ACCOUNTABILITY IN AND OF GLOBAL GOVERNANCE


Papers presented
Steven Bernstein (University of Toronto) and Erin N. Hannah (Kings University College) “Re-Examining the Relationship of the WTO with Other International Organizations: (In)Coherent and (Un)Accountable Global Economic Governance?”

Richard Janda (McGill University) “Accountability for Domestic Corporate Activity Abroad”

Paloma Raggo (Syracuse University) “Accountable to What? Setting Standards for the Transnational NGO Community”

Jan Aart Scholte (University of Warwick) “Global Governance, Accountability, Civil Society”

Robert Wolfe (Queen’s University) “Who Is Accountable at the World Trade Organization?”

Chair and Discussant: Mark Halle (International Institute for Sustainable Development)

Report prepared by
Anna Drake (Queen’s University)

In the almost 20 years since the establishment of the WTO, levels of transparency and participation have increased significantly. Accountability, however, has not progressed nearly to the same extent. Mark Halle, who chaired the panel and discussed the papers, suggested that the reason for this is the complexity at the intergovernmental level, where it is unclear how chains of accountability work. Moreover, it is unclear what it means to exercise accountability. The existing body of work in this area tells us that some accountability mechanisms work well, while others do not. Given the uneven development between accountability and other principles, further work needs to be done in order to explain how accountability mechanisms are transferred to intergovernmental institutions and to examine how accountability might be improved. In the context of global governance the study of accountability requires paying attention not only to the internal accountability mechanisms of international organizations such as the WTO, but also to the ways individual states, corporations, NGOs, and civil society might participate in the exercise of accountability.

To this end, panellists at the 2011 meeting of the International Studies Association in Montreal set about trying to understand accountability in the context of global governance. The panellists approached the issue in different but complementary ways. All asked questions that complicate simple understandings of accountability. The collective work—and following discussion—generated further research questions.

UNDERSTANDING ACCOUNTABILITY IN A GLOBAL CONTEXT
Accountability is one of the key concepts and mechanisms that we rely upon to ensure that institutions perform the tasks with which they are entrusted. Although fundamental to assessing an institution's legitimacy and efficiency, given the number of interactions that are subject to accountability mechanisms, tracing the lines of accountability is a complex undertaking. Moreover, according to whom we ask there may be different motivations for establishing accountability structures, as well as numerous ways to look at accountability within (and outside) institutions. Not all of these may be compatible. When we approach accountability in this multifaceted way, fully understanding accountability appears a formidable task.

Unsurprisingly, given the complexities noted above, one of the first tasks is to clarify what it is we mean when we speak of accountability. In this respect panellists’ definitions vary but overlap in an important way, with many approaching the question “what is accountability?” by categorizing its different components and asking a series of questions about them. Although these categories contain their own definitions the message is that we cannot define, much less understand, accountability unless we take this larger and more contextual approach.

In the first presentation, and drawing from the introductory chapter to his forthcoming 2011 book Building Global Democracy? Civil Society and Accountable Global Governance, Jan Aart Scholte set out seven questions about accountability [What is accountability?; Who is accountable?; Accountability for what?; Accountability to whom?; Where does accountability extend?; Accountability by what means?; How adequate are instruments of accountability?] and analysed the concept in terms of its relationship to global governance. Taking a similarly expansive approach, Robert Wolfe, building upon the work of Jerry Mashaw, posed six questions about accountability regimes [who; to whom; about what; through what process; criteria/standard of assessment; with what effects on agents]. Using this as a framework, Wolfe approached these six overarching questions from different angles, complicating and expanding the accountability framework by breaking these categories down into various possible component parts. Here he noted, for example, that the standard of assessment we use to evaluate accountability will look quite different depending on whether we focus upon effectiveness, keeping promises, or abuse of power, and whether we view these criteria as procedural rules or substantive ones. Also asking questions about accountability, but this time from the standpoint of NGOs, Paloma Raggo utilized a similarly expansive approach, drawing from Grant and Keohane’s (2005) seven accountability mechanisms [hierarchical; supervisory; fiscal; legal; market; peer; reputational] to study accountability in world politics. Richard Janda drew from the framework set out by Wolfe in order to develop a “test case” that examines the failure of Canada’s Bill C300, “An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries.” Although they did not explicitly apply any of these frameworks, Steven Bernstein and Erin Hannah situated their paper that examines the relationship between the WTO and other IOs in this context of multiple models of accountability. Their discussion of mutual accountability also contributed to a contextual understanding of accountability.

A main theme that emerged in the panel was that accountability, particularly as we try to understand its functions in global governance, is a polycentric problem. Because there are numerous ways to approach accountability, as well as numerous principles and agents of accountability—both within and outside particular organizations—not only are the lines of accountability difficult to identify, but there are numerous “centres” of accountability; that is, numerous accountability relationships found in different places, each looking for something different as principals hold their agents accountable for a variety of things. These multiple centres—or “accountability regimes”—
overlap and conflict, thereby posing a problem to the task of understanding accountability, which can mean very different things to different people depending on where they look.

Illustrating the polycentric problem, Wolfe took the six questions about accountability and designed two tables: one that highlights the lines of hierarchical accountability at the WTO, and another that identifies accountability regimes based upon substantive purposes. In this latter table the polycentric problem is particularly stark, as the accountability processes vary widely—something that is especially evident when social justice and sustainable development appear as goals. In this broad examination of accountability regimes the criteria for assessment take very different approaches to questions of reciprocity (amongst other things). Examining the various possible accountability mechanisms and numerous accountability regimes, Wolfe notes that the polycentric problems result in an accountability “trilemma,” in which attempts to enhance one aspect of accountability may end up undermining others.

The polycentric problem is also evident in Bernstein and Hannah’s paper, in which they map institutional cooperation and attempts to build greater coherence and mutual accountability in global economic governance. Here their focus is on the overlap of WTO rules and mutual accountability. The complexities they identify explain why they argue that the success of the WTO’s coherence mandate is limited to policies that address trade liberalization and development, as well as underscore why the WTO faces both normative and legal constraints as it tries to build greater coherence in non-traditional areas.

Attempts to expand into non-traditional areas, however, are not ruled out by the problems of polycentrism. While there is consensus among industry stakeholders and NGO and government stakeholders that there ought to be higher levels of accountability, there is disagreement on the best mechanisms with which to ensure such enhanced accountability. Illustrative of this is Canada’s failed case of Bill C-300 that targeted Canadian corporations working abroad as a way to influence, through restrictions on the availability of funding, corporations’ environmental and human rights activities. Janda detailed the motivations for and failure of this “test case” bill as he focused on the ability of the state to affect the accountability of its corporations as well as the impact of global NGOs, who had been pressuring the Canadian government over the way its corporations behave abroad. Unsurprisingly, corporate pressure—the threat of the “Wall Street walk”—contributed to the bill’s ultimate failure. The resistance to these expansive accountability demands was considerable; in particular, there were strong objections to setting a precedent with this proposed extension of accountability in which corporations would be held accountable for their justice footprint.

While acknowledging that polycentricity underscores the difficult task of understanding accountability, these multiple locations provide opportunities to study different aspects of accountability. To this end, Raggo asks what we can learn from civil society and transnational organizations in terms of accountability. Through the analysis of interview data that ask NGOs for their views of accountability—asking how NGOs feel constrained and what they feel constrained by in an approach designed to unearth the ways that NGOs hold themselves accountable—Raggo focuses on “accountability to what?”, and examines who sets the standards of accountability. She also asks “on behalf of whom?,” and examines who sets these standards. In doing so, Raggo situates her work in terms of the existence of contentious and multiple accountabilities, noting that she hopes her study can help us to avoid some of the conflict problems in accountability.
The practical implications of the polycentric problem are far-reaching. On the one hand, highlighting the problem provides new opportunities and material for richer analysis. This material, as the panellists illustrate, allows us better to understand what is at stake when we try to map out and understand accountability mechanisms in the context of global governance. On the other hand, because accountability is a complex network—and increasingly so—it can be very difficult, as Scholte pointed out, to pin down those who fail to live up to their obligations of accountability when it comes to seeking formal redress. Still, when it comes to critiques of WTO accountability, for example, understanding that the mandate is contested as a result of the polycentric problem allows us to understand better what precisely is at stake, as well as to distinguish, from an analytical standpoint, the normative from the procedural questions.

SCOPE OF ACCOUNTABILITY

The issues raised by the polycentric problem underscore the need for people to identify clearly the reach of particular accountability obligations. A careful analysis of accountability mechanisms requires that we look to the mandate of the systems in question and examine the procedural mechanisms accordingly; a broader analysis of global governance requires us to acknowledge that these different centres of accountability exist amidst larger (and contested) normative ideas of what global governance accountability ought to look like. In other words, and as panellists underscored, we need to pay particular attention to the purpose we expect accountability to serve (Scholte) and to knowing why we are asking the question who is accountable, lest we conflate accountability for doing the right thing (Wolfe).

Situating his work in a particular context, Scholte noted his focus on democratic accountability. Highlighting that accountability itself is not always to democratic ends, he underscored the importance of situating our analyses in context and taking care that we do not obscure the ends that particular accountability relationships advance. Within his framework of democratic accountability Scholte focuses upon constituents, especially those who are marginalized and subordinated. To this end, Scholte (and later Bernstein and Hannah) highlighted the power relations that we need to be aware of in a global governance context where there are distinct divisions between the North and South. These relationships affect the way that accountability mechanisms work on a global scale and, moreover, have particular implications for the democratic ends Scholte highlights.

The extent to which accountability affects agents is in some cases dependent, at least in part, on our perceptions of accountability requirements. Raggo emphasizes this in her analysis of where and why NGOs situate themselves and how they understand accountability pressures. As she pursues these questions, asking under what conditions some mechanisms are favoured over others (noting the increasing influence of reputational accountability mechanisms for stronger organizations, and the lesser influence of fiscal accountability mechanisms on already weak organizations), Raggo demonstrates that the reach of accountability mechanisms is context-dependent.

Accountability challenges differ depending on what we are dealing with—particularly, as Bernstein and Hannah note, whether the issues we address are economic or not. As they show that the progress in achieving mutual accountability has been modest, Bernstein and Hannah note that the WTO is normatively and legally constrained in its involvement in non-traditional, new areas. The
challenges that arise as a result are, they argue, best secured if states make sure there is space to address this and, significantly, if other institutions do so. Reporting similar findings to those of Janda and Raggo, Bernstein and Hannah note differences in perceptions of legitimacy and vertical accountability.

**IMPLICATIONS FOR ACCOUNTABILITY MECHANISMS**

The implications of the polycentric problem and questions over the scope of accountability are significant. One of the things Scholte highlighted is that not only is the degree to which people are involved in relations of accountability highly political, but so is the question of when we look at people’s involvement—and particularly if our concern is with power relations. Attempts to remedy power imbalances are complicated by the lack of formal mechanisms built into global governance institutions. Scholte underscored the discrepancy between what we could do in principle versus what happens in practice, and noted this as the reason why people look to civil society, which becomes one of the other channels to pursue accountability.

Scholte’s arguments rely upon a broader, and specifically democratic, conception of accountability. In this respect, the implications he draws for institutional mechanisms (such as, for example, the media and its potential role in fostering greater democratic accountability) are ones that—at least from an institutional standpoint—do not apply to the specific focus of those such as Wolfe, who very intentionally keeps his focus on the internal accountability mechanisms of the WTO. It is clear from discussions that both approaches are important—that understanding accountability requires an analysis of accountability mechanisms both within specific organizations (and according to the mandate set out by the group), and in terms of the ways these centres of accountability affect, and are affected by, the larger structures of global governance.

Panellists took different positions on the need to broaden accountability. Janda’s analysis of the failed Bill C-300 led him to note that we are currently in a narrow kind of accountability and to argue for the need to broaden it. In light of the fact that investors have so much power, Janda discusses responses to the “Wall Street walk” and asked what it would mean to fill in policy obligations and not just to focus on the negative—that is, the policy gaps. Recalling the significant environmental consequences of the 2010 BP oil spill, Janda noted possible responses from an accountability standpoint, and asked for example if either the licence to operate or significant assets could (or should) be withdrawn to deal with the problem the company produced. If so, what would this look like in the trade regime? This question overlaps with Raggo’s discussion of reputational mechanisms, and recalls the impact of the protests against Nike’s reliance on sweatshop labour, highly publicized by the media in the late 1990s and successful in terms of prompting corporate policy change. States, corporations, NGOs, and civil society organizations all have an interest in policy mechanisms here. The question, as Halle noted, is whose standards should we apply in the case Janda examines, where Canadian corporations are working in other countries? If we are working toward a standard, then who sets the standard and how?

These questions over standard-setting remain complicated by the disagreement over the way that we divide labour and how the corresponding accountability mechanisms ought to. In their examination of the WTO’s attempts to build greater coherence in non-traditional areas, Bernstein and Hannah note that the expanded scope of the WTO’s rules has implications for policy areas that
are removed from the organization’s areas of core competence. They note that the problem here worsens in cases where WTO rules do not dictate policy, but interact with these policies (further evidence of the polycentric problem). These interactions, Bernstein and Hannah note, are a major source of the WTO’s legitimacy problems. There is a risk, they argue, if the WTO does not renegotiate its relationship with the international IP regime and with agriculture, services, and investment areas (amongst others); however, the tensions between WTO rules and environmental and social regulations fall largely outside the WTO’s specific mandate. Bernstein and Hannah conclude that much broader accountability is at stake here, and caution that the WTO risks larger questions of legitimacy if it gets involved in environmental and social regulations outside its mandate. Other organizations are better equipped to deal with these questions; because this is the case, the WTO ought to defer carving out positive policy space to other bodies. Here, a global division of labour is the preferred option. Adding to this evaluation, Halle noted that the answer to this problem lies in applying common sense, and noted that adjudication among different bodies should not be based on power plays.

REMAINING QUESTIONS OF ACCOUNTABILITY

The presentations and their policy implications led to a rich discussion. Here, the main themes were those of legitimacy, responsibility, and power. One person asked about the appropriate role of responsibility, noting that responsibility appeared to be missing in the discussion of accountability and that it is important to deal with individual behaviour. Wolfe responded that if we think the WTO is a site of responsibility, then it is not about individuals. Scholte noted that while individuals may be important, holding individuals to account is difficult.

There were disagreements between panellists as to whether more accountability is better (Raggo) or if this is not necessarily the case (Wolfe). Prompted by questions about the role of power, Halle noted that in terms of corporate responsibility, power is not always what it seems. Raggo noted the role of constituents, while Scholte noted his concern about displacement of democratic analysis, highlighting that a critical power question is inserted among all seven categories in his analysis of accountability. Scholte also emphasized the importance of paying attention to subsections of those whom we are talking about when we look at the ways in which people may be held accountable, and are able to hold others accountable: in addition to factors such as class and gender, Scholte highlighted the urban-rural divide as something that warrants particular attention.

Other questions dealt with the sources of accountability. Examining the roots of environmental regulation in terms of trying to understand where the authority to hold people accountable comes from, it was noted that sustainable development is not of course in the US constitution. There is, however, constitutional authority to regulate if we approach this question via the commerce clause—everything on environmental questions, in terms of what can be regulated, comes from this. The question of political will, however, complicates our ability to ensure accountability. In terms of going outside the WTO to address environmental issues, the question arose as to how we might cultivate political will, if it is not already there, so that the WTO can effectively use its powers. Hannah responded that no-one is interested in opening the Pandora’s box of green protectionism, especially developing countries.

Questions of legitimacy, in particular, shaped discussions. Panellists were clear to note the conceptual and practical differences between accountability and legitimacy, even though there are
connections between the two. This re-emphasized the importance of knowing why we ask particular questions—a point that is central to Wolfe’s analysis, and also strongly emphasized by Scholte. When it comes to questions of legitimacy, Wolfe noted that in asking particular questions, a lot depends upon which of the rows—set out in his analysis of accountability regimes—people think are the most important. Here the accountability “trilemma” re-emerges, highlighting the existence of many legitimacies and many accountabilities.

Despite the question of picking which sets of questions people perceive to be the most important, there are questions of legitimacy that appear easier (more definitive) to deal with. In response to the question whether it is legitimate for the WTO to play a role in other areas beyond trade, the response was largely “no,” and this is because other mechanisms exist in these areas of endeavour. As to the larger question of where legitimacy lies, there is a need to acknowledge a huge institutional discrepancy. The problem is that there are muscular regimes (WTO) and less effective ones (environmental); it is not the case that if we leave policy flexibility this strategy will work to ensure acceptable levels of accountability. Rather, this would more likely undermine legitimacy.

It matters how accountability is gained, and what we think the demands of accountability are and where it is we see them as belonging. These questions, Wolfe noted, will be examined in terms of the connections between civil society and WTO accountability at an upcoming IISD-ENTWINED workshop in Geneva this May.

Scholte noted that the grounds for legitimacy are numerous, and include: 1) technocratic; 2) legal; 3) democratic; and 4) moral. The worry when it comes to accountability is that understandings of legitimacy tend to be confined to the first two dimensions, which limits questions and analysis of the other two. What we need to do to address this is to re-politicize accountability.

The questions and responses illustrate complex and context-specific understandings of accountability, and emphasize the need to pay attention to the polycentric problem. The panellists, despite their different areas of focus within the broad examination of accountability in and of global governance, were in agreement about the polycentric problem. The papers and the ensuing discussion underscored questions and avenues for future examination that should prove beneficial to even richer understandings of accountability mechanisms in this context.

References
