between multiple public political agents and multiple overlapping stakeholder constituencies.²¹ However, the complexity of the electoral framework that would be required to meet these demands does appear to create serious impediments at a practical level. Since power within the global garment industry is wielded by a vast range of organizationally disconnected actors, including many non-state as well as state actors, an enormously complex, costly and confusing network of electoral processes would be required to establish separate electoral processes for each of

²¹ Elsewhere, however, we present additional normative reasons for viewing elections as an inappropriate decision-making tool in certain political contexts such as these, since the aggregative social choice mechanism embodied in elections is unable to take fair democratic account of the sometimes widely varied *intensities* of impact and interest at stake in the decisions of certain agents of public power within a radically decentralized framework of public power. See T. Macdonald, *supra* note 9.

these organizationally disparate public political agents, and this could impose an untenable burden on all participants in such accountability processes. Moreover, many of the elaborate logistical demands of free and fair elections (such as protections against electoral fraud) would be impracticable to establish within the territorially and socially dispersed constituencies that arise in relation to many of these organizationally decentralized non-state actors.

This recognition has a number of very significant implications, some of which reach beyond the scope of our present discussion. Of particular relevance to the project of theorizing Global Administrative Law, this recognition raises difficult questions about the value of retaining the analytic distinction between ‘administrative’ and other forms of ‘public’ law at the global level, despite the utility of the distinction within state jurisdictions. It would seem that much of the utility of the concept of ‘administrative law’ (as distinct from ‘public’ law more broadly) is dependent upon the notion that different forms of public regulation – in particular, different forms of public accountability – are appropriate for ‘administrative’ power than are appropriate for other forms of public power. This notion may well have some basis within a state in which public roles and patterns of accountability are structured in a centralized and coordinated manner such that ‘administrative’ power can be effectively held to public account without direct electoral accountability. However, our analysis here suggests that this notion may have little basis in certain global contexts such as the global garment industry, where public power is decentralized and fragmented, such that *all* agencies of public power must accordingly be held *directly* to account by their distinct stakeholder constituencies. As we discuss further below, because much public power is also exercised via the decentralized ‘transactional’ institutional structures in reference to which *private law* has evolved, there are many contexts in which it is more productive to borrow our institutional analogies from traditions of *private law* than from *administrative law*, as we search for institutional models through which the decentralized exercise of corporate power within the global economy can be held to democratic account.

For our present purposes, however, the key conclusion to draw from our analysis in this section is more limited: it is the recognition that electoral mechanisms do not provide a promising path to achieving democratic accountability in global political spheres such as that of the garment industry, in which the structure of public power and corresponding stakeholder communities is so fragmented and decentralised. If we are to find means of holding the multiple agents of public power in global politics to democratic account, we must therefore look beyond the electoral processes with which democrats are so comfortably familiar, and seek instead to devise non-electoral alternatives that may have more viability given the distinctive institutional character of contemporary global politics.

2 The Prospect of Non-Electoral Accountability in Global Politics

Is it possible, then, to achieve democratic accountability without elections? In recent years, the idea that this may be so has gained some widespread political currency in

the context of sustained activist campaigns designed to promote ‘corporate accountability’. In response to activist campaigns directed against the perceived democratic unaccountability of poorly constrained corporate power, decision-making institutions in the global garment industry have undergone a number of significant changes over the past decade. 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’, which have emerged largely in response to the persistence of such campaigns. These various initiatives have employed non-electoral institutional means for constructing stronger mechanisms of ‘corporate accountability’ within this industry, through which stakeholders can exert new forms of control over public corporate decision-makers. Moreover, although these initiatives have not generally been accompanied by any rigorous theoretical elaboration or defence, they have commonly been framed in democratic language, and are clearly devised to advance democratic values in these new political domains.²²

For some democrats, however, the prospect that such practical experiments in democratic reform could point to a potential new direction for democratic reform and institution-building in the global domain would appear to fall at the first theoretical hurdle. This is because so many democrats are in the habit of talking about elections as though they have *intrinsic* democratic value – or even as though they are in some way *definitive* of representative democratic legitimacy. In keeping with this dominant electoral doctrine, regular elections are included by Robert Dahl in his influential account of the several defining features of a liberal democratic system.²³ Before we turn our attention to the many practical challenges that would confront the development of non-electoral accountability mechanisms, we must accordingly begin our defence of its viability with a theoretical argument that directly confronts this doctrine of electoralism in democratic thinking.

A The Theoretical Prospect of Non-Electoral Accountability: Elections as a Functional Means of Stakeholder Control

The central theoretical idea guiding our argument here is the proposition that the legitimacy conferred by democratic institutions is derived from their capacity to achieve democratic purposes and perform democratic *functions*, rather than from any intrinsic value embodied in particular institutional mechanisms themselves. Legitimate democratic institutions can thus take widely variable forms, depending on the social context in which they must operate in practice.

Accordingly, a legitimate democratic framework for global politics need not involve replication, on a global scale, of the same kind of centralized electoral institutions that typically enact democratic principles within territorial state polities. Rather, it should

²² For an example of the way democratic values are invoked in the defence of non-electoral mechanisms of corporate accountability see http://reclaimdemocracy.org/corporate_accountability/.

²³ Dahl develops his account of a liberal democratic system in R. Dahl, *On Democracy* (1998), and R. Dahl, *Modern Political Analysis* (1991).

involve a new and innovative range of institutional forms – often decentralized and non-electoral – that are better designed to achieve democratic purposes within the very different social and political environment of contemporary global politics.

In order to make this case, we must begin by clarifying what the central normative function of electoral accountability in fact is, so that we can identify the functions which non-electoral accountability mechanisms must perform to satisfy democratic standards of legitimacy. The current pre-eminent status of elections within democratic theory and practice is not due to their being the only institutional option on the table; other proposed mechanisms for democratically selecting representative agents have been advocated since the birth of representative democracy. Of these, three are especially notable. First, an idea that has received much attention among democratic theorists is that representatives should be selected to ‘mirror’ the characteristics of those being represented – in terms of gender, ethnicity, and other such characteristics judged to be politically relevant.²⁴ Another, potentially related, suggestion is that representatives should be chosen at random from the general population – that is, selected ‘by lot’.²⁵ Finally, it has been suggested by some democratic writers that representatives should be selected (at least in part) on the basis of some special expertise, competence, or character, which would equip them to identify accurately, and to pursue reliably, the interests of their constituents.²⁶

Given that there are such institutional alternatives to elections as mechanisms for establishing representative agency, what *reasons* do we have, as democrats, for viewing elections as normatively superior? Of course there is no single over-arching reason for preferring elections; as with all political decisions, a range of considerations come into play – pragmatic as well as principled. Nonetheless, we suggest that there is one reason that is especially central and forceful in convincing us to prefer elections rather than alternatives (of the kind discussed above) as a means of establishing legitimate representative agency.

Elections are widely endorsed as a mechanism for delivering legitimate representative agency because of their capacity to give democratic ‘publics’ a certain degree of *political control* over the actions of representatives who are invested with powers over their public decision-making. This rationale for elections depends neither upon a

²⁴ For discussions of such ‘mirror’ representation see H. Pitkin, *The Concept of Representation* (1967), ch. 7; A. Phillips, *The Politics of Presence* (1995), I. Young, *Justice and the Politics of Difference* (1990), and I. Young, *Inclusion and Democracy* (2000).

²⁵ This method of selecting representatives was employed to some degree in ancient Greek and Roman systems, and in early Renaissance Florence. It has also been advocated by more contemporary, theorists— notably John Burnheim, who has proposed a revised model of representation by lot. For an elaboration of these proposals see J. Burnheim, *Is Democracy Possible?* (1989).

²⁶ John Stuart Mill and James Madison—although both also advocates of certain electoral systems—each displayed some degree of sympathy for this elitist method of selecting representatives. For elaborations of their positions on this issue see J.S. Mill, *Considerations on Representative Government* (1865) and J. Madison *et al.*, *The Federalist Papers* (ed. I. Krammick, 1987). These elitist views of representation are echoed in more contemporary debates in global politics by those who endorse the representative legitimacy of certain ‘experts’ or ‘technocrats’ on the ground that they are more competent than the uneducated global majority to identify and advance the interests of global stakeholders.

claim that elected representatives are more competent or trustworthy individuals than others with respect to their capacity to advance public interests, nor upon a claim that elected representatives' personal interests will better reflect the interests of particular demographic groupings or a random sample of the population at large. Rather, the rationale is based upon the value of giving members of the public some *active political role* in defining their own interests, in evaluating how successfully power-wielders are advancing their interests, and in dictating by whom and within what constraints public decisions affecting these interests may be made.

If representatives were to be selected to reflect certain demographic groupings, or selected randomly, or on the basis of their special expertise or character, then those members of the public *not* selected for office would have no opportunity to voice their concerns or have any input into the public decision-making process. Further, those selected for office would be free to act without the constraints imposed by specific electoral mandates, and those who judged their decisions as unsatisfactory would have no institutional means of forcing changes or removing them from office. Elections, in contrast, empower 'publics' both to specify policies that they want their representatives to pursue, and to challenge or remove representatives who fail to perform to their satisfaction.²⁷

So far we have illustrated that elections can provide publics with a degree of political control over their political representatives, and that consequently they are quite properly accorded normative value by liberal democrats. It is crucial to recognize, however, that this does not logically imply that elections are the *only* effective mechanism for delivering such political control to stakeholders; nothing in our analysis so far suggests that there could not be *alternative* mechanisms for providing such public control. So far, then, we have not defended elections *per se*, but rather described the valuable *normative function* of elections.

In order to provide theoretical foundations for a non-electoral democratic framework with equivalent normative function, it is helpful first to characterize this normative function in more general theoretical terms. Most straightforwardly, the mechanisms through which elections deliver political control to stakeholders can be characterized as mechanisms of democratic *accountability*. Democratic accountability is a particular institutional means of regulating the *power relationships* between rulers and ruled. More specifically, it comprises an institutional process for distributing power between 'publics' and those who wield 'public power' over them, in such a way as to ensure that the power exercised by public political agents remains *subordinate, in some significant respects*, to the power wielded collectively by the 'publics'. It is worth

²⁷ The value conferred upon a system of democratic representation by this kind of public control over representatives' actions is derived in part from the straightforward pragmatic need to restrain potential self-interested behaviour of representatives, and in part from the epistemological imperative to ensure that representatives properly understand what the public interest *is*. These are central *liberal* values, and as such our democratic framework here must be understood as strongly liberal in character (as distinct from 'republican' values, preoccupied more strongly with participation, deliberation, and public consensus). We adopt a liberal rather than a 'republican' approach here, since we take liberal democratic values to be more appropriate than 'republican' values for the large-scale, complex, and pluralistic sphere of global politics.

noting that some functional analyses of democratic representation distinguish ‘accountability’ mechanisms from ‘authorization’ mechanisms, whereby the former involve forms of public control exercised *prior* to the execution of a political decision, and the latter involve forms of public control exercised *subsequent* to the decision.²⁸ If we conceptualize the exercise of public decision-making power in terms of discrete decisions taken at specified points in time, this distinction is a helpful one, and it is one we make use of elsewhere.²⁹ Here, though, we conceptualize the exercise of public decision-making power, and the process of democratic public control of this power as a dynamic ongoing process, so the distinction between prospective and retrospective forms of control is unnecessary. In the present analysis, we thus use the term ‘accountability’ in a general sense – to characterize a *process* of public control, rather than in the more specific sense that refers only to retrospective forms of public control.

It is easy to recognize how democratic accountability mechanisms function as the key institutional elements of electoral systems. An ongoing process in which publics are granted opportunities to vote for a particular candidate, and subsequent opportunities to vote these agents out of office if their performance is unsatisfactory, ensures that these agents are held ‘*accountable*’ for their public political actions. The mechanisms through which elections deliver political control to stakeholders can thus be characterized as mechanisms of democratic ‘accountability’. It follows that it is these general mechanisms, rather than elections per se, that we should see as central to legitimate representative agency. Elections are just one institutional instance of these more general mechanisms of democratic accountability, and it is as such that they are able to deliver publics the control over representatives’ actions that is so highly valued by democrats.

B The Institutional Prospects of Non-Electoral Accountability: Devising Democratic Institutions for Contemporary Global Politics

With these democratic purposes in mind, we can turn next to the question of which institutional mechanisms may be most suitable for achieving these democratic purposes in the particular political circumstances of contemporary global politics. In contexts where democratic accountability cannot effectively be established through election mechanisms in global politics, for the kinds of reasons outlined in Section 1 of this article, we must instead identify suitable *non-electoral* mechanisms of democratic accountability, capable of entrenching public control of public decision-making through more appropriate alternative mechanisms.

In order to devise non-electoral mechanisms of democratic accountability, it is helpful to examine the functional elements of processes of democratic accountability in greater detail, so that suitable alternatives to electoral processes can be

²⁸ Most notably, Hanna Pitkin makes this distinction in her important discussion of political representation. See Pitkin, *supra* note 24, chs 2 and 3.

²⁹ This distinction is made in the more detailed analysis of global representation in T. Macdonald, *supra* note 9.

found to fulfil each of these constituent functions. At an abstract level, we can identify these constituent elements in generalized functional terms by abstracting from the functions performed by specifically *electoral* mechanisms of democratic accountability. When we abstract from the functions of electoral accountability in this way, we can recognize that democratic accountability is constituted by two distinct functional elements. First, democratic accountability involves mechanisms of public *transparency* – that is, mechanisms that enable publics to identify what their representatives are doing, and have previously done, with their public power. The second central functional element of democratic accountability is that of public *disempowerment* – that is, mechanisms for disabling public political agents, through an effective sanction imposed upon them by publics when they consider it appropriate, to minimize the agent's capacity to continue exercising public power.

The task of elaborating these functional components of democratic accountability, and translating them from generalized abstractions into operable institutional proposals, is assisted by examining the concrete institutional form they could take in relation to a real instance of public power in global politics. Accordingly, we develop our analysis of the institutional prospects for non-electoral accountability in global politics through an examination of the embryonic mechanisms of public transparency and public disempowerment that together help connect powerful corporate actors with their 'stakeholder' publics within the global garment industry. In the remaining two sections of this article we draw upon evidence from Nicaragua in order to illustrate the ways in which emerging institutional mechanisms of public transparency and public disempowerment, prompted by the activities of anti-sweatshop activists, have increased the democratic accountability of decision-making within the supply chains of this global industry.

It is important to emphasize that we do not attempt to argue here that non-electoral forms of accountability in global politics currently *satisfy* democratic standards equivalent to those satisfied by electoral accountability within democratic states. Instead, we draw on analysis of current non-electoral mechanisms of public transparency and public disempowerment within the global garment industry as a means to the less ambitious task of identifying *new approaches to global institutional reform* which could, if implemented, strengthen democratic accountability within the practical constraints of the contemporary global order. Our analysis highlights many serious democratic weaknesses in existing accountability mechanisms within this industry, thus providing a more rigorous form of support for longstanding activist claims regarding the democratic deficits arising from the unaccountable exercise of corporate power. However, we further argue that these embryonic accountability practices nonetheless possess some limited democratic credentials, and some significant democratic potentials. Moreover, we point to a range of feasible reforms to these existing accountability mechanisms which could significantly strengthen their democratic functions, thereby illustrating very concrete ways in which these democratic deficits could be feasibly tackled via non-electoral mechanisms of democratic accountability.

3 Instituting Public Transparency in the Global Garment Industry

The central purpose of transparency mechanisms – the first functional component of democratic accountability – is to facilitate rigorous public evaluation of the performance of those wielding public decision-making power. Within domestic democratic systems, transparency is ensured through a range of mechanisms surrounding the electoral process. These include: a legal framework that clearly delineates the responsibilities of public decision-makers ('governments' and 'oppositions') which are to be evaluated through the electoral process; legal provisions that ensure governments and oppositions make relevant information (about policies, financing, and so on) publicly available; and a range of free media organizations, 'civil society' groups, and political parties which can access, analyse, and publicize information that has significant political implications for the public. When we abstract from these mechanisms of transparency surrounding electoral processes, in order to characterize them in generalized functional terms, we can break their functions down into a number of further elements.

A *Transparent Public Role Delineation*

The first institutional characteristic that is necessary for democratic transparency is *transparent public role delineation* – that is, clear allocation of public political power to specified agents. It is necessary for publics to have some knowledge of what powers are wielded, by which agents, and what each actor's role is within an overall public political decision-making process; this ensures that these publics have some basis on which to allocate *responsibility* for those decisions. Responsibility must be clearly allocated here so that stakeholders can hold the appropriate agents accountable for particular decisions. As Peter Raynard argues, '[a]ccountability can fall at the first hurdle if there is a lack of clarity in roles and responsibilities, or the attribution of them'.³⁰

In order to explore some potential ways this function of transparent public role delineation could be instituted non-electorally in contemporary global politics, it is helpful to examine some recent initiatives developed within the global garment industry. One of the most important democratic achievements of the institutional mechanisms that have emerged in the garment industry has been their identification of major retailers and brands in consuming countries as actors wielding direct power over workers in developing countries, and their communication of this understanding of the powerful role of these retailers and brands to a broad public audience. 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 limited, and demands by activists that such companies accept responsibility for conditions in contracted factories were in most cases strongly rejected.³¹ The central

³⁰ P. Raynard, *Mapping Accountability in Humanitarian Assistance* (2000), available at <http://www.alnap.org/pubs/html/mappingacc.html#b19>.

³¹ D. Spar and J. Burns, *Hitting the Wall: Nike and International Labor Practices* (2000).

claim that unaccountable corporate power was leading directly to violations of shared norms was expressed explicitly by activists, who relentlessly 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’.³²

As companies initially resisted this characterization of their role – seeking instead to characterize 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 to lay bare explicitly and publicly 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.³³ By means of campaigns that were promoted at times via high-profile media attention, and at other times by the direct actions of widespread grassroots networks targeting retail outlets of familiar brands – strategies commonly referred to as ‘naming and shaming’ – activists significantly increased public awareness of the direct power of such companies over the lives of workers in far away countries. In Nicaragua, the National Labour Committee (NLC) in late 1997 launched a consumer campaign directed against Walmart, K-Mart and JC Penny, via an ‘exposé’ of conditions within Nicaraguan factories that was screened on the US *Hard Copy* television programme.³⁴ 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.³⁵ Having assembled this evidence, it was then dramatically 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. In the first of the three programmes, segments filmed outside the corporate headquarters of these companies were contrasted with images from poor neighbourhoods in Nicaragua, and these images were juxtaposed with figures showing that the three targeted companies’ annual budgets were many times the annual budget of Nicaragua’s government. As described by a reviewer of the *Hard Copy* reports:³⁶

Workers making these garments are paid a base wage of 15 cents per hour ... Many of the workers are underage; workers allege being physically and sexually abused; they are exposed to dangerous chemicals from solvents ... One worker, Jolena Rodriguez, states: ‘They hit you ...

³² 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*, available at www.abolish-sweatshops.org

³³ Such control of garment supply chains by large northern buyers is widely documented elsewhere. See for instance, K. Macdonald, *Emerging Institutions of Non-state Governance within Transnational Supply Chains: A Global Agenda for Empowering Southern Workers?* (2004), paper presented to the American Political Science Association, Chicago, 2–5 Sept.

³⁴ See www.sweatshopwatch.org/swatch/headlines/1997/nica_dec97.html.

³⁵ Spar and Burns, *supra* note 31; Rosen, ‘Neediest, Greediest Sweatshop Companies Listed by National Labor Committee’, available at www.houstonprogressive.org/hpn/nlc-swsh.html.

³⁶ T. Ricker, *Network Mobilisation*, unpublished manuscript.

they hit you in the head ... to make you work faster' ... The investigation also shows the housing conditions in which the workers live. The huts have tin and thatch roofs, fabric doors, dirt floors and cardboard walls.³⁷

The communication of such images was thus designed to explicitly demonstrate the direct responsibility of these northern corporate actors for the public, autonomy-limiting power they wielded over Nicaraguan workers, and their violation of shared norms of basic economic and more general human rights.

By the end of the 1990s, companies throughout the industry had begun to at least nominally accept such responsibilities. Prominent reversals of public positions came perhaps most notably from both Nike and Kathy Lee Gifford – a TV personality with her own line of clothing in Walmart, who cried on network television after being publicly exposed for 'sweatshop' conditions involving underage workers in Honduras.³⁸ The effects of these high-profile media exposés 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'.³⁹

Even more importantly for the democratic function of transparent public role delineation, 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 clearly delineating the roles, identities and responsibilities of these specific public political actors, which is an important requirement if stakeholders are to be capable of evaluating the way in which companies exercise their public power.

However, while the establishment of codes of conduct thus constitutes an important first step towards the enhanced democratic accountability of corporate power, in that it entails the public acknowledgement of responsibility for power exerted over factory conditions in an *abstract* sense, thereby contributing to the function of public role delineation, democratic deficits still persist to the extent that workers in any given factory are often not aware of the *specific* identity of the brands for which they

³⁷ See Rosen, *supra* note 35.

³⁸ Kathy Lee Gifford initially resisted activist attempts to identify her publicly as being responsible for the exposed cases of under-age 'sweatshop' labour, retorting with some indignation: 'I'm supposed to be personally responsible for everything that happens around the world? In Honduras?' Soon afterwards, in the face of intense public pressure, she had done an about turn, transforming herself into a high-profile advocate for children's rights and non-exploitative labour in the clothing industry, and accepting responsibility for the conditions in her factories, declaring proudly to the public that 'I'm responsible for what I do and what I say, and this experience has been very empowering for me'. See States News Service, *supra* note 14.

³⁹ Paul Fireman, Reebok's chairman and CEO, speaking on 18 Oct. 1999, quoted in 'Life, Liberty and the Pursuit of Fairness', *Footwear News*, 6 Mar. 2000.

are producing.⁴⁰ Even in cases where workers are able to access such information and understand its significance, the labour and human rights groups that commonly act as intermediaries in the signalling processes discussed below do not have systematic access to information regarding factory locations, since most brands regard this information as ‘proprietary’ and refuse to disclose it publicly. Activists therefore typically depend for the conduct of individual campaigns upon workers smuggling labels out of factories (often at the risk of losing their jobs if caught, since many factory owners regard such actions as constituting ‘theft’), and upon the collection of other forms of supporting documentation such as described above in the case of *Hard Copy*. Such mechanisms of information collection are often very time intensive, and therefore fail to fulfil the democratic requirement that information be systematically and routinely available so that it can be accessed at affordable cost. More democratic mechanisms of corporate accountability would therefore require further increases in transparency, in the form of enhanced information about factory locations and supply chain identity (together with more effective communication of this information directly to workers), in order to help raise workers’ awareness of the specific identity of the brands and retailers exercising power over conditions in the factories in which they work.

B *Transparent Public Political Action*

The second institutional characteristic that is necessary to facilitate public evaluation of the performance of representatives is *transparent public political action*.⁴¹ This is accepted as quite straightforward and standard in discussions of accountability, and is most commonly associated with the need to disclose both the *outcomes* of decision-making processes (the substance of the decisions that have been taken), and the *means* employed to enact them (sources of financing, budget details, and so on). These aspects of transparent public political action are certainly important, but there are two additional aspects of transparent public political action that are less commonly emphasized, which therefore warrant special emphasis here.

One of these commonly neglected aspects of transparent public political action is the requirement that, wherever possible, public political agents should give details not only of the outcomes of their decision-making processes, but also of the *reasons* for their decisions. This can often be achieved through measures such as provision of public access to the minutes (or other relevant records) pertaining to key decision-making meetings, details of evidence presented to these meetings, internal performance

⁴⁰ Even where such information is available, workers rarely possess a clear understanding of the extent of leverage wielded by such brands over their direct management, instead perceiving factory owners as being the ultimate power wielders. They therefore invest little effort in seeking and acquiring such information about brand identity, even in cases where it is nominally available. See, e.g., K. Macdonald, *supra* note 33.

⁴¹ Using more common but less conceptually precise terminology, we could call this ‘transparent governance’.

evaluation reports, and so on.⁴² Explication of reasons for decisions enhances transparency by ensuring that the decision-making *process* (as distinct from its final outcomes) is open to scrutiny by relevant stakeholders. The other aspect of transparent public political action that warrants emphasis here is the requirement that access to information about the process and outcomes of decision-making should be available to stakeholders at an accessible *cost* – in terms of the time, money, education and expertise, technology, mobility, and so forth required to access information about decision-making. It is therefore imperative that public political agents try to minimize the costs (to members of the public) of accessing the available information, to ensure that transparency is achieved in practice and not just in principle.

Once again, the task of illustrating some potential ways in which this function could be performed through non-electoral institutions in contemporary global politics can be assisted by examining some recent initiatives developed within the global garment industry. The decision-making contexts in which the working conditions in Nicaraguan factories are determined are located at multiple levels, and include the formulation by brands and retailers of the broad principles institutionalized within codes of conduct and associated programmes of monitoring and enforcement, the formulation of these principles into internal company regulations governing the conduct of factory management and line supervisors, and broader forms of company decision-making regarding issues such as hiring, or the prices and timelines negotiated in contracts with buyers.⁴³ We therefore consider the degree of transparency surrounding the exercise of public power at each of these levels.

We begin by considering the transparency of decision-making related to the design and administration of codes of conduct and associated programmes of monitoring and enforcement. Transparency in this context would require the availability to workers of information regarding the content of codes of conduct, the processes via which monitoring and audit visits occur and the outcomes of these audits. Transparency at all these levels would be required to enable workers to scrutinize the appropriateness of these rules and the effectiveness of the monitoring and remediation processes designed to enforce them. Assessed against such democratic criteria of transparency, the way in which the majority of corporate codes of conduct are currently implemented rates very poorly, thus contributing significantly to existing accountability deficits. At the most fundamental level, workers have very limited knowledge of the content of codes, or in many cases, even the fact that they exist:

⁴² Although such transparency in decision-making processes has been commonly neglected, some writers have highlighted it in some recent work. See, e.g., Woods, 'Governance and the Limits of Accountability: the WTO, the IMF and the World Bank', 53 *International Social Science J* (2001) 569 and A. Wood, *Structural Adjustment for the IMF: Options for Reforming the IMF's Governance Structure* (2001), available at <http://www.reformwatch.net/fixters/120.pdf>.

⁴³ While such broader decisions do not pertain directly to wages and conditions, they often have important implications for the way these broad normative commitments translate into actual factory practices. To take a very important example, negotiation of turn-round time on delivery of contracts is directly relevant to overtime demands that are likely to be placed subsequently on workers.

There are codes of conduct high up on the wall, but you would need a magnifying glass to read them. We, as union leaders, found out that there were codes of conduct when we were fired and we began to receive this [union-provided] training. But when we were working in the firms, we didn't know that codes of conduct existed.⁴⁴

In addition, workers typically lack information about auditing methodologies, as well as outcomes of audits in specific factories, which makes it extremely difficult for individual workers, or organizations seeking to represent their interests, to independently verify the accuracy of reported audit findings within individual factories.⁴⁵ However, although the inadequate transparency of these processes produces significant democratic deficits at present, such failings could be substantially rectified via the increased involvement of local groups in processes of monitoring and remediation, the provision of ongoing worker training and relevant information within workplaces to ensure that workers have affordable access to both information and an understanding of these processes, and public reporting of audit findings for *specific* factories.

Transparency failings within existing arrangements are even more serious when we consider the transparency of public political action in relation to the *internal* decisions of relevant companies. With respect to such 'private' sites of decision-making, there are usually no guidelines regarding what information should be passed to workers, leading to discretionary patterns of information provision, shaped primarily by the needs of management rather than workers. 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 realization or denial of workers' core entitlements, such as determination of the terms of contracts with buyers that entail direct implications for the imposition of extended and often obligatory overtime.⁴⁶ 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'. According to a representative at Taiwan's embassy in Managua, who worked closely with the Taiwanese companies that dominate Nicaragua's garment sector:

⁴⁴ Focus group with workers participating in the *Mesa Laboral* (a grouping of Sandinista-affiliated unions), Managua, Sept. 2004.

⁴⁵ For instance, in response to an enquiry about the US retailer Target's policies regarding development and implementation of its corporate code of conduct, the company simply provided some general information and, when further details about relevant rules and procedures were requested, responded that: '[u]nfortunately, Target will not be able to further discuss this issue. The procedures used by our Corporate Compliance area are considered proprietary. In order to stay competitive, we cannot provide further details on our merchandise sourcing systems. I apologize for any disappointment.': personal correspondence from Target, 28 Nov. 2003.

⁴⁶ For instance, for workers to be able to evaluate whether appropriate trade-offs were being made by management with respect to the goal of winning production contracts and thereby sustaining job security for workers, versus the goals of increasing wages and minimizing overtime, workers (or their representatives) would require access to basic information about contracts with clients, pricing, internal profits, and financial performance.

There was one union who wanted to know all the costs of the company, what they were paid by clients and so on. This is not normal... If the union is just focused on labour welfare the firms can accept it, but these unions are focusing on the administration of the company – they want to steal away the administrative power ... The companies don't want to allow this – they would be limited too much.⁴⁷

These examples illustrate ways in which claims drawing on discourses of 'confidentiality' and 'proprietary information' are commonly deployed by firms as means of representing such decision-making as occurring within the protected realm of the 'private sphere', and thus defending a lack of democratic transparency with respect to the power exercised via such forms of decision-making. This is despite the fact that such decision-making impacts directly in autonomy-limiting ways upon relevant workers, and should therefore, as we explained in Section 1 of this article, be considered to constitute the exercise of *public power*.

Increasing transparency in the exercise of public power in these 'private' sites of decision-making would therefore entail a direct conflict with principles of 'proprietary' rights from which discourses of 'privileged and confidential' business information are derived. Before democratic principles can be more comprehensively incorporated into the conduct of such economic relationships, these forms of conflict between competing sets of rights must be explicitly confronted and resolved. This example therefore provides a stark reminder of the deeper levels at which reforms will be required if we are to embed democratic principles within the core institutional structure of the global economy.

Despite these difficulties, we can imagine, at least in general terms, the kinds of institutional mechanisms through which democratic principles of transparency could be applied to the decentralized sites of decision-making within global production chains. In doing so, the above discussion regarding the need to move beyond narrow administrative definitions of global public law is of particular relevance. In this case, for example, we could imagine 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. 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.⁴⁸ Such application of

⁴⁷ Interview with Taiwanese embassy representative, Managua, Nov. 2004.

⁴⁸ See, e.g., 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. We could imagine, for instance, some kind of 'Information Commissioner' being responsible for collecting such information, and releasing it subject to an appropriately formulated 'public interest' test. Such an institution would not be without precedent. The UK, for example, has an Information Commissioner charged with the task of balancing the protection of private information with democratic demands for freedom of information with respect to 'public sector' decision-making.

(democratic) principles of public law to *non-administrative* institutional spaces of private transactions, and the body of private law through which they are facilitated and legitimized, would represent a shift of enormous significance, which democrats will need to espouse and entrench at the levels of political discourse, law, and the wider social understandings in which these are grounded.

4 Instituting Public Disempowerment in the Global Garment Industry

The second central functional element of democratic accountability that we have identified is that of public *disempowerment*, which performs the function of disabling public political agents, through an effective sanction imposed by publics as a means of minimizing the agent's capacity to continue exercising public power. Within domestic democratic systems, public disempowerment is achieved through a range of mechanisms associated with processes of electoral accountability. In the first instance, elections operate as a *signalling device*, to signal the collective public decision either to permit the incumbent government to continue exercising public power, or to disempower the incumbents through removal from public office. Subsequent to the election itself, domestic democratic systems incorporate a range of constitutional and other political mechanisms for ensuring that any public decision to remove a government from office is swiftly and effectively executed. To some small degree, individual citizens can contribute to the process of effective disempowerment of governments through the withdrawal of their consent and willingness to comply with the decisions of the government. However, the removal of a government that has lost an election is achieved primarily by the withdrawal of support by various agencies of the state (bureaucracies, police forces, and so on) rather than by any direct action by the general citizenry.

When we abstract a generalized functional account of public disempowerment mechanisms from these functions of electoral processes, it is crucial to recognize that it is not necessary for the power of public political agents to be annulled by publics through a *centralized* (state-like) public political apparatus connected to a centralized signalling process (for instance, a state-wide electoral process). In the absence of such a centralized public political apparatus responsive to public signalling, global democratic accountability can instead be achieved through decentralized mechanisms serving the same dual functions of signalling the public will, and sanctioning public political agents in accordance with this expressed will.

A Delegitimization through Public Signalling of Stakeholder Preferences

First, there must be some mechanisms (centralized or decentralized) through which the public can *delegitimize* public political agents through coordinated public signals. Let us turn once more to the global garment industry to help conceptualize some potential institutional means through which this function could be performed

non-electorally in global politics. Any discussion of mechanisms for signalling stakeholder preferences within the global garment industry must first take account of the fact that individual workers will 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. There are therefore frequent conflicts *between* members of the same 'category' of stakeholders, which requires us to consider also the strength of institutional mechanisms enabling stakeholders to negotiate 'horizontally' amongst themselves.⁴⁹

Institutional mechanisms of this kind are generally characterized, in the theoretical democratic literature, as mechanisms of 'public choice' (or alternatively 'social choice'). Within conventional, state-bound democratic frameworks, institutions for 'public choice' usually involve some combination of mechanisms of public deliberation (through institutions of a democratic 'civil society' as well as through more formalized deliberative processes of various kinds), and some mechanisms for aggregation of individual preferences (achieved, like the function of public control through democratic accountability, via electoral processes of various kinds). For the purposes of this paper, in which we identify only workers as relevant (democratic) stakeholders, identifying feasible mechanisms of public choice is reasonably unproblematic. The fact that we can reasonably understand workers as being *equally* affected by the exercise of corporate power means that conflicting preferences between workers can be legitimately resolved via familiar *aggregative* institutional mechanisms, such as the election of worker representatives, together with various forms of deliberation.⁵⁰

If we were to extend our definition of democratic constituencies to embrace categories of stakeholders such as investors or consumers, who are affected to a fundamentally *different* degree by the exercise of such power, it would no longer be appropriate to deploy such aggregative mechanisms of public choice, since these are grounded upon underlying assumptions of equality with respect to distributions of influence over determination of the collective signal to be communicated to power-wielders. We would therefore need to explore more innovative and unfamiliar mechanisms for public choice, operating via broadly deliberative mechanisms. In order to prevent the significant power asymmetries existing between distinct stakeholder categories (such

⁴⁹ 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 organization Maria Elena Cuadra. See K. Macdonald, *supra* note 14.

⁵⁰ While the institutional forms required to perform these functions are more elaborate at the transnational than the local level, such institutional requirements are certainly not prohibitive. Electoral forms of worker representation have strong precedent at the transnational level in the form of traditional democratic structures of international union confederations (such as the ITGLWF in the garment industry). More deliberative, network-based institutions linking (non-union) organizations of garment workers are also well established in many parts of the world, as exemplified for instance by the network REDMAQ (which links organizations of women maquila workers across Central America) and the Asian Transnational Corporations Monitoring Network, co-ordinated by the Hong Kong-based Asia Monitor Resource Centre. An initiative is currently underway to establish a programme of continuing co-ordination between the work of these two networks, thereby entrenching even further the transnational reach of such communicative networks of workers.

as southern workers and northern investors and consumers) from unduly distorting the outcomes of such deliberation, decision-making would need to be structured in such a way that deliberative processes were both transparent and underpinned in the final resort by enforceable forms of arbitration. For these purposes, however, we need not concern ourselves with such additional complexities.

Having established horizontal mechanisms through which the ‘collective’ preferences of relevant stakeholders can be negotiated and defined, mechanisms are also required through which these preferences can be signalled to relevant powerholders. The most direct kind of signalling mechanism would be one that *directly* linked stakeholders to power wielders, and codes of conduct and factory-based monitoring and remediation systems are indeed frequently claimed to provide some basis on which such direct forms of communication from stakeholders to decision-makers can occur. However, for the majority of workers these systems fail in their attempts to facilitate such forms of stakeholder communication:

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.⁵¹

This failing is compounded by the tendency of the private-sector auditors who monitor code compliance in Nicaraguan factories to devote little time to speaking with workers directly, and when they do this, to conduct such interviews inside the factories where workers are afraid to speak openly and honestly. Such problems could be substantially improved by adopting monitoring procedures in which workers are able to communicate their views to organizations that have their trust, in locations where they feel safe from management scrutiny. In addition, many workers have suggested that opportunities for them to communicate their problems and thereby facilitate greater responsiveness of power wielders to stakeholders could be greatly increased by the establishment of some kind of permanent and trusted point of local contact to whom complaints and suggestions could be confidently directed. Such opportunities could be provided via links to local women’s organizations and unions, as well as to the local child care centres and health clinics that are used frequently by the young women – often single mothers – who work in the free trade zones.⁵²

Given the absence of direct communication mechanisms, signalling of worker preferences, where it occurs, has tended to take place via northern intermediaries.

⁵¹ Focus group with workers from Chentex, CTNa union, Managua, Nov. 2004.

⁵² In addition, there should be greater consultation with workers in the initial formulation of codes, since there is rarely an opportunity for workers to signal their preferences regarding the content of these rules in the first place, leading to many codes of conduct being driven by top-down consumer-focused agendas. Consequently, such codes often fail to deal with issues identified by workers themselves as higher priorities. Such priorities as expressed by Nicaraguan women are discussed by M. Prieto and J. Bendell, *If You Want to Help Us Then Start Listening to Us! From Factories and Plantations in Central America, Women Speak Out about Corporate Responsibility* (2002), 8, available at www.new-academy.ac.uk/publications/index.htm.

A strategy known as ‘international solidarity campaigns’, in which international ‘solidarity’ networks comprising non-state actors such as labour unions and NGOs are formed to support the demands of local unions in specific factories, provides a clear example of how networks of activists can communicate complaints from the factory level to the diverse sites of decision-making within global supply chains. A clear example of such a campaign structure 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.⁵³ 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 stock market 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, delegitimizing signals were therefore sent directly to each major point of decision-making within the global production chain.

However, the capacity of such network structures to send accurate signals that reflect the will of stakeholders is constrained by the fact that 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.⁵⁴

As a result, while the ‘de-masking’ and delegitimization 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. This problem underscores the need to establish more durable institutional signalling mechanisms that are themselves more directly responsive to stakeholders, such as more formalized *legal* mechanisms for direct stakeholder redress – a possibility we explore further below.

B Imposition of Sanctions Contingent on Stakeholder Signalling

In addition to mechanisms for public signalling of stakeholder preferences, the democratic function of public disempowerment requires mechanisms (centralized or decentralized) to ensure that those organizationally disparate actors who have the

⁵³ K. Macdonald, *supra* note 14.

⁵⁴ 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. Additionally, it is only those workers with direct knowledge of and connections to international groups who can utilize such mechanisms, and these are in the minority. This is particularly the case given that such contacts tend to require the existence of some kind of union organization, which is strongly resisted by firm management in the majority of cases.

capacity to impose the sorts of sanctions that can effectively annul the public power of representatives will wield this capacity *contingent* upon delegitimizing signals by the public. Here, it is important to recognize that it is unnecessary for all members of the public to participate *directly* in imposing the sanctions entailed in public disempowerment. The public disempowerment of politicians who have lost elections in democratic states can be achieved primarily by the withdrawal of support by various agencies of the state (bureaucracies, police forces and so on), rather than by any direct action of the general citizenry. Similarly, it is acceptable for actors other than individual members of the public to impose disempowering sanctions upon agents of public power in global politics, so long as such sanctions are *contingent* upon delegation by this public. All that matters for democratic purposes is that members of the public participate in the ‘signalling’ or ‘delegation’ process upon which the subsequent imposition of sanctions are contingent.

At a general theoretical level, it is very important to recognize that the forms of sanction required as part of accountability mechanisms must always be highly context-sensitive and context-specific, since different kinds of sanctioning measures will be necessary to effectively annul different forms of public power. For instance, the sanctions required to annul the power of an NGO that exercises trust-based discursive power within a deliberative decision-making forum would be very different from those required to annul the public power wielded by a corporation through the deployment of financial resources, or the public power wielded by a state through the deployment of military force.

Although sanctioning mechanisms in global politics may accordingly vary significantly in different contexts, we can still gain a clearer institutional picture of the general theoretical notion of non-electoral public disempowerment by examining embryonic and prospective sanctioning mechanisms within the global garment industry. The anti-sweatshop campaigns undertaken by activists within this industry, of the kind we discussed earlier, are able to deploy 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, increased consumer awareness and concern regarding working conditions in offshore factories facilitate the strategic mobilization of consumer action, and its deployment as an independent coercive weapon able to be wielded in support of campaigners’ demands.⁵⁵ Such sanctioning mechanisms operate both through direct consumer boycotts, and through deeper processes of socialization manifested as broader reputational damage to company brands.⁵⁶ Many firms are highly vulnerable

⁵⁵ The importance of reputational effects is reflected in the statement in 1994 by the then CEO of Levi Strauss, Bob Haas, that ‘[i]n today’s world a TV exposé on working conditions can undo years of effort to build brand loyalty’. See R.O. Jenkins, *Corporate Codes of Conduct: Self-regulation in a Global Economy* (2001).

⁵⁶ Reputation is important not only with respect to concerned consumers, but also regarding a range of business relations on the production side, including relations with current and potential employees, business partners, and government: V. Haufler, *A Public Role for the Private Sector: Industry Self-Regulation in a Global Economy* (2001); Ruggie, ‘Global_governance.net: The Global Compact as Learning Network’, 7 *Global Governance* (2001), 371.

to such pressure because of the value invested in the construction of their brands and, as a result, such strategies can be very successful as means of sanctioning decision-makers:

The unions called CEOs of our customers at 2 in the morning to bother them and so then they called us and said settle it down ... The brands were under lots of pressure and were very concerned about their reputation – they said to us that we had to settle down the problem or they would give our orders to others.⁵⁷

However, companies such as Walmart dominating 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, placing limits on the extent to which such sanctioning mechanisms can be used effectively throughout the garment industry. Such disempowerment mechanisms are also problematic given the costs they often entail for workers in the targeted factories, with strategies of ‘naming and shaming’ frequently leading to firings and even factory closures. In addition, activists simply 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 the mobilization and involvement over a two-year period of thousands of actors. 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.

As a result of all these limitations, these disempowerment mechanisms, despite having been highly effective in a number of specific and highly publicized cases, fall considerably short of the requirements of democratic principles. Such sanctioning mechanisms could, however, be substantially strengthened via appropriate modification of legal mechanisms that would enable affected workers to hold retail clients *directly* accountable for damages suffered in the conduct of their corporate sourcing policies.⁵⁸ Again, this illustrates the importance of applying the principles of *public* law to institutional forms – in this case, to the decentralized, ‘transactional’ institutions of the global economy – that go beyond the purely *administrative* structures with which democratic theorists are familiar. The development of such mechanisms would require significant new forms of legal innovation, and we should therefore begin thinking much more imaginatively about how we might appropriately adapt instruments of tort law, contract law and liability law to empower stakeholders to defend their own democratic entitlements in situations where other powerful actors fail to respond appropriately to their interests and expressed preferences.

⁵⁷ Interview at Nien Hsing Head Office, Taipei, 10 Mar. 2004.

⁵⁸ Such legal reforms would need to be adopted by countries in which companies incorporated or, depending on the legal mechanism, in which they conducted retail operations. In the case of Nicaraguan workers, this would require the adoption of legal reform by the US government, and potentially also by the governments of South Korea and Taiwan.

Conclusions

In the analysis presented here, we have sketched a potential new institutional path to the widely-embraced normative goal of strengthening the democratic accountability of powerful actors in global politics. Whereas global democratic sceptics commonly argue that the practical difficulties with establishing elections at a global level create insurmountable obstacles to the goal of global democratic accountability, we have established that this view is based on the false assumption that legitimate democratic accountability mechanisms at the global level must be instituted through the same kind of electoral procedures that institute democratic accountability within democratic states. Instead, we have argued that accountability mechanisms can confer democratic legitimacy in global politics whenever they perform the democratic *function* of enabling democratic ‘stakeholders’ to exercise some degree of *political control* over the ‘public’ decision-making processes that impact upon their lives. In evaluating the prospects for stronger democratic accountability in global politics, we have accordingly argued that it is essential to consider the potential of a wide range of non-electoral mechanisms for stakeholder control of public decision-making, some of which bear little institutional resemblance to the familiar structures and processes of state-based elections.

The case study of decision-making institutions within the global garment industry, to which we have applied our theoretical framework of non-electoral accountability, serves both to highlight important democratic potentials within emerging institutional structures, and to expose the democratic imperatives for significant reforms to the existing institutions. Despite embryonic attempts to construct new institutional mechanisms to bolster the democratic accountability of corporate actors wielding significant forms of autonomy-limiting power across a global polity, serious democratic weaknesses in existing accountability mechanisms persist within this industry. However, as we have demonstrated, some notable advances have already been achieved towards the goal of non-electoral democratic accountability, most significantly via strengthened mechanisms enabling the identity of corporate wielders of public power to be revealed to stakeholders, and some sanctions imposed upon these corporate agents in response to expressed preferences of stakeholders.

In illustrating the future potentials for non-electoral accountability within the global garment industry, we have pointed to some concrete and feasible institutional reforms to these existing accountability mechanisms, through which their democratic functions could be substantially strengthened. If effectively implemented, reforms of the kind we identified would have a significant impact on the democratic legitimacy of decision-making in the global economy, with far-reaching implications for the autonomy of thousands of garment workers across the globe. Although some of these proposed reforms could be adopted within a relatively short time-frame, others imply more radical challenges to the way in which democratic principles, roles and responsibilities are institutionally entrenched within the global order. In particular, many desirable democratic reforms would require some radical reformulations of the way that the liberal distinction between ‘public’ and ‘private’ forms of power and

responsibility is conceptualized and legally institutionalized, in order to facilitate the democratic accountability of non-state actors who produce 'public' impacts upon democratic stakeholder populations. This would potentially require reforms not only to the way that corporations are constructed as legal entities, but more broadly to the way that public/private dichotomies are embedded within the basic structure of our legal systems. This in turn has significant implications for the ways in which we should be conceptualizing both the *definition* of global public (or administrative) law, and its distinction from various classes of 'private' law.

We must recognize, then, that the task of establishing democratic accountability within the global garment industry, and within global institutions more broadly, presents us with significant conceptual and institutional challenges. These challenges, however, are not insurmountable, and do not provide grounds for abandoning the project of global democracy, 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 is possible to make real progress towards a new framework of non-electoral accountability that is both democratically legitimate and institutionally feasible.