Abstract

Debates about democratic institutional reform within international organisations (IOs) have often focused on the design of mechanisms that enable stakeholders directly affected by an IO’s activities to acquire voice and influence over that organisation’s decisions. We argue that this established way of thinking about democratic institutional design is at odds with widely accepted accounts of the global environment, in which plurality of issues, actors and institutional forums, and ‘turbulent’ dynamics of contestation and change, are defining features. A focus primarily on democratising internal organisational decision making fails to take seriously the importance of interactions between IOs and external actors and forums within a multi-level institutional order. A focus on directly affected stakeholders fails to take seriously multi-level structures of power, and the distinctive challenges presented by rapidly changing configurations of actors and issues for stakeholder identification. We illustrate the practical implications of plurality and turbulence for democratic institutional design with reference to the governance of international trade. Our analysis highlights the need for greater attention to mechanisms for: managing stakeholder entry and exit; regulating interactions between forums; and managing ongoing institutional renovation.
Introduction

Debates about democratic institutional reform within international organisations (IOs) have often focused on the design of mechanisms that enable stakeholders directly affected by an IO’s activities to acquire voice and influence over that organisation’s decisions. Debates about democratizing international organisations, and the broader global governance systems they fit within, have placed much emphasis on considering where and how the proper boundaries of democratic inclusion can be drawn. Much debate has also focused on questions about what institutional mechanisms or processes can best enable democratic stakeholders to exert their fair share of influence over decision making processes that affect them—whether these entail enhanced transparency, facilitation of deliberative processes, strengthened accountability mechanisms, or representation of key stakeholder constituencies.

Consider, for example, the intense political and theoretical debates that have surrounded processes of international decision making concerning the governance of foreign direct investment over the last two decades. Democratic critics of regional and bilateral investment treaties have pointed variously to the domination of negotiation processes by powerful interest groups and countries, weak participation of affected stakeholders in signatory countries, and highly secretive, unaccountable processes of dispute resolution in the implementation of investment agreements (Schneider 1998; Walter 2001; Franck 2005). Debates about the democratic credentials of other institutions of global economic governance, such as the WTO, IMF or World Bank, have also tended to focus largely on the decision making processes within individual organisations, and the design of institutional mechanisms through which the voice and influence of directly affected stakeholders is enabled or constrained, by the creation of new accountability mechanisms, reform of representative structures or new forms of engagement with global civil society (Fox and Brown 1998; O'Brien, Goetz et al. 2000; Woods 2001).

Democratic critiques of these kinds continue to play an important role in shaping agendas for the democratic reform of global governance institutions. Nevertheless, we argue that this predominant focus neglects the distinctive democratic challenges that are generated by a global environment in which the plurality of issues, actors and institutional forums, and ‘turbulent’ dynamics of contestation and change, are defining features. A focus primarily on democratising formal decision making processes within individual decision making forums fails to take seriously the importance of interactions between IOs and external actors and
forums within a multi-level institutional order. An exclusive focus on directly affected stakeholders fails to take seriously the distinctive challenges presented by multi-level power structures and rapidly changing configurations of actors and issues for identification and inclusion of more indirectly affected stakeholders. The goal of our paper then is to outline some of these distinctive democratic challenges, and draw attention to possible implications for both practical and theoretical agendas of global democratic institutional reform.

The argument we develop can be understood broadly as part of what (Archibugi, Koenig-Archibugi et al. 2011), p. 8-9 categorize as a ‘polycentric’ framework for understanding global democratic change, or what Scholte has called a ‘postmodern’ – as opposed to statist or cosmopolitan - way of thinking about global democracy, in which ‘governance of global affairs could be suitably democratized around principles of transscalar geography, plural identity, transcultural knowledge, egalitarian economy and holistic ecology’ (Scholte 2012), p.27. Such polycentric democratic approaches tend to highlight the multiplicity of state and non-state actors participating in global governance, the limitations of traditional forms of democratic legitimacy (such as elections and voting) as means of including stakeholders in decision making processes, and the need to create mechanisms for participation and accountability linking a plurality of actors. Within this broad view of the global democratic challenge, we focus more narrowly on the specific challenges for global democratic practices resulting from societal complexity and decentred institutional structures.

Throughout the paper, we adopt a well-established account of the values and purposes of democracy which is grounded on the principles of political control and political equality. From this foundation, the democratic credentials of political institutions can be judged according to how well they express and protect these values (Macdonald 2008; Macdonald 2011). On this view, ‘democratic stakeholders’, or those with a legitimate claim to equal consideration within decision making processes, are those whose autonomy is pervasively affected by a given decision making process. Certainly, this normative view of democracy is highly contested, and the question of how it can be operationalized is complex. Nevertheless, our primary goal in this paper is not to defend or debate this view. Rather, we are interested in a more strategic set of questions about how political institutions can best be designed to express and protect these democratic principles, under the distinctive set of ‘polycentric’ and complex social conditions within which global governance institutions now operate.
In section 1 we identify what we see as the main features of this ‘turbulent’ global order, with reference to ideas about polycentrism developed within literatures on global governance, and notions of societal complexity explored within wider political, sociological and policy literatures. Section 2 then examines the implications of these features of polycentrism and complexity for the challenges of democratic governance confronting architects, reformers and critics of global governance institutions. We illustrate the practical implications of plurality and turbulence for democratic practices with reference to the multi-level institutions through which both economic and social dimensions of foreign direct investment are currently governed. The final section of the paper then reflects on the implications of our analysis for wider theoretical debates about global democracy, and practical debates about how global governance reform might better embody at least elements of democratic norms. In practical institutional terms, our conclusions highlight the need for greater attention to mechanisms for: managing stakeholder entry and exit; regulating interactions between forums; managing ongoing institutional renovation; and enabling structured bargaining and contestation about each of these issues on an ongoing basis.

1. Pluralism, complexity and ‘turbulence’ in Global Governance

We begin by identifying with greater clarity what we understand to be the features of a plural, complex, or ‘turbulent’ global order, thereby laying the foundations for our subsequent analysis of what it would mean in democratic terms to take these conditions seriously. Characterizations of the contemporary global order with reference to concepts of ‘plurality’, ‘complexity’ and ‘turbulence’ have become commonplace, however analysis of such features has often been conflated. Although clearly linked, there are important distinctions between the characteristics and implications of these concepts which it is important to draw out more explicitly.

Recognition of the plurality of actors and forums engaged in processes of global decision making is foundational to the contemporary study of global governance (Held and McGrew 2002; Cerny 2007; Macdonald 2008; Scholte 2012). Some theorists of global governance have posited pluralism as a key orienting concept for understanding the dynamics of contemporary world politics. (Cerny 2010) for example has provided a neopluralist account of world politics which reflects the changing webs of power and the expansion of political actors in this diverse and multi-polar global environment. Others have characterised a pluralist order in terms of the absence of centralised or constitutionalised political authority (Macdonald 2008). Such an order is characterised by fragmented and overlapping forums,
issues and stakeholders with no authoritative means of coordinating or mediating between them.

Similarly, the concept of turbulence popularised by James Rosenau (Rosenau 1990; Rosenau 2005) pertains to the plurality of actors and forums in global politics as well as highlighting the integrated nature of this fragmented terrain. Rosenau’s theory accommodates multipolarity and the disorganised and dispersed operation of power within the global order, but also alludes to the fluidity of the constitution of this order. In other words, a turbulent order is one in which plurality and polycentrism need to be placed in the context of multiple and changeable configurations of actors and spheres of authority. It is not just that global politics is characterised by diversity of actors and institutions, but that these particular configurations are transient (Harrison 2006).

Within debates on global governance, attention to the distinct concept of complexity has been somewhat patchy. Complexity theory has not been influential in the mainstream of international relations (Harrison 2006), though it has had considerable impact in political theory more generally (Zolo 1992; Cilliers 1998; Urry 2003; Little 2008; Connolly 2010), and in applied debates in numerous areas of public policy and governance (Geyer and Rihani 2010). Broader literatures on governance have focused in particular on governance within complex organisations, though there is surprisingly little that engages directly with complexity theory, or that tries to understand complexity as an explicitly social phenomenon to which governance needs to be adapted.

Although there are considerable variations within the complexity theory literature, the main features are commonly understood to be a combination of elements of non-linearity, path dependence, emergent properties, and unforeseen consequences. We do not have space to develop a full account of each of these properties of social complexity here, but for our purposes, the implications of the combination of these phenomena is an environment comprised of changeable and unpredictable relationships between decision-making processes and their effects, generating distinctive demands for organisations which must operate in a climate of emergent properties and unforeseen consequences.

These core features of changeability and unpredictability are underpinned by two important dynamics, which complexity theorists have highlighted. The first is temporal dynamism. Temporal dynamism implies that the organisations which act in complex environments and the issues they act upon are always in a process of change and development. While, in order
to act, it may be necessary to present snapshots of particular issues as ‘how they really are’, most issues are actually in a process of change as they are addressed and acted upon by multiple participants in a variety of social and political practices.

Second, the epistemological dimensions of complexity imply that political actors always act on the basis of imperfect knowledge or understanding of the issues which they need to address. Even the most sophisticated understanding of an issue cannot accommodate perfectly the fact that other actors will also be acting on an issue (and thereby changing it) simultaneously. Moreover, actors or institutions addressing and changing a particular phenomenon may do so with a very different understanding of the issues at hand and with radically divergent understandings of the appropriate rationale and logic for dealing with an issue in a particular way. Therefore, a complex environment entails inescapable epistemological blind spots resulting from multi-faceted issues being acted upon contemporaneously by multifarious actors with differing agendas and understandings. Importantly, this implies that decision makers always act on a foundation of imperfect knowledge about the changing entities that they address.

On this view, such is the plurality of actors working at cross-purposes or in accordance with different rationalities, it is virtually impossible to develop a static, rounded or predictable picture of the things we must act upon. In short, complexity therefore demands review and reappraisal of established paths and historical actions if we are to keep pace with its temporal dynamics, epistemological uncertainty, and thus the ‘becoming’ nature of the entities and issues we have to address. Institutions designed to meet the challenges of a complex environment therefore need to be reflexive with regard to the dynamic constitution of the actors who engage within an institution, the changing nature of the issues that the institution must address, and the requirement for the institution to evolve and develop in the light of the dynamic environment in which it operates.

How then can we understand the relationship between these concepts of plurality and complexity? The contemporary global order is characterised not only by the sheer plurality of issues and actors that interact within a complex governance environment, but the changing nature of the composition of this plurality both in terms of issues that need to be addressed and potential participants in decision making processes. Plurality is often part of complex dynamics, and contributes to their relevance for how we understand theories and practices of global democracy. In particular, the multiplicity of actors and forums feeds directly into
features of non-linearity and unforeseen consequences that are the hallmark of complexity theory. However plurality is neither a necessary nor sufficient condition to constitute complexity in the sense we have in mind. It is not necessary, in that a social order could theoretically be less plural and still be complex (although, in practice, that is not usually the case). And it is not sufficient, in that the theory of complexity also has a more dynamic element than the concept of plurality alone captures. This is particularly the case with respect to the analysis of temporal dynamics.

In practice also, elements of plurality and complexity work together to produce the distinctive democratic challenges that our paper documents. Certainly, there is a degree of complicatedness associated with *multiple actors and forums* which is recognised in much of the existing literature. However, we go beyond this notion of complicatedness to identify a range of difficulties associated with multiple issues, and corresponding *conflicts between forums* with no clear hierarchy between them. This is an issue that has been more widely analysed within legal rather than democratic literatures even though there is a broad - though often understated - recognition of the problem in the global democracy literature. What particularly drives the analysis of the case study in the second half of the paper is the recognition of blurring between the inside and outside i.e. the *ambiguity of stakeholder identification*, and the implications this has for how we think about democratic institution building in a socially complex environment.

Importantly, such structural and dynamic features of the global order are conceptualised across almost all such accounts as something to be adapted to and managed to the extent possible – not something that it is possible to overcome. No matter how adept our organisations might be at adapting to conditions of complexity and pluralism, these underlying social dynamics themselves will not go away. Instead, we need to adapt our theories and practices of global democracy to them.

2. **Implications for democratic institutional design**

Such global conditions of plurality and complexity pose significant and distinctive challenges for democratic institutions, which existing analyses of possible agendas for democratizing global institutions have not yet fully grappled with. In this section, we present a preliminary exploration of some of the institutional challenges that would need to be confronted in order to take such conditions of ‘turbulence’ more seriously.
We illustrate our argument about the practical implications of plurality and complexity for democratic practices with reference to a case study of the multi-level institutions through which both economic and social dimensions of foreign direct investment are currently governed. The global governance of foreign direct investment is notoriously fragmented and multi-layered, making it an instructive case through which to explore some of the key dilemmas confronting the global democratic project on which this paper focuses.

**The complex and polycentric global governance of FDI**

The global governance of foreign direct investment is built around a highly fragmented and complex patchwork of public and private governance systems. At the intergovernmental level, the GATS (General Agreement on Trade and Services) and TRIMs (Trade Related Investment Measures) agreements within the WTO provide a set of rules to facilitate the liberalisation of investment flows, and offer a broad set of protections to foreign investors. These multilateral agreements are supplemented by a proliferating set of regional and bilateral investment agreements, with similar but often stronger provisions relating to a fairly standard set of issues such as national treatment of foreign as compared with domestic investors, equal treatment between foreign investors, prohibition of expropriation without compensation, and so on (Mann 2008). Similar kinds of protections are sometimes offered to investors in large scale infrastructure projects in the form of Host Government Agreements, which are designed to establish a predictable investment climate by constraining host government autonomy to change regulatory frameworks over the life of a given investment project (Keenan 2008).

While the above kinds of agreements focus on state duties, international rules and guidelines have also been developed to outline the obligations of investors themselves with regard to human rights and labour aspects of their investment practices. These mainly take the form of voluntary norms and guidelines, such as the recently agreed Guiding Principles developed by the UN Special Representative on Business and Human Rights under the mandate of the UN Human Rights Council, the ILO’s Norms for Transnational Enterprises, and the OECD Guidelines for Multinational Enterprises. Such standards can also be imposed as a condition of project financing, such as the Performance Standards used to govern the social and environmental practices of foreign investors receiving International Finance Corporation loans.
Some individual governments also have their own unilateral rules and guidelines to govern foreign direct investment activity, such as the social and environmental safeguards provisions associated with export credit agencies, or legislation regulating off-shore business practices with respect to specific issues such as bribery, corruption or forced labour. National rules about many aspects of these issues are in turn coordinated loosely through inter-governemental processes such as the guidelines and common approaches developed by the OECD’s Council and committees (Salzman 2005).

These state-based systems of investment rules co-exist with a range of private governance arrangements, often focused on social and labour aspects of foreign direct investment. Many of these govern business activity in specific sectors, such as the Equator Principles in the banking sector, the International Council of Mining and Metals Sustainability Framework in the mining sector, or the Fair Labor Association in the clothing and sportswear sectors. Other voluntary agreements include both business and government parties, such as the Extractive Industry Transparency Initiative in the extractives sector.

These examples are by no means comprehensive, but illustrate the enormous multiplicity of governance systems that currently exist to make rules about the conduct of foreign direct investment activity, and to which democratic norms would need to be applied if the global governance of foreign direct investment were to be democratized.

Not only are there multiple forums (and types of forums) addressing multiple issues of regulatory concern, but these overlap and intersect with each other in significant ways. In some cases this takes the form of overlapping commitments, such as the overlaying of different commitments on similar issues resulting from the co-existence of TRIMs alongside regional and bilateral investment agreements. Similarly, different private schemes regulating labour, social and environmental practices vary significantly in their coverage of similar issues, and in the demandingness of obligations entailed. Scholars of multi-level governance have sometimes referred to these as ‘nested’ governance arrangements (Aggarwal 2005). In other cases, such schemes can interact with each other via competitive dynamics (Abbott and Snidal 2006). Competitive dynamics of this kind have been widely documented with reference to BITs, with competition among neighbouring countries being commonly identified as a key driver of the diffusion of such treaties (Guzman 1997; Shadlen 2007). Competitive interactions of these kinds have also been documented with reference to private regulatory schemes (Vogel and Kagan 2004; Vogel 2005; Abbott and Snidal 2006).
Importantly, there are many cases in which the obligations entailed by these different governance schemes conflict with each other, in the absence of any means of coordinating between forums or adjudicating conflict. This is illustrated particularly starkly by conflicts between state based regimes of investor protection on the one hand, and human rights regulations on the other – whether these take the form of international human rights conventions, or national and private governance systems regulating foreign investment activity with regard to its impact on human rights norms.

Importantly, there is no clear hierarchical structure either in international law or political practice to resolve such conflicts. With respect to legal conflicts, (Bachand and Rousseau 2003) for example, cites two conflicting passages from competing regulatory regimes. Article 103 of the Charter of the United Nations states: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail”. Article 103 of the North American Free Trade Agreement, in turn, states: “In the event of any inconsistency between this Agreement and such other agreements, this Agreement shall prevail to the extent of the inconsistency, except as otherwise provided in this Agreement”.

Few cases exist in which an arbitral tribunal has considered incompatibilities between investment treaty obligations, and human rights treaty or customary law obligations. Neither is there an authoritative political forum in which such disputes could be resolved, with political contestation around the content of each agreement proceeding along separate political channels. In practice then, the way these conflicts get resolved depends largely on the unfolding of informal power dynamics, which are in turn dependent on factors such as the relative strength of enforcement mechanisms for competing regimes, the weight of political pressures bearing on states and agencies who are caught at the interface of the conflicting norms, and the bargaining power of these governments and agencies themselves.

The highly informal processes through which such conflicts are usually worked out have important implications for how we think about the problem of democratizing global governance in this field, as we shall see below. Yet while these problems are familiar to scholars of multi-level governance, the implications of these dynamics have not been explored by scholars of global democracy. What then are some of the implications of this for democratic institutional design?
Implications for stakeholder identification

Because decisions taken in one forum can have important implications for outcomes being regulated by other forums, via the various channels outlined above, cascading chains of causality can extend potential stakeholders beyond those most directly and visibly connected to a given decision making forum (such as the forum’s direct participants or recognised stakeholders). In other words, building democratic institutions for a plural and complex global order demands that we come face to face with the notoriously difficult question of how to operationalize some normative criterion of ‘affectedness’, on a terrain in which channels of affectedness are continually shifting.

As well established in debates about the ‘all-affected principle’ in global democracy, it would be both normatively unjustified and practically unworkable to extend democratic stakeholder status to anyone affected in any way, an approach that would extend potential stakeholders ad infinitum. Rather, most of those advocating some principle along these lines agree that such status would only extend to those stakeholders whose core autonomy (Macdonald 2008) or vital interests (Held 2004) is pervasively affected by a particular decision making process, meaning that only a small sub-set of all channels of potential affectedness would in practice meet this criterion.

Perhaps the clearest example of affected stakeholders whose potential entitlement to democratic inclusion is not recognised within the terms of existing investor agreements is communities affected by large scale investments such as large dams, gas pipelines, or large mining projects. On the criterion of pervasive impact on core interests outlined above, these groups would seem to be the most likely candidates to have some kind of democratic status recognised.

Beyond these kinds of examples, we could in turn consider a wide range of groups who are affected by decisions made in forums to which they are not direct parties, but whose vital interests could plausibly be argued to be affected in pervasive ways. For example, BITs signed by one country can have significant ramifications for the competitiveness and growth of certain economic sectors in competing countries, as documented by an extensive empirical literature (Guzman 1997). This is just one example of a broader phenomenon, whereby any business or state parties that are in competition with each other will be potentially affected by the rules and agreements designed by others, via dynamics of ‘regulatory competition’
(upwards or downwards), or other interactive processes of the kinds described above (Vogel 1995; Christiansen, Oman et al. 2003; Vogel and Kagan 2004; Konisky 2007).

In some cases, such impacts might be non-trivial, affecting the economic prosperity of an individual or community, yet they may not be sufficient to fulfil a criterion concerned with impact on core autonomy or vital interests. In other cases, vital interests might be affected (eg by some workers losing their jobs and livelihoods in the course of an economic adjustment resulting from shifts in investment and trading patterns), but these might be affected in transient ways, as new livelihood opportunities might dynamically emerge to replace those that had been lost. However in cases where entire sectors would run the risk of being severely damaged by a neighbour’s trade or investment agreement, in the absence of alternative livelihood options, there would at least be a case for affected workers or farmers to claim, on democratic grounds, some voice or at least information about the terms of such negotiations. Yet in a complex environment, making judgements about the justified boundaries and terms of inclusion and exclusion in a given instance will be all the harder because of the fact that the consequences of a given decision making process on other processes and stakeholders will usually be extremely changeable and difficult to predict.

Given all of this, there is clearly significant scope for uncertainty and contestation about where boundaries between those possessing and those lacking a democratic entitlement in a given case ought to be drawn. Even where the general patterns of ricocheting impacts might be possible to envisage, knowing which particular forums and stakeholders will actually be affected in a given case will often not be possible. Such uncertainty has important implications for the institutional procedures through which such judgements are themselves made.

In particular, such uncertainty and contestation suggests the need to identify or establish institutional processes through which potential stakeholders can make claims for some kind of democratic entitlement when they believe themselves to have been affected in normatively relevant ways by a given decision making process. Such claims could come directly from those claiming democratic stakeholder status, or from representatives of other governance forums who claim that their capacity to perform the tasks they have been mandated to perform by their own stakeholders is being undermined. The unpredictability of channels of impact implies that such claim-making processes would need to be extremely open in the range of potential stakeholders who would have access or standing to bring such claims.
An alternative (or complementary) approach to institutional reform through which stakeholders within ‘weak’ states could be democratically empowered would be recognition of the entitlement of such extra-territorially affected groups to access some form of information, voice, or reason-giving directly within the deliberative, policy making processes of otherwise nationally defined policy debates. Such an approach would recognise outwardly the extent to which key sites of transnational power within a pluralist global order still lie largely within domestic political institutions of powerful states (Walter 2001).

Such principles of non-exclusivity with respect to recognition of potential stakeholders would also require decision making forums to be open to dialogue with other governance forums, including those responsible for issues that lie beyond that forum’s own self-defined mandate. So for example this would mean that parties to the WTO or bilateral or regional investment agreements might be invited to engage in some form of structured deliberation or bargaining with forums such as the ILO, human rights bodies, or private regulatory schemes, in response to claims that the mandates and work of these other bodies was being undermined as a result of their activity.

Such claims about the need for mechanisms through which the boundaries of stakeholder recognition can be continually challenged and renegotiated raise immediate questions about the kinds of institutional mechanisms through which such contestation might occur. This is the question to which we now turn.

Implications for democratizing decision making processes

One of the most central implications of the dynamics of cross-forum interaction outlined above is that many important decisions about what rules end up mattering in terms of shaping people’s lives and impacting their autonomy are not the formal decisions made within international organisations and other formalised global governance processes. Rather, such outcomes are often determined as a product of the much more informal dynamics of inter-forum bargaining, competition and contestation.

Such horizontal decision making processes take a number of forms in the global governance of foreign direct investment. The horizontal bargaining dynamics through which inter-governmental trade and investment treaties are negotiated is one important decision making mode of this kind. Many informal rules and guidelines negotiated between governments to govern aspects of foreign direct investment are formulated through processes of similar
kinds. Also well documented in literatures on global governance are dynamics of ‘forum shopping’, whereby parties engaged in a political contest over international rule setting can strategically shift important decision making processes between forums – endeavouring to locate key decision making processes in those forums in which they wield greater influence (Busch 2007; Sykes 2008).

A well-known example of forum shifting in the field of foreign direct investment is the dynamic through which the energies of negotiators advocating a progressive strengthening of investment liberalisation and investor protection rules have been shifted from the WTO (where TRIMs and GATS were negotiated in the Uruguay Round), to the OECD (where the Multilateral Agreement on Investment was advocated and ultimately defeated), and then increasingly to the negotiation of individual BITs (Walter 2001). Throughout these processes, the deployment of coalitions of states and private actors has played a central role in enabling domination to be exercised, and in some cases (such as resistance to the MAI), enabling ‘coalitions of the weak’ to mobilize countervailing sources of influence.

Within horizontal decision making processes of these kinds then, the outcomes that eventuate are determined importantly by the mobilization and strategic interaction of informal networks and coalitions of actors both within and between states. In turn, relevant forms of decision making power derive from informal, non-authoritative sources, whether these be sources of bargaining power, financial or informational power, power derived through relationships and positions within elite networks, and so on. These dynamics contrast fundamentally to the more formalised sources of power within authoritative political institutions on which debates about democratic decision making procedures typically focus. When we think about what it would mean to ‘democratize’ these processes, it is therefore not formal decision making rules and procedures concerning structured representation, deliberation, and so on, that are of greatest relevance. Rather, we would do better to draw from concepts of ‘fair bargaining’ invoked by Christiano (Christiano 2011), p.81, or republican-inspired ideas about contestability as a means of mitigating domination in governance networks, invoked by Drahos and Braithwaite (Teubner 1996; Teubner 2000; Burris, Drahos et al. 2004; Braithwaite 2005; Black 2008).

Designing democratic decision making processes within the terms of a complex global order faces a further challenge as a result of the ‘emergent properties’ and ‘unforeseen consequences’ associated with governing societal complexity. Such dynamics challenge the
viability of reliance on *ex ante* forms of democratic authorization or delegation, necessitating instead a greater role for ongoing mechanisms of democratic revision and review. This institutional implication is especially salient to the governance of foreign direct investment, in view of the propensity for many international investment treaties to be negotiated with extremely inflexible lock-in clauses over periods of up to 10 years (Shadlen 2007) - almost the ideal-typical opposite of what democratic responsiveness to conditions of complexity would demand.

Of course, the democratic character of such provisions would be questionable even without considering the distinctive challenges of societal complexity. Indeed, in many respects such provisions were expressly designed to help insulate investors from the vagaries of democratic politics. Nevertheless, the dynamics of complexity intensify the democratic deficits created as a result of the very long time-frames over which negotiated agreements are locked in, and underscore a strong democratic case for such investment rules to contain provisions for potential challenge, review and revision, in light of changing conditions.

3. **Implications for global democratic debates**

Global democratic agendas that focus on empowering directly affected stakeholders of international organisations to participate more meaningfully in the decision making processes of these bodies have rightly received significant attention within established global democratic debates. Although such agendas have enduring relevance, we have suggested in this paper that they do not pay sufficiently serious attention to the distinctive democratic challenges posed by a ‘turbulent’ global order.

A systematic analysis of the implications for democratic theory of these turbulent social conditions would be a major undertaking, which we have not attempted in this paper. Rather, our goal has been to make a case for democratic theorists to engage more seriously with such a theoretical agenda, in recognition of the distinctiveness and seriousness of the democratic challenges presented by global pluralism and social complexity. The received body of democratic theory on which global democratic theorists draw has evolved with a distinctive history, language and conceptual toolbox, many aspects of which are unsettled in quite foundational ways by intractable conditions of global ‘turbulence’.

Deeply embedded within established democratic thinking is the assumption that democratic institutions are built upon relatively settled relationships between democratic constituents and
decision making forums. The language of ‘membership’ and democratic ‘boundaries’ reveals entrenched assumptions about the relative stability of relationships between governors and the governed, and a binary way in which these should be conceived. There is little discussion of changeability in these relationships, or of the possibility that different groups might meet criteria for membership to different extents or in different ways. Or at least, while potential changeability in these relationships may be acknowledged in the abstract, the problem isn’t taken seriously enough to receive distinctive expression in models of democratic institutional design.

Taking turbulence seriously in debates about global democracy would potentially require some quite foundational (re)theorization of how norms of political equality and popular control could meaningfully be understood within such a fragmented and changeable order. Our paper has not begun to tackle this deeper theoretical dimension of the democratic challenge, though we have pointed towards some theorists who are grappling with related challenges (Teubner 1996; Teubner 2000; Burris, Drahos et al. 2004; Kingsbury 2005; Krisch 2006; Black 2008), and whose writing may therefore offer useful insights.

Our analysis has, however, generated some general propositions about the kinds of qualities we might expect of democratic institutions that were adapted to conditions of pluralism and complexity: responsiveness to the disorderly elements of complexity; adaptability to change as the issues that governance forums address in turn evolve; openness to prospective participants whose stake in decision making processes can change over time; and flexibility in responding to unforeseen outcomes of decisions. In institutional terms, our analysis has therefore highlighted the need for greater attention to mechanisms for: managing stakeholder entry and exit; regulating interactions between forums; managing ongoing institutional renovation, and enabling structured bargaining and contestation about each of these issues.

Clearly, institutional features of these kinds would bring along substantial attendant challenges. Importantly, however, these kinds of challenges are not the product of the rather fragmented – and for many, democratically unsatisfying – institutional models that our analysis directs us towards. Rather, such challenges inhere in the defining features of a polycentric and complex global order, in which the absence of centralised political authority is a defining feature. We have therefore insisted that pluralist and complex features of the global order – however difficult the challenges they present to global democratic institutional design – are existential features of the prevailing order, which we are stuck with, whether we
like it or not. The reflections on models of democratizing global governance presented in this paper are anchored in this central, highly non-ideal, assumption. Plurality and complexity cannot be wished away by simply noting their existence and then moving along to discussion of institutional models that assume their absence. If our depiction of a polycentric and complex global order is even roughly accurate, then this implies the need for institutions that can manage some of the problems this order engenders.

Taking the implications of turbulence seriously therefore implies not only an expanded theoretical agenda for global democrats. It also demands development of a distinctive practical agenda of democratic institutional reform, which would place greater weight on mechanisms for claim-making and structured bargaining, of the kinds explored in embryonic ways above. In a more fully developed form, we hope that such approaches might provide useful guidance to those seeking to work towards institutions that are at least less undemocratic, within the terms of the turbulent global order within which aspiring global democrats have no choice but to act.
References


