

1



GLOBALIZATION AND BUSINESS AUTHORITY

New Modes of Democratic Policymaking?

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INTRODUCTION

There is a very long tradition of worrying about the relationship of big business to democracy. Big business has often been seen as damaging democracy by manipulating politicians and policy processes in a way that promotes its interests at the expense of the interests of citizens. Concerns about the negative impacts of international business on democracy date back a long time, for instance in discussions of the negative consequences of economic imperialism for the ability of citizens in the global south to determine their own political destinies. Today these worries are tangled up with concerns about globalization. Today the complexity of both business and democracy have increased dramatically, and the problems in their relationship to one another are challenging to diagnose and even harder to solve.

There are several possible—and very different—reactions to worries about the relationship of democracy to global business. In one way or another they all address the overarching question: Will economic globalization lead to a renewal of democratic policymaking, stalemate or decay? One reaction is to reinvigorate the state, the traditional locus of

democracy, and to reverse globalization. In cases where the capacities of individual states are exhausted, intergovernmental organizations may step in, bundle resources and control business activity. Another is to deny that business has or should have anything to do with democracy and to argue that commercial activities are quite separate from political ones. A further reaction is to see global business as a general modernizing force that will wear down economic backwardness and have some positive consequences for democracy in many countries and bring these into the world economy. A final reaction is to see business as so overwhelmingly powerful that democracy is likely to be nothing more than a distant ideal for the foreseeable future.

Contrary to these, we argue that it is important to bind business to global policy processes in such a way that the interests of business and citizens more generally are aligned to the maximum extent possible. Put differently, we think that the mechanisms that have been used to try to reconcile business interests and democracy at the nation-state level need to be extended through the much more decentralized and often trans-border networks of public/private interaction that are common today. Contrary to those who see the involvement of business in exchanges with public institutions or self-regulatory arrangements as always leading to “capture” of those policymaking institutions by business, or to an increased ability of business to escape enforcement when it has distanced itself from traditional laws closely managed by the state, we see considerable potential for business to be held accountable. However since this accountability is contingent on the particular nature of the relationship between business and other actors in these decentralized arrangements, it is especially important to specify the conditions under which such accountability will likely occur, and when it will not. Contrary to those who see global business as a harbinger of democracy that will almost automatically bring democracy to countries stuck in economic and political turmoil, we emphasize that globalization will not necessarily lead to such changes. Patience may be a good thing, but efforts are needed on the side of business, civil society, and states to develop a variety of democratic practices. Contrary to those who see politics as controlled by business and see a strong alternative in the concerted efforts of civil society in the marketplace to boycott or chose particular products or corporations, we believe that government, business, and countervailing forces will create better, more durable and encompassing arrangements through negotiating institutionalized arrangements.

We need to improve on the ways we think about both democracy and business at the global level if our concepts are to be equal to this

task. Today many new modes of democratic policymaking are being tested, new experiences are gained and analyses capturing these emerging features, their potentials and shortcomings, are needed. We therefore need to expand our notion of democracy beyond traditional institutions of democracy. Approaches that treat democracy as mainly about voting in competitive elections cannot deal with the vast number of ways that important policy decisions are made and implemented in places and processes. Likewise, approaches that treat business as only engaged in lobbying to leverage political decision makers tend to sidestep the role of other actors and cannot give a satisfactory description of the forces behind public policy. Finally, theories on business as only exercising its influence through its abstract structural power in market and social relations are not adequate, because such political “undercurrents” fail to identify the strengths and weaknesses of particular deliberate actions of business and it is hard to identify where business poses a barrier to democratic practices, and where this is not the case.¹

In this chapter we begin to take on these challenges. We start by discussing how our conceptions of democracy can be enriched, especially by adding key dimensions of participation, transparency, and accountability to more traditional properties of democracy. We then emphasize the importance of the three analytical levels at which global business is organized: the firm, industry, and general business levels. The chapter concludes by highlighting the major themes that run through the book, and by providing a roadmap to the rest of the chapters.

ENRICHING CONCEPTIONS OF DEMOCRACY AND GLOBAL POLICYMAKING

Democracy in any language is inevitably one of our most contested, mutable, and polysemic words and in discussing it the challenge is not to define its true or essential character. Doing that would contradict the very notion of democracy, which cannot be defined by fiat, but instead is constituted or performed in continually evolving practices. Instead, our task is to identify openings and potentials that can help these practices evolve further despite the challenges associated with the globalization of powerful business actors.

In enriching our conceptions of democracy in this section we start by setting out essential premises that indicate some ways that the range of actors, institutions, and settings that are to be considered relevant to democracy need to be expanded. After examining current thinking about globalization, business, and democracy we then argue that

democracy is best conceived as having three key dimensions of participation, transparency, and accountability, since these dimensions are more generalizable than alternatives strongly associated with the classical plebiscitary sides of democratic practices.

Expanding the Applicability of Democracy: Some Premises

An important premise that expands the applicability of democracy is to move beyond the national level to highlight global policymaking in the processes that should be integrated into the practice of democracy. This is a point made by theorists of cosmopolitan democracy such as Held and Archibugi who have argued that the traditional focus of democratic theory on the nation-state needs to be rethought as a result of globalization (see for instance Held 1995; Archibugi 2004). While the work of cosmopolitan theorists is valuable, its treatment of business is lacking because it tends to move too quickly to political “engineering” without building upon the many and varied experiences won in and around the business world. Nevertheless, they usefully draw our attention to the potential of constructing new institutions and practices at the global or transnational levels. Relatedly, other public policy literatures have invested much energy in understanding the challenges posed to the fate of states, their sovereignty, and national forms of policymaking. A further group of contributions grapple with the nature of international organizations, and how difficult and problematic it is to establish democratic norms and practices, the core ones known from domestic politics, at this level and which measures are needed to govern international organizations (Dahl 1999; Zweifel 2006). Mindful of these challenges to democratic practices we also need to identify emerging policy processes and institutions unfolding at global levels rather than just examining the impact of globalization on national policies, and recognize new processes in and around formal international organizations.

Another premise that expands the applicability of democracy is to expand the range of actors that are considered as involved in democratic decision making. Traditionally, citizens were seen as involved primarily by exercising their vote and electing governments. Business and citizens also each could band together and engage in leveraging political institutions. This provided at most opportunities for an indirect involvement in deciding on the content of laws, since this latter more important part of rulemaking was directly controlled by elected officials. This traditional view has already been widely challenged in regulation and collective action theories that see business as an advan-

tageous group and that highlight the more direct role that business and other actors can play in rule making, and by political economy theories that trace more direct connections between, on the one hand, multinationals and interest groups and, on the other hand, state officials. With the ongoing globalization of business and policy making this expansive conceptualization of the range of actors involved in rule making needs to be taken even more seriously and future forms of more concerted efforts can be envisaged. As Lavelle (this volume) illustrates, for example, where previously negotiations over sovereign debt were conducted between well-defined blocs, now they involve a much more complex set of private and public actors. At the national level many mechanisms have been used successfully to involve nonbusiness actors such as labor or public interest groups to offset excessive business influence, including more traditional and more contemporary corporatist arrangements, and it is useful to explore the applicability of these at the international level (Ayres and Braithwaite 1992; Cerny 2001; Ronit 2007; Levi-Faur, this volume).

Relatedly, we also need to move beyond the traditional focus on the creation of formal law. Today there are a great many types of rules that carry out similar functions to formal law and that therefore need to be considered in discussions of democracy. Sometimes these can be quite formal and organized, even if they do not take the form of formal *law*, as is the case with many business self-regulatory arrangements. More informal rules can also be important, such as scientific models, social norms, technological protocols, voluntary standards and codes, and belief systems.

A tenor in democratic theory is the control of power, and so it is also important in analyzing democracy under contemporary conditions to move beyond traditional assumptions that power only involves the deliberate deployment of resources by one actor to modify the behavior of another actor. Notions such as other dimensions of power (Lukes 1974) that can prevent certain courses of action getting on the agenda or even being conceived, or “structural power,” which relies on systemic inequalities rather than a deliberate deployment of resources, are well developed today in the analysis of power. A very useful analysis of different forms of power in global governance is provided by Barnett and Duvall (2005). However, how one democratizes structural power, or the relationship between structural power and the types of power more traditionally associated with democratic policy and legislative processes, remain very open questions that have not received enough attention. Especially considering the structural power of business we assume structural power should be considered in any analysis of business and democracy.

Current Thinking about Globalization, Business Authority, and Democracy

Many theorists have engaged in full-scale reconceptualizations of democracy that move away from traditional democratic mechanisms and sketch out a set of alternative concrete practices that are linked to particular political or social theories. “Cosmopolitan democracy” (Held 1995), “discursive democracy” (Dryzek 2006), “Empire and multitude” (Hardt and Negri 2004), and “radical democracy” (Laclau and Mouffe 1985) are examples. While some of these efforts can provide valuable inspirations and insights they are not well suited to our task because they are too philosophical to identify the significance of concrete challenges, accomplishments, and opportunities across a range of quite different intersections of global business and democracy, as represented for instance in the variety displayed in the cases explored by contributors to this volume. Similar points can be made about very broad criticisms of the negative consequences for democracy of globalization, capitalism, or the current world order (Hertz 2001; Shutt 2001; Sklair 2002).

There have also been useful efforts to specify institutional mechanisms that implicitly or explicitly address the problem of democratic deficits in global governance. For instance, Grant and Keohane (2005) point to the tension between “participation” models of global accountability in which accountability should be to those affected by institutions and rules, and “delegation models” in which accountability should be to those who create institutions and rules, and they set out seven mechanisms of accountability, some of which can be applied to corporations.² However, to get a better understanding of business authority and accountability we must also study how various public actors and civil society actors influence corporate decisions and how business leverages and perhaps even captures public policy (Ebrahim and Weisband 2007).

Patomäki and Teivainen (2004) present a series of concrete proposals for making global institutions more democratic, such as reforming the Bretton Woods institutions, creating a global parliament, and creating better mechanisms for global taxation and sovereign debt management. Koenig-Archibugi (2004) provides a very useful analysis of accountability mechanisms for transnational corporations. However these and other such efforts generally do not directly address the specific role of business in relationship to democracy. Either business is not the focus, or concepts such as accountability or legitimacy do not embrace sufficiently the many ways democracy is or can be evolving.

However, some thinking has already been done that is helpful in understanding specific existing and potential mechanisms to make busi-

ness and democracy more compatible with one another under conditions of globalization. In this work it is useful to distinguish a range of perspectives on the role of the state that are not always compatible. Work at one end of this range stresses the unique importance of government and formal law while at the other end alternative governance mechanisms such as business self-regulation, reputation, informal norms, and discourses are also seen as very relevant. Argued very broadly, the first end of this continuum tends to be associated with more instrumental perspectives on power, law, and democracy in which citizens and other actors know their interests and tell government to make rules that promote these interests. Those at the other end tend to have a more discursive approach in which the identification and framing of interests crucially involves intersubjective interaction at all stages of the development and implementation of rules.³

The first perspective has, for instance, been strongly articulated by Reich in *Supercapitalism: The Transformation of Business, Democracy, and Everyday Life* (2007). Reich argues that while capitalism greatly empowers and enriches individuals in their roles as consumers, democracy and individuals' roles as citizens have been severely weakened by huge infusions of corporate campaign contributions and lobbying as firms try to gain commercial advantage by manipulating regulations and laws. He is harshly critical of efforts to get corporations to be socially responsible since he sees such efforts as distractions from obtaining the only changes that count: democratically chosen rules with the force of law. He opposes expecting corporations to be about anything but maximizing shareholder value. Slaughter (2004), while strongly welcoming the emergence of disaggregated transnational policy networks, stresses the unique role of governments and law in these and calls for this role to be strengthened to address concerns about justice and accountability. Legal scholars such as Aman (2003) have argued that administrative law, which has aimed to reconcile democracy and business regulation through the legal control of independent regulatory agencies, must be extended to the global level. In this volume May's and Smith's contributions are especially consistent with this perspective's emphasis on the need for democracy to build on citizens' relationship with the state and not to treat corporations as citizens.

A more hybrid perspective has been forcefully advocated by Braithwaite and his coauthors. Ayres and Braithwaite (1992) argue that the most effective regulation takes the form of a pyramid with the bottom representing a heavy routine reliance on self-regulation and persuasion that escalates up to a rarer command regulation with nondiscretionary punishment for particular cases where less coercive

governance mechanisms fail. Tripartite arrangements with government, business, and public interest groups maximize the efficiency and public benefits of regulation. Braithwaite and Drahos (2000) stress the unique capacity of nongovernmental organizations to promote the sovereignty of citizens with regard to global business regulation, largely because of the importance the authors place on discursive factors, such as principles and models—webs of dialogue are more important than webs of reward and coercion. Similarly, Braithwaite (2006, 884) suggests that developing countries usefully address their governance capacity difficulties by developing “a ‘regulatory society’ model, bypassing the regulatory state,” for instance by using “private bounty hunting” in which nongovernmental actors are offered rewards for detecting regulatory violations. In a different variant of this type of hybrid perspective Benner, Reinicke, and Witte (2004) argue that public and private multisector networks in global governance are best held accountable by a system that involves a mix of public and private mechanisms, including law and markets. In this volume Levi-Faur emphasizes the complementarity of private and public regulation and develops an approach that is also midway along this continuum.

Some perspectives stress the degree to which business arrangements themselves can generate meaningful enforcement pressures. Reputations and market pressures are especially important in rational choice approaches, as is explained in detail by Prakash and Potoski (this volume). If consumers are heavily involved as agents in creating value in brands, for instance with so-called Lovemarks, which “signal an emotional connection and attachment to a brand that goes beyond reason” (Foster 2007, 708), then even voluntary codes that make visible the relationship between a product and a social good to which consumers are emotionally attracted can be an effective enforcement mechanism. Also, other contributions in this volume address the role of private voluntary schemes, how useful such business initiatives can be, and how various factors impose constraints on them. Over the last years a rich literature on such arrangements has developed and their mechanisms have been studied (Ronit 2007), but only to a limited extent have their democratic qualities been thoroughly investigated.

While these differing perspectives can be identified, it must be emphasized that work on globalization, business authority, and democracy is only just beginning. This book adds to and enriches this existing valuable but relatively scarce work in several new and important ways. It pays particular attention to the significance of multiple forms of business authority, analyzing not just institutionalized levels—firm, industry,

and trans-industry—but also including the structural power of business. The variation in cases and perspectives of the contributors also provide a richer opportunity to identify the complex mix of opportunities and constraints that are evident in the practical experience of the relationship between globalization, business, and democracy.

Expanding Democratic Practices: Participation, Transparency, and Accountability

In considering democracy in relationship to contemporary conditions, including the globalization of business, it is important that it be defined in a way that allows the concept to be applied in theory and practice across the range of actors, institutions, and settings that were identified above. We could define democracy very broadly, as government *by* the people, *for* the people, and *through* the people.⁴ However, this is too broad and abstract for us to identify variation in particular institutional settings. For instance, supporters of international institutions such as the International Monetary Fund could argue that if those institutions exercise decision-making powers that are delegated by democratically elected governments this is consistent with democracy defined as government by the people, but this would obscure ways in which the gap between such decision making and citizens can vary in significant ways across institutions.

We adopt as an alternative the idea of democracy possessing three key defining dimensions: participation, transparency, and accountability. We define participation broadly to include all sorts of involvement in policy processes, the willingness of business and public institutions to exchange with citizens and the efforts of citizens to take part in such policy processes. Transparency refers to the ability of business and public institutions to provide relevant, reliable, and timely information and the ability of citizens to obtain accurate, relevant, and comprehensible information about policy processes. Accountability refers to the ability of business and public institutions to integrate societal concerns into their various practices and the ability of citizens to impose sanctions against conduct that fails to live up to recognized standards. These three labels have been used individually or jointly by a very wide variety of actors, including, for instance, the United Nations and various special agencies, to signal a desire to move a field of activity in the direction of democracy conceived broadly as governance by the people. These dimensions are well suited to the highly

complex environments that are associated with the globalization of business, and to many new modes of democratic policymaking evolving alongside traditional institutions.⁵

Individually and together these three labels can be criticized. For instance, transparency has been fiercely criticized as excessively emphasizing the provision of information to market actors at the expense of more subtle social values such as ambiguity (Best 2005) or meaningful regulation. Accountability can be interpreted as a substitution of measurement, calculation, and technologies of control (Power 1994) at the expense of more spontaneous forms of sociality. Participation could be contrasted unfavorably to refusal or resistance by some critics.⁶ Such controversies are inevitable in any discussion of democracy. Nevertheless, especially when considered together, participation, transparency, and accountability offer strong analytical advantages in their widespread positive recognition as values, in being sufficiently generic to facilitate comparison across institutional settings, and in being sufficiently concrete to support meaningful assessments of different degrees of democracy in those settings.

We do not, however, argue that these key dimensions are always intrinsically connected. Such features of democracy do not follow a simple evolutionary path where all dimensions mature in a simultaneous fashion, but we see these dimensions as cross-fertilizing each other in a variety of interesting ways—ways that must be analyzed carefully at the global level. Furthermore, the development of these dimensions does not straightforwardly lead to policy outcomes that are held as legitimate by various stakeholder groups and the general public, or provide recognized solutions to issues associated with the current globalization of business. The installment of new democratic practices is not an overall cure that necessarily leads to economic prosperity and improved policy efficiency or effectiveness. We see these new democratic practices as having an intrinsic value related to human autonomy and freedom that is more than instrumental. At the same time, each in their way can provide important building blocks in economic and social problem solving and improve the effectiveness and efficiency of governance, even if they do not always and automatically lead to the desired outcomes. This analysis of participation, transparency, and accountability should be linked to studies on regulation and global public goods (Kaul et al. 2003; de Senarclens and Kazancogli 2007) and the ambition to solve real-world problems, and consequently, it is also our task to identify where these mechanisms prove inadequate for the desired policy outcomes.

ENRICHING OUR CONCEPTIONS OF BUSINESS AUTHORITY***The Firm Level: Individual Political Actions and Voluntary Arrangements***

Business is driven by particularistic economic concerns and such motivations are generally at odds with democratic principles. However, business operates according to many norms and rules produced at the level of individual corporations: Some are illegal, as for instance practices that back cartels which undermine a free market, and some are obviously detrimental to democracy, because they aim at toppling democratically elected governments. These actions are difficult to pursue due to the strengthening of normative and legal rules against them and we do not address them in this chapter, but they do exist, are occasionally reawakened, and should not be underestimated. In this book we mainly focus on those norms and rules that are widely used or are seen as legal, and are therefore potentially relevant to the development of democracy. Some may be seen as actively promoting democratic standards. The subject of these norms and rules varies enormously—from labor conditions and marketing practices to investment strategies, etc. (see, e.g., Jenkins, Pearson, and Seyfang 2002).

Some corporate practices are so informal that they are hardly recordable in any systematic fashion; such as a tolerance for internal dissent that may spill out into public debates. Others, such as human resource policies, are installed internally without informing the wider public and thus difficult to identify, and some, like codes of conduct, are made public to relevant players in the business community and other relevant interested parties or the society at large. Transparency is here recognized as an important dimension in democratic policymaking when corporations find new ways to communicate with their complex environment but the proper quality of this transparency also hinges on an enlightened and concerned public.

Analytically, we may distinguish between those norms and rules that solely emerge in the corporations (from within)—or in the industry, as will be dealt with later—those that are imposed or prompted by public institutions (from above), and those that are formulated or created through cooperation between corporations and various stakeholder groups (from below).

First, corporations have authority and discretionary rights to adopt many individual norms and rules and therefore also have a responsibility to promote democratic values (Parker 2002), but these values must be weighed against the profitability motives of corporations. They are

also profoundly affected by the societies in which they operate—although a harsh reality is that some corporations seem to ignore this, and some societies are unable to seriously challenge business, in particular in developing countries. This undercurrent of societal soft-power, however, can be an important democratic mechanism influencing business and should be accounted for in a study of globalization. However, this does not suggest that social forces are always taking actively part in the formulation and implementation of private sector-based authority. Fairly often these forces are written off because they interfere with the traditional discretionary rights of corporations.

Recent years have witnessed a growing interest in these forms of corporate rule making. Corporations that were concerned about social and environmental responsibility in the past have become increasingly prolific, and corporations without prior commitments have adopted new strategies to highlight ethical aspects of their behavior. BP's rebranding of itself, as Beyond Petroleum is a well-known example, but the parading of new and social goals must be critically examined. Many initiatives have come from the corporate level but here we must distinguish between initiatives that have a distinct political dimension and are meant to forestall public regulation and initiatives that are taken independent of any public strategy.

Second, major demands and encouragements to beef up corporate responsibility toward society emerge from political institutions, showing that authority making is not merely a business-driven process and that business in some cases pays serious attention to broader accountability issues. The OECD, for instance, has taken an interest in the behavior of transnational corporations and issued guidelines to guide their global operations. In an effort to develop new forms of global governance, the much debated Global Compact has been launched by the UN General Secretary and international agencies have further developed the compact in relation to their concrete policy fields. Many corporations have taken up the challenge and now belong to the program, and the many concrete projects unfold that address labor, environmental, or human rights issues (Kell 2005; Smith, this volume).

On the one hand, this shows the professed willingness of single corporations to adopt and comply with principles that are hammered out in the public realm but at the same time require voluntary action by corporations. On the other hand, this engagement demonstrates corporate responsibility, which can be a vital asset in dealing with other firms in the production chain or with consumers or other interested parties, or to forestall stronger regulation by the state. In other words, responsible corporate performance is an important parameter in competition.

Third, initiatives emerge outside of business and outside of public institutions. Again, various mechanisms are available. Some private authority functions in business are exercised with the clear assistance of countervailing forces such as consumer groups that are invited by corporations to develop and monitor rules. This outside participation provides rule making with a much higher degree of accountability, and from a democratic perspective it is usually seen as superior to independent corporate rule making. Indeed, isolated corporate initiatives are rather viewed as guided by pure economic calculations and rarely catering to wider societal interests, although this is not necessarily a correct interpretation of all corporate strategies.

There are a number of ways that the interaction of firms with various public/private hybrids has consequences for democracy. Many corporate moves have been inspired by the UN Global Compact and similar international initiatives and have taken the form of “partnerships” involving groups with an interest in the environment, labor conditions, human rights, development, and so forth. Another mechanism of private sector authority is related to various types of standardizing, certification, and accreditation (Bernstein and Cashore 2007; Prakash and Potoski 2006), schemes—in which, however, public sector and civil society organizations can be involved and are in some cases even the driving force behind schemes. Again, corporations join these arrangements on a voluntary basis, which means that not all firms are necessarily covered in a given industry, and under these circumstances “membership” also becomes part of the competition between firms. In some legal systems, especially in the United States, private litigation is an important way that citizens use the courts to try to ensure that corporations operate in a way that is consistent with democracy (Kagan 2001). Insurance companies can constrain the antisocial behavior of firms by refusing to cover problematic activities, and auditors and ratings agencies may feel compelled to report not just activities that are illegal, but also ones that if not addressed will destroy a firm’s reputational capital.

At the same time that these different practices are unfolding at the level of individual corporations, they have also been explored in scholarly work. Indeed, the study of private norm and rule making has today become a multidiscipline drawing on insights from such diverse areas as business administration, economics, law, sociology, and political science (Porter and Ronit 2006). Admittedly, these disciplines are not equally occupied with the role of corporate behavior, and not all depart from “the corporation” as their basic unit of analysis.

Especially in business administration, but also in law and economics, we find studies concerned with problems of private authority in the

context of single corporations. By tradition, sociology and political science, however, are less focused on the role of individual corporations and especially their potential as rule makers, and more emphasis is on the compliance or noncompliance with public regulation, which business must respect just like any other actor. In these disciplines, as will be discussed later, greater emphasis is put on collective action, but changes are taking place leading to the scrutiny of corporate behavior. These different emphases, no doubt, have consequences for the evaluation of single corporations as rule makers. Whereas corporations are more readily accepted as authority builders in, for instance the discipline of business administration where there is a strong tradition of analyzing corporate strategy in the marketplace, we find a great deal of skepticism in the branches of political science, including international affairs, where a key concern instead lies with the conditions of democracy. In the latter traditions the alternatives of private sector authority have been juxtaposed to public sector authority and, accordingly, been regarded as weak, fragile, or even irrelevant (Lipschutz and Rowe 2005) but there are also voices that see the corporations as relevant contributors to global democracy (Haufler 2001). Some of these discussions will be returned to in the next sections.

In general, motivations for socially responsible behavior that is consistent with democratic practices include concerns about a firm's reputation and brand, legal sanctions for misbehavior, the impact on the morale and productivity of a firm's employees, the willingness of suppliers of parts and finance to deal with the firm, and the values of the managers and shareholders of the firm.

In sum, the behavior of single corporations and their role in private sector authority has received growing attention. New links between "business and politics" have thus been forged. Although corporations can play a key role in devising rules and can respond to challenges from public authority and civil society in the process of globalization, their achievements are interpreted quite differently. Some appreciate private authority at the corporate level, and see their practices as a necessary and useful innovation in global governance; others are skeptical and discount this kind of private authority, because they see such initiatives as penetrated by narrow corporate interests and because relevant civil society actors are not sufficiently powerful to control business. Therefore, individual private rule making is not considered a suitable alternative to traditional public regulation.

This does not suggest that arrangements with and without outside participation are seen in the same way. Indeed, arrangements including civic actors are generally held to be more democratic, although these

are not necessarily praised as the very formula for democratic policy-making. Negotiations between single corporations and civil society actors and their participation in arrangements definitely have a democratic value but participation is only one aspect of democracy, and participation does not necessarily guarantee real influence. If corporations only exchange with weak groups in civil society without a capacity to put a sustained pressure on corporations, if groups are only involved in the early dialogue with corporations, and if obligations are few and vaguely defined, democracy is also underdeveloped. Therefore, criticism is at its strongest when private authority is unilaterally initiated, run by corporations, and outside of any public control, and weaker when civic groups are involved in more phases and issues of rule making.

Indeed, private authority in business is also established at levels above the individual corporation and it is time to turn to the industry level where rules are more encompassing and more directly embedded in other political processes. In this context, however, also single firms have a role to play—either by pioneering regulation that can eventually be extended to other firms and a whole industry or by implementing and monitoring rules that have been adopted by business associations or other collective entities.

The Industry Level: The Organizing Capacities of Industries and their Regulation

In considering the relevance of the industry level for democracy it is useful to distinguish factors that are primarily linked to the character of the industry itself, including its capacity for self-regulation, but then to also consider the relationship of the industry to the public sector and to other actors, especially civil society. In this section we look at each of these in turn.

There are several very important ways in which the self-regulation of industries has consequences that extend beyond the industry and across borders and that are therefore significant for global democracy. Industry self-regulation may be promoted as an alternative to public sector regulatory protection for citizens, and its adequacy for doing this therefore becomes a major concern. A well-known example is the Responsible Care program of the chemical industry, which, however, has been criticized for its weak implementation (King and Lenox 2000), a problem often facing many industries. Increasingly, governments are urged, for instance by the OECD, to compare the cost effectiveness of

regulatory instruments, including self-regulation (OECD 1997), but often the risks that regulation seeks to mitigate are hard to measure or involve value conflicts that are best resolved through political processes rather than budgetary comparisons. Industry is often accused of wanting to regulate its own affairs to avoid public accountability. On the other hand if the same effect can be achieved by self-regulation at lower cost then it may be the best choice. In some cases self-regulation is likely to be more effective than public regulation if firms have an incentive to comply with and enforce rules (for instance to rein in rogue firms that are destroying the reputation and the viability of an industry that relies on trust) since firms may have a much more detailed knowledge of market practices than do governments, or any countervailing power. Under these circumstances a rich variety of institutions are created (Greif 2005).

At the international level where public sector capacity is especially weak self-regulation may play a larger role than at the domestic level. An example is the Equator Principles of leading banks that aspire to govern their project financing activities, a function that would typically be carried out by governments domestically (Martin 2005). Self-regulation may enhance the power of an industry in ways that allow it to promote its own interest at the expense of democratic processes, or that create threats to the well-being of citizens that are best offset by democratic initiatives. The role of the private sector Intellectual Property Committee, led by large pharmaceutical firms, in aggressively promoting the linking of intellectual property rules to trade agreements, is an example (Sell 1999).

International industries vary tremendously in their economic and social character (Hollingsworth et al. 1994; Braithwaite and Drahos 2000; Porter 2002; Porter 1985), and this has political implications that are relevant for democracy. One variation is industry structure. An industry with large numbers of small and highly competitive firms is likely to face collective action problems because of the sheer number of firms to organize and the intensity of the competition felt. At the same time, however, there is also a strong need to organize such fragmented industries. These patterns and challenges will have an impact on the way the industries seek to influence government and their capacity for self-regulation. On the other hand, industries hosting large corporations must cope with different challenges. They may benefit from the relative easiness which small groups are supposed to face in fostering collective action. However, each corporation has sufficient resources to develop and implement political strategies—sometimes their resources are superior to those of public regulators, and they are

visible as market players to formulate their own codes of conduct regulating their behavior. In other words, small groups may enjoy a number of advantages in developing collective action (Olson 1965), but also the structure of regulation may typically benefit business and lead to the capture of relevant agencies (Wilson 1980). However, other factors must be accounted for as well.

The retail/wholesale distinction also has relevance for democracy, and different patterns exist across industries (Vogel 2006). For instance incentives for compliance with corporate codes of conduct are more easily produced in retail industries such as cafés or apparel, in which business meets end consumers, when there is concerted action on the consumer side. At the same time this collective action on the consumer side is not facilitated just against the backdrop of the character of the purchased goods. It is also important whether the relevant goods have such a strategic character, for instance the money spent relative to the overall consumption, that it is really worthwhile to engage in concerted action.

Industries with high negative externalities (the degree to which the effects of an industry's activities are not reflected in the prices of its products but instead are imposed without compensation on citizens), such as chemicals, are likely to have democratically inspired regulation, unlike others with low externalities, such as bicycles. At the same time it may be much more complicated to countervail the powers of the chemical industry, which has a strong tradition of associability and superior resources.

Some industries have very particular significance for democratic processes. The news media business has long been recognized as such an industry. Developments in other industries, such as hand-held video cameras and Internet technologies that support alternative media, have fostered democracy, while the cooperation of Yahoo and other search engine firms with China has provoked concern. The roles of large firms in providing electronic voting systems based on proprietary technologies that are not transparent to the public are another more recent and highly controversial example. Diebold's systems, for instance, have been seen by many as vulnerable to manipulation. Diebold provides election systems throughout the United States and elsewhere, including for 109 million voters in Brazil's 2000 election.⁷ Industries producing surveillance and military technologies that can be used to suppress dissent are also especially relevant to democracy.

The relationship between industries and public sector actors can vary tremendously across the different stages of the rule-making process. It is recognized that public agencies can be attributed a formal

role in private authority, from establishing rules to policing arrangements. Various conflicts arise over how the public sector can best make business arrangements accountable to wider interests outside of business.

For instance, in air traffic, the International Civil Aviation Organization (ICAO), as an intergovernmental organization, has for obvious reasons always been concerned with safety matters, a focus that has grown even stronger since terrorism has become a top priority issue. However, public regulation has here been assisted by private regulation in the stages of implementation where the International Air Transport Association (IATA), as the organization of airline companies, has followed up those of ICAO at the same time that it has devised its own rules. In other words, we find a division of labor between public and private organizations in the global realm (Ronit 2005). As mentioned above, however, the coordination is not always fine-tuned, and disagreement occurs. Conflicts between public and private bodies can, for instance, also be found in the regulation of drugs. Between the World Health Organization (WHO) and the drug producers represented through the International Federation of Pharmaceutical Manufacturers and Associations (IFPMA) there has been disagreement as to who should work out rules. Consequently, in the relations between pharmaceutical companies and health professionals, two sets of regulations apply. In some ways they complement each other, and in other ways they compete with each other.

In a somewhat similar vein, different rule systems have emerged to combat doping in sports. As a private organization, the IOC has for decades enforced a medical code, and a huge system including national committees and accredited laboratories has been installed for its implementation. Doping has become a growing problem, and not every effort launched to combat it by the International Olympic Committee (IOC) has been crowned with success. Accordingly, a number of governments and intergovernmental organizations have seen a need for a new arrangement, and through negotiations with the IOC they have contributed to setting up a new independent agency, the World Anti-Doping Agency (WADA), replacing the old organization and code, and working outside the domain of traditional public agencies but with a clear public input and with new rules of operational transparency.

These cases illustrate the intervening role of public agencies in the processes of private authority building. Yet, public actions vary considerably, and an important factor is the degree to which public institutions act independently or to some extent support business interests or function as a kind of proxy representing civil society. Indeed, civil soci-

ety interests can sometimes be much more forcefully voiced through public institutions; on the other hand, there is the possibility that civil society organizations and social movements may become formally involved in private authority.

Spontaneous initiatives, social movements, and more established civil society organizations use their leverage to put pressure on governments and international organizations to influence private behavior and rule making at the industry level. (Doh and Teegen 2003). Most interestingly, many civil society actors tend to distinguish between two governance structures: on the one hand “markets” where individual corporations rule, and on the other hand public authority where states and intergovernmental organizations are decisive. In this context, the activation of public authority is viewed as the appropriate means to rebut corporate power and establish a more just global economy. Nevertheless, if civil society actors become involved in holding industries accountable and helping disseminate information then this can enhance participation, transparency, and accountability.

However, we must distinguish between two sorts of non-industry involvement that more authentically bring interests into the very administration of industries. First, to make the many different forms of industry organization viable the participation of professional expertise is relevant. Experts often represent other branches of business, whose primary job it is to provide services and function as a kind of auxiliary to the regulated industry, although the regulation of a profession can be an independent goal (Dezalay and Sugarman 1995). Second, to provide private authority with a sufficient degree of legitimacy, the participation of civil society actors becomes relevant. This participation acknowledges the role played by major stakeholder groups whose interests are affected by private authority. Usually these actors have a qualitatively different role than the experts because they provide stronger criticism and because they are seen as representing major societal interests, and it is exactly in this capacity that they can solidify private authority. In the evolution of private authority it is also likely that civil society actors will become more professionalized. Under these conditions private authority can become an effective democratic complement to public regulation and not merely a sub-optimal solution with fewer democratic qualities.

The General Level: Trans-industry Business Action and Policy Processes

Scholarly work has often sidestepped issues of concerted business action at the global level. Part of the discussion has been phrased in

terms of “capitalism” or social class, which are to some degree faceless actors. One avenue of research has investigated the existence of different capitalisms, for instance, models that have evolved at national levels (Levi-Faur and Jordana 2005; Crouch and Streeck 1997), and many different experiences in business, state, and society are synthesized under these “capitalisms.” Some studies take a particular interest in the capitalisms of big states and are thus linked with the approach briefly sketched above, but a range of other national models can be analyzed from this perspective, in which the key challenge is to analyze capitalisms comparatively. In the context of our study, however, it would be problematic to neglect the internal and global superstructure of business, and helpful to investigate how these capitalisms may feed into the coordination of business beyond nation-states.

Another line of analysis scrutinizes the role of powerful states, historically the major powers and today the United States, which have been seen as proxies and alternative vehicles for international business and the private character of business action has been obscured. Efforts to analyze the general behavior of business in global politics could be significantly strengthened, although global business is characterized by considerable fragmentation. Considering the huge influence that business is assumed to exercise over our contemporary world it is surprising how few associations claim to speak for global business as a whole. Although different forms of coordination exist through trade associations and informal networks, the existence of only relatively few predominant business associations has been seen as a weakness of business (Kellow 2002).

These associational features, of course, also shape the conditions for business to enter into dialogue with various stakeholder groups and to negotiate arrangements in which democratic assets such as participation, transparency, and accountability are attended to. Indeed, the lack or weakness of countervailing representation is also a major barrier for institutional innovation.

The association that could reasonably be said to make good on the claim of being a general business association is the International Chamber of Commerce (ICC). According to the ICC’s self-portrayal, it is “the world’s only truly global business organization.” The ICC does play an important role, for instance in issuing general policy briefs to promote business interests in the Doha Round of trade negotiations, or resolving business disputes under the ICC International Court of Arbitration. It works in sixteen policy areas, ranging alphabetically from anticorruption to transport and logistics. As a careful examination will reveal, its work is surprisingly limited relative to the huge and ever-increasing vis-