Democratic Legitimacy of
Transnational Actors:
A Framework for Analysis

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1 Introduction

As the participation of transnational actors (TNAs) in global governance is increasingly put forward as a solution to democratic deficits at the global level, the democratic credentials of these actors are also challenged. The democratic legitimacy of transnational NGOs in particular has been questioned, though much of the criticism applies to other types of actors too. However, debates on the democratic legitimacy of TNAs often suffer from a lack of conceptual clarity, both as to the type of actors referred to and the actual meaning of democratic legitimacy. This chapter aims at contributing to clearing the analytical ground in this field through a systematic discussion of types of TNAs as well as different dimensions of democratic legitimacy applicable to these actors.

1 This is a draft of a chapter to appear in Eva Erman & Anders Uhlin (eds) (forthcoming 2010) Legitimacy Beyond the State? Re-examining the Democratic Credentials of Transnational Actors, Houndmills, Basingstoke: Palgrave. The work is part of the research programme Transdemos (www.transdemos.se) funded by the Bank of Sweden Tercentenary Foundation, Riksbankens Jubileumsfond.
The first part of the chapter identifies a number of significant TNAs and outlines some dimensions on which we can distinguish between different categories of TNAs. The second part takes stock with the literature on democratic credentials of TNAs and suggests a broad framework for analysing the democratic legitimacy of TNAs that goes beyond the rather technical discussion of specific accountability mechanisms. This framework draws on a constructivist perspective and uses input, “throughput” and output legitimacy as a way to organise democratic values like representation, inclusion, transparency, accountability, participation and deliberation. The aim is not to establish fixed definitions of these terms and develop a detailed framework to be strictly applied in the case studies included in the volume. Rather I would like to introduce some concepts and general perspectives which can serve as a point of departure for empirical research as well as further theoretical elaboration.

2 Transnational Actors

Examining the democratic credentials of TNAs, we need to specify what actors we have in mind. This is important because we might have different democratic requirements for different types of actors. (See further analysis in the concluding chapter of this volume.) A TNA can be defined as a non-state actor that acts across state borders. Hence, the state system is the defining context for TNAs. We cannot conceive of TNAs without taking states into account. However, the fact that TNAs are shaped in relation to states and the inter-state system does not mean that they can be reduced to instruments of state interests. Using the actor concept implies a degree of independent agency. Here I first identify the most common types of TNAs, without claiming to present a complete list. I then outline some specific dimensions on which we can distinguish between the different categories of TNAs.

2.1 Types of Transnational Actors

Transnational Corporations (TNCs)

TNCs may be involved in extracting natural resources, producing material goods and providing immaterial services. They are actors with a formal hierarchical structure driven by the instrumental value of gaining profit. They operate in the global market economy, but due
to their often fundamental impact on political processes and more generally on peoples’ lives, they should be considered political actors although they differ from political parties and civil society groups etc. The role of TNCs as political actors emerged as a significant theme within IPE-scholarship in the 1970s (cf. Uhlin 1988). TNCs are now commonly perceived as powerful actors in world politics. They have instrumental, structural and discursive power. Through their economic resources and mobility they have power over states. They may influence global governance through lobbying and agenda-setting, but also through direct participation in global rule-making in public-private partnerships and other global governance processes. TNCs also have discursive power when they frame political problems in public debates (Fuchs 2005).

Transnational Civil Society Actors
Transnational civil society actors are motivated by normative ideas and values, including religious beliefs. Their internal structure may range from diffuse activist networks to formal NGOs and this category includes highly politicised as well as non-political actors. Hence, I find it useful to distinguish between four versions of transnational civil society: 1) social movements and activist networks, characterised by their lack of formalised organizational structure, their often radical goals aiming at social change, and their use of more or less confrontational methods. 2) Advocacy NGOs with a formal organizational structure and professional staff which try to lobby political decision-makers and influence global policy-making within different issue-areas. Transnational labour unions might be seen as a special case within this category. 3) Service delivering NGOs which also have a formal organizational structure and professional staff, but are less directed towards influencing global policy and more inclined to provide specific welfare and relief services to groups of disadvantaged people around the world. 4) Transnational religious actors whose members share a common religious belief. This category includes large and highly formalised and hierarchical institutions like the Catholic Church as well as loose networks of small religious communities and faith based organizations.

Transnational Uncivil Actors
As civil society is often considered a realm of non-violent actions, several scholars have pointed out that there are non-state actors mainly driven by normative values and ideas who still do not fit in the transnational civil society category. The concept of uncivil society has been developed to capture the dark and violent side of civil society activities. For instance,
armed resistance movements might fight for what is generally considered a just cause but their predominant use of violent methods would still exclude them from many definitions of civil society. Another version of uncivil society consists of terrorist and criminal networks which most people would consider illegitimate actors. In the case of transnational criminal networks, the principal motivation is profit-seeking rather than normative values, but their operation outside of any legal framework and diffuse organizational structure distinguish them from ordinary TNCs. As this type of TNA is generally considered illegitimate (with the possible exception of some armed resistance movements) most people would argue that such actors should be abolished rather than democratized.

**Transnational Political Parties**

The transnationalisation of political society has given rise to transnational party alliances (cf. Johansson 1997), which constitute yet another distinct type of TNA. They operate in a transnational political sphere which can be distinguished from the inter-state system as well as from the transnational economy and transnational civil society. With a formal organizational structure this type of TNA differs from NGOs because they run in elections aiming at governmental power.

**Transnational Philanthropic Foundations**

Transnational philanthropic foundations are not TNCs. Neither could they be seen as transnational civil society actors. While drawing on economic resources accumulated in the global market economy, they are not primarily profit-seeking entities. Rather they are driven by normative values. But unlike civil society actors, their principal aim is to fund the activities of other actors. Transnational philanthropic foundations - especially the well-known American foundations like Ford, Soros and Gates - are highly respected elite players funding many civil society activities around the world. They are also important agents in the diffusion of global capitalism and an American understanding of democracy (Vogel 2006). Despite the obvious power of the big philanthropic foundations, their democratic credentials are seldom examined. As foundations they are typically less transparent than both corporations and civil society organizations.

**Transnational Epistemic Communities**

An epistemic community can be defined as “a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant
knowledge within that domain or issue-area” (Haas 1992: 3). Hence, this is a type of TNA with a diffuse organizational structure which is primarily motivated not by instrumental values (as are TNCs), nor by normative values (as are transnational civil society actors), but by their shared expertise and knowledge. While the distinction between transnational epistemic communities and transnational advocacy networks may be blurred in certain cases, for instance regarding some transnational networks active in the fields of environmental policy or health issues, it seems reasonable to treat epistemic communities as a distinct type of TNA.

Transnational Diaspora Groups
Brubaker (2005: 5-6) outlines three core elements of what is commonly seen as constituting a diaspora: 1) dispersion in space (usually across state borders); 2) an orientation to a real or imagined “homeland” as a source of value, identity and loyalty; and 3) boundary-maintenance vis-à-vis the host society. These are characteristics that do not fit nicely into any of the other categories of TNAs, and hence transnational diaspora groups should be considered a distinct type of TNA. This is typically a diffuse type of actor, although some diasporas can obviously organize politically in NGOs or activist networks.

Transgovernmental Actors
Unlike the other types of actors discussed here, transgovernmental actors are not non-state actors. The term transgovernmental refers to “sub-units of governments on those occasions when they act relatively autonomously from higher authority in international politics” (Keohane & Nye 1974: 41). This does not only refer to sub-units of the central government but also to local government actors. Acknowledging that states are not unitary actors, we should pay attention to this type of TNA.

Several types of TNAs interact with each other as well as with states and international organizations to form different kinds of public-private or private-private partnerships. Such networks may also have agency, but examining the democratic credentials of transnational partnerships goes beyond the scope of this volume (see volume II).
2.2 Dimensions Distinguishing between Different Types of Transnational Actors

The types of TNAs outlined above can be distinguished on a number of dimensions. First, we can distinguish between different types of TNAs based on their *internal structure* ranging from diffuse networks to formal institutions (Risse 2002). This is related to, but not necessarily the same as, the distinction between horizontal and hierarchical relations within associations. It is often claimed that networks are more horizontal whereas formal organizations tend to be more hierarchical. A network, however, can also be fairly hierarchical, with pronounced centre-periphery relations.

Second, *principal ideas and motivation* can be a distinguishing characteristic of TNAs. A conventional distinction is between instrumental values, knowledge, and normative values (cf. Risse 2002). TNCs are driven by the instrumental value to increase profit. Epistemic communities share a common knowledge. Transnational civil society actors are mainly motivated by normative values and ideas. This way of reasoning is similar to the common distinction between for profit (business) and not for profit (civil society).

Third, and closely related to the previous criterion, we can identify different *transnational public spheres* in which different types of TNAs operate. TNCs operate on a global market. Transnational political parties and party alliances act in a transnational political society. NGOs, social movements and activist networks are the key actors of a transnational civil society.

Fourth, TNAs vary in their *degree of politicization*. This is an important criterion when discussing democratic requirements for TNAs. Highly politicized TNAs which take part in decision- or rule-making for a larger community are subject to higher demands of democracy than are non-political TNAs.

The *degree of autonomy* of an actor could be considered an important criterion when identifying different types of TNAs. However, I argue that the degree of autonomy should be treated as an open empirical question in each specific case rather than a defining characteristic of a certain type of TNA. We should distinguish between dimensions defining the type of TNA and dimensions accounting for variations not only across but also within types of TNAs and I contend that autonomy is best viewed as belonging to the latter dimension. While many TNCs have considerable clout as autonomous actors, some TNCs are probably so closely associated with their home state that it is questionable to what extent they can be considered autonomous actors. Transnational (as well as domestic) NGOs are often heavily dependent on funding from states, international organizations or philanthropic...
foundations. While this does not necessarily mean that they cannot be seen as autonomous actors, their degree of autonomy is more limited compared to those civil society groups which are self-financed. There is also the phenomenon of quasi-NGOs, organizations taking the form of a NGO, but set up and controlled by states or TNCs. Such organizations are instruments of other actors and have no agency on their own. Except for such obvious cases of state or business controlled quasi-NGOs, it is reasonable to treat transnational civil society associations as actors, although with varying degrees of autonomy. As concluded by Risse (2002: 260), “transnational advocacy groups and INGOs should not be seen as necessarily in opposition to the inter-state system. Rather, their work often conforms to the interests of states and international organizations.” Nevertheless, “/m/ost of the contemporary work in international affairs no longer disputes that TNAs influence decisions and outcomes” (Risse 2002: 262).

The autonomy of TNAs is an aspect of their power. Obviously, the power and influence of TNAs varies greatly, ranging from the largest TNCs generally considered to have much more clout than most states in world politics to seemingly powerless, poorly funded Southern based transnational NGOs. The power of TNAs can be analysed in terms of dominance and structural power relations as well as discursive and communicative power (Piper & Uhlin 2004: 8-12). Such analyses are necessary in order to establish what demands for democratic legitimacy are appropriate (cf Macdonald 2008). The more powerful a TNA, the stronger the need for democratic legitimacy. Actors which do not wield any power are not subject to demands that they should be democratic. However, the power of an actor does not help us distinguish between different types of TNAs. Powerful and less powerful actors can be found within all categories.

Another potential criterion that I think is best viewed as accounting for variation within as well as across types of TNAs is the spatial extension of the actor. Some TNAs are genuinely global actors whereas other TNAs are confined to a specific region. Having considered different categories of TNAs, we now turn to the concept of democratic legitimacy.
3 Democratic Legitimacy

Legitimacy is the broadest and least well-defined concept in the literature on democratic credentials of TNAs. It covers more specific aspects like representation, participation and accountability, but also includes other potential sources of democratic legitimacy. However, much of the literature on the legitimacy of TNAs does not differentiate between democratic legitimacy and more general bases of legitimacy. The legitimacy of transnational NGOs, for instance, is often associated with their expertise and knowledge in specific issue areas (Van Roy 2004; Collingwood 2006: 448) and their compliance with regulations (Brown 2008: 35). While these are important qualities of the actors they do not necessarily make them democratic. Neither does financial and political independence (Van Roy 2004; Collingwood 2006: 447), which is related to their qualities as actors (having agency) rather than to democratic qualities. Furthermore, the legitimacy of TNAs is sometimes seen in comparison with other types of actors. NGO legitimacy can be derived from the failing legitimacy of states (Collingwood 2006: 453). It has been argued that representatives of NGOs have less to gain from abusing their positions compared to business and state actors and hence they typically enjoy more public trust (Brown 2008: 2). While these aspects might be sources of legitimacy, they are not necessarily related to democracy.

Sources of legitimacy that are of immediate democratic relevance include the representation of constituencies and the representation of democratic values and norms (cf. Van Roy 2004; Collingwood 2006: 447-448; Brown 2008: 35). Membership based NGOs represent their constituencies. Many transnational NGOs gain democratic legitimacy through their grassroots links and by giving voice to and empowering marginalised groups. Representation of values and norms, like notions of universal human dignity and global justice, may give transnational civil society actors a moral authority which can be seen as a form of democratic legitimacy. These forms of democratic legitimacy, as we will discuss in this volume, might be compromised by insufficient and biased participation, a lack of transparency, representation and accountability and poor or no deliberation etc.

In order to systematise various forms of legitimacy I suggest some clarifications. First, as a basic theoretical point of departure, I argue that there are no objective technical solutions to legitimacy problems that can be designed by experts. Legitimacy is a social construction and creating legitimacy involves highly contested processes and struggles between actors with different interests and world-views (cf Lister 2003). We need to examine
how different demands for, and claims to, democratic legitimacy are socially constructed, and what the underlying ideals and interests of legitimacy claims and mechanisms are.

Second, as argued above we should distinguish _democratic_ legitimacy from legitimacy in general. What we are interested in here are forms of legitimacy that makes sense in relation to democratic values rooted in democratic theory. Rather than privileging one model of democracy, we should consider different normative models of democracy, including representative, participatory and deliberative variants.

Third, when examining the democratic credentials of TNAs, we should assess not only formal and informal decision-making processes, but also processes of deliberation and broader political participation. This is important in order not to privilege one particular model of democracy.

Fourth, focusing on different models of democracy and different democratic values we can analyse potential trade-offs between democratic values proposed from different theoretical perspectives. For instance, broadened participation might have a negative effect on accountability and participation and deliberation does not necessarily go well together.

Fifth, in order to organize the various concepts related to democratic legitimacy, I find it useful to distinguish between input legitimacy (the relationship between the actor and its constituencies or people affected by its activities), “throughput” legitimacy (the actual procedures for decision-making within the actor), and output legitimacy (the consequences of the actor’s decisions and other activities) (cf Scharpf 1999; Held & Koenig-Archibugi 2005: 2; Dingwerth 2007: 14-15). Focusing on _input legitimacy_ we ask questions like: Do power-wielders/decision-makers represent their constituencies? Are they democratically elected? Do they give voice to marginalised people? Do they represent democratic ideas? Who are included/excluded? _Throughput legitimacy_ raises questions such as: Are decision-making processes and other activities open and transparent? Are power-wielders/decision-makers accountable to relevant stakeholders? Are there opportunities for direct participation? Are the procedures characterised by authentic deliberation? _Output legitimacy_, finally, directs our attention to questions like: What are the democratic consequences of the actor’s activities? Does it have pro- or anti-democratic effects on global governance or no effect at all?

Differentiating between input, throughput and output legitimacy, we can identify key democratic values highlighted in most research on democracy beyond the nation-state. The input, throughput and output distinction is helpful in disentangling the concept of democratic legitimacy and identifying different aspects of democracy. However, applying these analytical distinctions does not mean that it is sufficient to analyse one democratic value.
separated from all the others. Obviously, the different democratic values organized under the input, throughput and output headings are interrelated and we need to analyse relationships between them – not only separate components of democratic legitimacy. The following outline of an analytical framework will be structured according to the scheme presented in Table 1.

Table 1. Democratic legitimacy of transnational actors: Key democratic values

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<thead>
<tr>
<th>Input legitimacy</th>
<th>Throughput legitimacy</th>
<th>Output legitimacy</th>
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<td>Representation</td>
<td>Transparency</td>
<td>Consequences</td>
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<td>Inclusion</td>
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3.1 Input Legitimacy

3.1.1 Representation

Representation is a key value in liberal democratic theory. In principle it refers to the general relationship between a collective actor and the people on whose behalf it claims to speak. In representative democracies on the nation-state level elections is the central mechanism through which governments acquire representative legitimacy. Clearly applicable to democracy within nation-states and (arguably) to visions of global democracy as well, the relevance of the ideal of representation is less obvious when it comes to non-state actors.

In the debate on democratic credentials of transnational civil society actors, problems of representation have often been highlighted. Critics of NGOs point out that their membership might be very limited, perhaps excluding most of the people to whom the NGO claims to give voice. The lack of representativeness within transnational activist networks is often described as a division between the “global north” and the “global south.” Structural inequalities based on class, gender, nationality, ethnicity, religion etc. may be reproduced within transnational civil society. Unlike governments in democratic states, the leadership of many civil society groups is not elected by any constituency, although some membership-based organizations may have regular elections of leadership positions. However, the
relevance of representation for civil society actors can be questioned. Peruzzotti (2006: 48-49) argues that civil society as a social sphere is fundamentally different from political society. The representative politics characterising political society (in representative democracies) is not applicable to civil society. NGOs and other civil society actors organize to demand accountability from political society, but they should not themselves represent any constituency and hence should not be bounded by the formal rules and accountability mechanisms found in political society.

Hence, there is a need to go beyond the conventional literature and rethink the concept of representation. Peruzzotti (2006: 52-53) argues that the question “Who do you represent?” is not appropriate for civil society organizations. Instead one should ask “What do you represent?” Similarly, Keck (2004: 45) argues that civil society activists in global governance institutions represent “positions rather than populations, ideas rather than constituencies.” This is what she calls “discursive representation.” Charnoviz (2006: 36) agrees when he claims that the usefulness of NGO ideas is more important than how well those ideas represent the NGO’s membership or constituency. Hence, many scholars prefer other concepts than representation when exploring the democratic qualities of transnational NGOs. Carlarne & Carlarne (2006) refer to “credibility building” instead of representation. Jordan and van Tuijl (2000) claim that “political responsibility” is a better concept than representation and accountability in this context.

One of the most theoretically sophisticated attempts to deal with the problem of NGO (and other TNA) representation is the theory of “global stakeholder democracy” elaborated by Macdonald (2008). She argues that elections is not an appropriate method for conferring representative legitimacy to non-state actors due to the fact that the intensity of interests typically vary between individuals and due to a number of logistical problems. Fortunately, there are several non-electoral mechanisms of authorization and accountability that are more suitable, including codes of conduct, stakeholder assemblies and surveys etc.

To conclude this section, we should consider innovative as well as conventional aspects of representation when assessing the input legitimacy of TNAs. The following questions should be asked when analysing democratic representation: How representative is the actor of its constituency? What is the quality of electoral representation? What is the quality of non-electoral mechanisms of authorization by stakeholders? To what extent does the actor represent democratic ideas?
3.1.2 Inclusion

Whereas representative democrats tend to stress formal mechanisms for representation (election of leadership in particular), participatory democrats are more concerned with the actual inclusion of affected people. Hence, they do not consider representation a problem but focus on direct citizen participation. Compared to those favouring representative democracy, participatory democrats tend to be more concerned about avoiding exclusion and marginalization based on gender, ethnicity, class etc. Therefore, a focus on power structures excluding certain groups of people from real political participation is required.

We can distinguish between the scope and quality of participation (Dingwerth 2007: 28). The quality of participation is a throughput related aspect to be discussed below. The scope of participation – what I label inclusion - refers to the fundamental question of identifying the proper constituency or demos concerning a specific issue. Who should have the right to participate in decision-making and who do actually participate? Ideally, all those significantly affected by a decision should participate directly in decision-making. It should, however, be noted that the “all-affected principle” suffers from both practical and normative problems (Agné 2006). If the direct participation of all significantly affected stakeholders is not possible, a requirement from the perspective of participatory democracy is that the voices of marginalised affected people are included. If direct participation is not possible, the concerns of disadvantaged stakeholders must at least be considered.

The criterion of inclusiveness is important for deliberative democracy too. Whereas some deliberative democrats seem to be satisfied with genuine deliberation taking place among representative political elites, others stress the importance of including all affected people in authentic deliberation. For some, the requirement of inclusion refers to arguments rather than individuals (Nanz & Steffek 2005: 377).

In sum, when analysing inclusion we should ask the following questions: To what extent are those significantly affected included in decision-making, deliberation and other activities? To what extent does the actor give voice to marginalised people?
3.2 Throughput Legitimacy

3.2.1 Transparency

The degree of transparency, in this context, could be defined as “the extent to which individuals who may be significantly affected by a decision are able to learn about the decision-making process, including its existence, subject matter, structure and current status” (Dingwerth 2007: 30). This kind of openness could be seen as a basic precondition for other aspects of democracy. It is a common demand on non-democratic organisations to increase their transparency as a first step towards democratization. Transparency is important for the realisation of other democratic values, not least accountability. Hence, an important question for empirical research on TNAs is to what extent decision-making processes and other activities are open and transparent.

3.2.2 Accountability

Accountability implies a form of responsibility. We can distinguish between prospective (forward-looking) and retrospective (backward-looking) forms of responsibility. The latter is called accountability (Bexell 2005: 68). It means that “some actors have the right to hold other actors to a set of standards, to judge whether they have fulfilled their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met” (Grant & Keohane 2005: 29). Thus, the components of accountability are standards, information and sanctions. Effective accountability requires mechanisms for information and communication between decision-makers and stakeholders and mechanisms for imposing penalties (Held & Koenig-Archibugi 2005: 3). Accountability should be distinguished from other constraints on abuse of power like unilateral use of force and “checks and balances” (Grant & Keohane 2005: 30).

A common concept in the field of public administration (cf. Mulgan 2000), accountability has more recently been applied to NGOs (cf. Unerman & O’Dwyer 2006) and in recent years the accountability of TNAs has been a hotly debated issue too. Demands for greater accountability, not least of transnational NGOs, have been frequently voiced. This has made some scholars talk about an “accountability syndrome” facing TNAs (Anheier & Hawkes 2008: 125). Transnational accountability is much more complex than domestic
accountability and it is not obvious that accountability mechanisms can be transferred from domestic to transnational politics. Some scholars even argue that in the context of globalization, accountability is the problem, not the solution (Anheier & Hawkes 2008: 130-131). The complexity and conceptual confusion may cause problems because different conceptions of accountability can lead to conflicting expectations and undermine organizational effectiveness – what Koppell (2005) labels “multiple accountabilities disorder”.

Accountability can be constructed in many different ways. Grant & Keohane (2005) distinguish between participation and delegation models of accountability. The former refers to external accountability to those affected by the activities of the actor exercising power, whereas the latter deals with internal accountability to the principals who have delegated authority to the power-wielders. On a general level Grant & Keohane (2005) outlines seven mechanisms of accountability in world politics: hierarchical, supervisory, fiscal, legal, market, peer, and public reputational. They argue that these accountability mechanisms are applicable to various degrees to all kinds of actors in global governance, including multilateral organizations, NGOs, transgovernmental networks, firms, and states (Grant & Keohane 2005: 40). The literature on (transnational) NGOs is full of more specific accountability mechanisms and principles, including certification, rating, codes of conduct, monitoring and evaluation, disclosure of statements and reports (i.e. transparency), and social auditing (including stakeholder dialogue) (cf. Ebrahim 2003; Lee 2004: 8-9).

The literature on accountability of TNAs often lacks elaborate theorising referring to established theoretical perspectives within IR. Nevertheless there are several theoretical perspectives which are potentially applicable to transnational accountability problems. Rational choice theory focuses on principal-agent relations. Global governance theory emphasises governance networks and regimes. Constructivists are concerned with accountability discourses. From a critical political economy perspective attention is directed towards processes of capital accumulation and legitimation (Mason 2008). At least implicitly, much literature in this field, especially on NGO and business accountability, has had a rationalist perspective focusing on technocratic solutions to perceived accountability problems. More recent research (e.g. Ebrahim & Weisband 2007) has taken a more interpretive and hermeneutic approach, viewing accountability as a socially constructed means of control. This is also the approach taken in this chapter. From a constructivist perspective we can examine accountability discourses and more specifically how they reproduce existing power structures or how they may serve to alter power relations,
empowering previously marginalised people. As argued by Ebrahim & Weisband (2007) socially constructed accountability mechanisms can be used by the weak as well as by the powerful.

Central to the debate on accountability is the concept of stakeholders. Identifying the stakeholders of a TNA is a way of answering the question: To whom should the actor be accountable? We can distinguish between internal and external stakeholders (Kovach 2006: 201). Referring to transnational NGOs, three main types of stakeholders can be identified: donors, members, and the subjects of an organization’s intervention (Peruzzotti 2006: 53). However, conceptualising transnational NGO accountability in terms of a principal-agent relation is not appropriate because transnational NGOs typically have a diverse set of stakeholders and it is not clear which stakeholder should be prioritised as the principal (Brown & Moore 2001: 572). It should also be pointed out that accountability to a broad and diffuse set of stakeholders risks undermining accountability since being accountable to all means being accountable to no one (Bexell 2005: 137).

A basic tension in the construction of accountability mechanisms for TNAs is between on the one hand legal regulatory frameworks and on the other hand self-regulation. Many governments try to control and manipulate civil society and from a democratic perspective one should be cautious about excessive state control and regulation of civil society groups. Civil society actors themselves tend to prefer self-regulation (e.g. codes of ethics) to other methods of enhancing their accountability. Self-defined standards of legitimacy and accountability do not have to apply only to individual organizations. There are also examples of initiatives to enhancing legitimacy and accountability that apply to NGO sectors or campaigns as well as cross-sector partnerships (Brown 2008). However, there are few examples of effective self-regulatory mechanisms (Heinrich, Mati & Brown 2008: 334-335).

When examining conventional accountability discourses from a democracy perspective, we find that traditional models of accountability tend to privilege powerful stakeholders and fail to address participatory aspects of accountability (cf. Kovach 2006: 197). Accountability is often seen as technocratic supervision and control. Hence, there is a need to democratise accountability beyond the nation-state. As a starting point we should realise that NGO (and other TNAs) accountability is a political issue. This is not evident in much of the technical discussions on specific accountability mechanisms (Jordan & van Tuijl 2006: 4-5). Many scholars writing on accountability in a transnational context deliberately exclude democratic accountability (e.g. Ebrahim 2003: 815). Grant & Keohane’s influential
work, for instance, deals with accountability in world politics – not *democratic* accountability. Their view on democracy beyond the nation state is that there is no global demos and therefore there can be no global democracy (Grant & Keohane 2005: 34). Hence, we must be satisfied with non-democratic accountability mechanisms that at least can limit the abuse of power in global governance. When they claim that multilateral organizations are the most accountable actors in global governance (Grant & Keohane 2005: 37), we should remember that they do not refer to *democratic* accountability. It is clear, as argued by Scholte (forthcoming), that accountability is not inherently democratic. We should ask how different accountability mechanisms could become more democratic.

To conclude the analysis of accountability mechanisms, I suggest that when examining the democratic accountability of TNAs we should ask the following questions: 1) According to what principles is the actor accountable? (This refers to standards, codes of conduct, certification, rating etc.) 2) To which stakeholders is the actor accountable? 3) Does accountability involve control and sanctions or does it imply voluntary responsiveness?

### 3.2.3 Participation

Whereas I take inclusion to refer to the *scope* of participation, i.e. the general relationship between an organisation and its constituencies or people significantly affected by its activities, I use the concept participation in relation to specific decision-making procedures or other activities within the organization, i.e. throughput legitimacy. Hence, I am here concerned with the *quality* of participation (cf Dingwerth 2007: 28). How do people participate in decision-making? Only by passively receiving information or through the election of representatives or in a more active and direct way, favoured by participatory democrats? Political participation does not have to be limited to formal decision-making or processes of deliberation. Within many social movements, for instance, participation can include various forms of protest activities. A number of non-violent but still confrontational social movement activities have been questioned from a democratic perspective. Those adhering to a representative model of democracy typically consider civil disobedience undemocratic (unless it is targeting an authoritarian regime). But such methods can also be seen as a practice of direct or participatory democracy.

Generally speaking, forms of direct participation would lead to more democratic legitimacy than indirect participation, but the issue is more complex than so. Appropriate
forms of participation must be contextually determined. In sum when examining the throughput legitimacy of an actor, we should ask: What are the forms of participation?

3.2.4 Deliberation

Deliberative democrats emphasize deliberation among citizens or their representatives as the key democratic value (Habermas 1996; Dryzek 2000). Criticizing other theories of democracy for paying too much attention to the aggregation of preferences, proponents of deliberative democracy argue that democratically legitimate decisions are best achieved through an informed public debate. Deliberation, according to Chambers (2003: 309) “is debate and discussion aimed at producing reasonable, well-informed opinions in which participants are willing to revise preferences in light of discussion, new information, and claims made by fellow participants”. Hence, authentic deliberation must be non-coercive and induce reflection (cf. Dryzek 2000: 2). Critical reflection should be distinguished from justification of a position. Powerful participants in a deliberative process may acknowledge criticism put forward by less powerful participants by giving reasons for the positions taken, but this might just be a rationalization of a fixed position (Nanz & Steffek 2005: 376). Critical reflection requires a genuine willingness to adjust one’s position in response to rational arguments.

Trade-offs between deliberation and other democratic values have been noted. Dingwerth (2007: 202-3) argues that there are trade-offs between inclusion and deliberation, transparency and deliberation, and accountability and deliberation. Mutz (2006) devotes a whole book to the argument that participation and deliberation are difficult to combine. The possible tension between participation and deliberation is a highly relevant question in relation to transnational civil society. Whereas some global social movements do have deliberative qualities (cf della Porta 2005), the coercive and confrontational methods of the more radical parts of transnational civil society are seen as problematic from the perspective of deliberative democratic theory. The tools of arguing and communicative action are central to the deliberative democratic ideal. However, passions and emotions – not only reason – are central for the mobilization of social movements. Furthermore, the activities of social movements are sometimes confrontational and coercive and, hence, do not fit well within a deliberative democratic framework. From a social movement (and activist) perspective, the ideal of deliberative democracy can be criticized on the ground that deliberation does not work in societies characterized by structural inequalities. Direct activism and opposition like
street-marches, boycotts, or sit-ins are often necessary to achieve social change (Young 2001; Medearis 2004).

This tension between deliberation and coercive activism within transnational civil society deserves more analysis. The theme resonates with a key debate within contemporary transnational social movements on the merits of non-confrontational, persuasive and cooperative strategies versus confrontational, coercive, and sometimes violent methods. However, there is insufficient theoretical understanding of the implications of this tension for the democratization of global governance. There is also a lack of empirical research as to how this tension is played out within different parts of an emerging global civil society. The main question to ask from this perspective, however, is: To what extent is deliberation characterized by critical reflection?

3.3 Output Legitimacy

When examining democratic credentials of TNAs with the overarching aim to analyse their possible contribution to the democratization of global governance, the output legitimacy of the actors must be of central concern. By output legitimacy I do not refer to effectiveness. Increased effectiveness might be a source of strengthened legitimacy, but it does not increase the democratic legitimacy of the actor (cf. Erman’s contribution to this volume). The participation of TNAs in global policy-making may serve two different purposes: increasing the “epistemic quality” of the decisions taken (i.e. a non-democratic aspect related to effectiveness) or strengthening democratic accountability. These two functions of TNAs in global governance are not always easily combined (Steffek & Ferretti 2009). There might be a trade-off between democratic and non-democratic aspects of output legitimacy.

The focus here is on democratic output legitimacy, i.e. democratic consequences of the activities of TNAs. Transnational civil society actors are generally considered the most promising type of TNA when it comes to potentials to have a democratizing impact on global governance. Such actors may serve as a “transmission belt” between citizens and global policy-makers (Steffek et al 2008). Transnational social movements and NGOs may give voice to previously marginalised people in world politics. The activities of transnational civil society actors targeting powerful global actors may increase the accountability of these actors. Transnational civil society may also play a constitutive role in the construction and diffusion of democratic norms. However, it is important to stress that transnational civil society actors
do not necessarily have such output related democratic legitimacy. It is an empirical question to what extent the activities of a specific civil society actor have pro- or anti-democratic consequences.

A TNA may be weak on the input and throughput related aspects of democratic legitimacy, but still contribute to the strengthening of democracy in global governance, hence having some output related democratic legitimacy. Many civil society groups, for instance, may through their advocacy and “watchdog” activities contribute to increased transparency and accountability of international organizations although these groups themselves are weak on internal democracy. It is also reasonable to argue that it is not of much importance if a TNA has strong input and throughput related democratic credentials if its activities do not have any positive democratic effect on global governance at large. We can even conceive of actors with relatively strong democratic input and throughput legitimacy having a negative effect on global democracy. Hence, the dimension of output legitimacy should not be left out of the picture when analyzing democratic qualities of TNAs. We should ask the question: What are the democratic consequences of the actors’ activities?

3.4 Conclusion

The analysis of democratic legitimacy can be summed up in a number of questions which can help us evaluate the democratic credentials of TNAs. (See Table 2.) The questions help us identify different dimensions of democratic legitimacy, but they are not intended to be operational criteria for empirical research “measuring” the democratic legitimacy of different TNAs. The constructivist perspective challenges us to apply the different aspects of democratic legitimacy in a context sensitive way. Forms of democratic legitimacy differ not only across different types of TNAs, but also between different social, cultural and political settings. An overarching question should be how the different sources of democratic legitimacy are socially constructed. We should inquiry into the interests and values behind different demands for, and claims to, democratic legitimacy and ask how specific mechanisms for representation, participation and accountability etc. could be reconstructed in a more democratic way.
Table 2. Questions for evaluating democratic legitimacy of transnational actors

<table>
<thead>
<tr>
<th>Input Legitimacy</th>
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<tbody>
<tr>
<td><strong>Representation</strong></td>
</tr>
<tr>
<td>How representative is the actor of its constituency?</td>
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<tr>
<td>What is the quality of electoral representation?</td>
</tr>
<tr>
<td>What is the quality of non-electoral mechanisms of authorization by stakeholders?</td>
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<tr>
<td>To what extent does the actor represent democratic ideas?</td>
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<tr>
<td><strong>Inclusion</strong></td>
</tr>
<tr>
<td>To what extent are those significantly affected included in decision-making, deliberation and other activities?</td>
</tr>
<tr>
<td>To what extent does the actor give voice to marginalised people?</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Throughput Legitimacy</th>
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<tbody>
<tr>
<td><strong>Transparency</strong></td>
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<tr>
<td>To what extent are decision-making processes and other activities open and transparent?</td>
</tr>
<tr>
<td><strong>Accountability</strong></td>
</tr>
<tr>
<td>According to what principles is the actor accountable?</td>
</tr>
<tr>
<td>To which stakeholders is the actor accountable?</td>
</tr>
<tr>
<td>Does accountability involve control and sanctions or voluntary responsiveness?</td>
</tr>
<tr>
<td><strong>Participation</strong></td>
</tr>
<tr>
<td>What are the forms of participation?</td>
</tr>
<tr>
<td><strong>Deliberation</strong></td>
</tr>
<tr>
<td>To what extent is deliberation characterized by critical reflection?</td>
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<table>
<thead>
<tr>
<th>Output Legitimacy</th>
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</thead>
<tbody>
<tr>
<td><strong>Consequences</strong></td>
</tr>
<tr>
<td>What are the democratic consequences of the actors’ activities?</td>
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</table>
4 Concluding Remarks

In an effort to bring some order to the conceptual muddle in the literature on democratic credentials of TNAs, I first identified a number of different types of TNAs, including TNCs, transnational civil society as well as uncivil actors, transnational political parties, philanthropic foundations, epistemic communities, and diaspora groups. I also outlined some specific dimensions on which to compare different categories of TNAs. I then turned to the issue of democratic legitimacy, arguing in favour of a constructivist perspective. I suggested that the well-known distinction between input, throughput and output legitimacy is a useful way to organize different aspects of democratic legitimacy. Representation is important, but for many TNAs non-electoral mechanisms and the representation of ideas and positions rather than constituencies seem more relevant. Inclusion is more important from the perspectives of participatory and deliberative democracy. Transparency is an essential factor within all models of democracy, but transparency by itself does not mean democracy. An organization can be very open and transparent, but still elitist and exclusive when it comes to decision-making. Questions of accountability should focus on what principles of accountability are applied, which the stakeholders are, and to what extent accountability mechanisms are voluntary or involve some sanctions. Instead of, or in combination with, analyses of decision-making processes, we could focus on other forms of political participation and processes of deliberation. However, there seems to be trade-offs between deliberation and many other democratic values, including participation. The democratic consequences of the activities of TNAs must also be considered. TNAs with poor internal democratic credentials may still have a democratizing impact on global governance and vice versa.
References


Scholte, Jan Aart (forthcoming) Global Governance, Accountability and Civil Society


