Experiments in global democracy: The cases of UNITAID and the FAO Committee on World Food Security

M A R K U S   F R A U N D O R F E R

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Abstract: A growing literature explores how global governance mechanisms can be made more effective and democratic to tackle trans-boundary development challenges like global epidemics, global poverty or climate change. The international system today is characterized by an increasing influence of non-state actors gradually undermining the prominent role of the state. Considering this new reality, the focus of analysis has increasingly shifted towards examining the fundamental role of non-state actors, in particular from civil society, in building democratic global governance mechanisms. The literature still says little about joint governance efforts of both state and non-state actors to promote democracy on the global level. This article examines two global governance mechanisms, UNITAID and the FAO Committee on World Food Security, which were created by the joint action of state and non-state actors to tackle trans-boundary development challenges. Departing from the ideal type of democratic polycentrism this article argues that both mechanisms can be seen as encouraging experiments in global democracy. This analysis attempts to show that democratic polycentrism may prove to be a useful theoretical blueprint for pursuing more democratic global governance mechanisms and that more democracy on the global level depends on the joint activities of democratic states and civil society actors.

Keywords: civil society; democratic polycentrism; FAO Committee on World Food Security; global governance; UNITAID

I. Introduction

How to tackle trans-boundary challenges such as hunger, poverty or the spread of infectious disease in the developing world? This question is all the more relevant in the face of a global system whose dominant actors from the West are mainly responsible for the stubborn persistence of these challenges. Hence, the undemocratic and unjust institutional design of the

current Western order is a decisive reason for the ongoing failures to find sustainable solutions to the existing global inequalities in the world.[1]

At least in a national context, several developing countries have shown that a democratic approach to these challenges can be successful. India, for instance, was famine-ridden throughout the rule of the British Empire. With the introduction of a democracy in India after its Independence, famines ceased to be a persistent feature of India's reality due to the government's increased accountability to the public.[2] Brazil, a country known for its abysmal social inequalities, was only able to develop effective and successful mechanisms to fight development challenges such as the AIDS epidemic and its historic scourge of hunger and poverty after its re-democratization in the mid-1980s.[3]

Could a democratic approach also be promising for the structures of the global governance system to better deal with trans-boundary development challenges? And if so, what would this democratic approach look like? Richard Falk, for instance, warns that '[i]f these structures are not democratically constituted, then either hegemonic or imperial solutions will be forthcoming, doing severe damage to overall human well-being, or a dysfunctional chaos will ensue, also causing devastation and massive suffering'.[4] Scholars have increasingly attempted to come to terms with the salient features of a more democratic global governance system.[5] Any attempts, however, to democratize global governance mechanisms are confronted with undeniable challenges. Democracy on the global level will take a different form than is the case on the national level. The emergence of modern democracy with all its well-known

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[1] See, for instance: T Pogge, *World Poverty and Human Rights* (Polity, Cambridge, 2002); B Barry, *Why Social Justice Matters* (Polity Press, Cambridge, 2005); IM Young, Responsibility for Justice (Oxford University Press, Oxford, 2011); M Risse, *On Global Justice* (Princeton University Press, Princeton, NJ, 2012).

[2] A Sen, *The Idea of Justice* (Penguin, London, 2009) 342–3.

[3] A Nunn, *The Politics and History of AIDS Treatment in Brazil* (Springer, New York, NY, 2010). M Fraundorfer, *Brazil's Emerging Role in Global Governance: Health, Food Security and Bioenergy* (Palgrave Macmillan, Basingstoke, 2015).

[4] R Falk, 'The promise and perils of global democracy' in D Archibugi, M Koenig-Archibugi and R Marchetti (eds), *Global Democracy: Normative and Empirical Perspectives* (Cambridge University Press, Cambridge, 2012) 279.

[5] JS Dryzek, 'Two paths to global democracy' (2008) 15(4) *Ethical Perspectives* 469–86; T Macdonald, *Global Stakeholder Democracy: Power and Representation Beyond Liberal States* (Oxford University Press, Oxford, 2008); JA Scholte (ed), *Building Global Democracy? Civil Society and Accountable Global Governance* (Cambridge University Press, Cambridge, 2011); Archibugi, Koenig-Archibugi and Marchetti (n 4); C Gould, *Interactive Democracy: The Social Roots of Global Justice* (Kindle edn, Cambridge, Cambridge University Press, 2014). H Stevenson and JS Dryzek, *Democratizing Global Climate Governance* (Cambridge University Press, Cambridge, 2014).

institutions like a parliament, parties, elections, etc is wedded to the emergence of the nation state. In the medium-term future, the emergence of a world government with a world parliament and worldwide elections is not realistic,[6] which obliges us to search for other possibilities to achieve a more democratic global system. This endeavour is even more complicated due to the absence of a global *demos*. However, several scholars see the absence of a global *demos* as an opportunity rather than a hindrance to more democracy on the global level. Bohman, for instance, argues that multiple, overlapping *demoi* may more successfully encourage the democratization of global politics than one global *demos*.[7] Macdonald and Gould argue that, instead of representing one global *demos* with clear boundaries as in the case of the nation state, the multiplicity of state and non-state actors in global governance could, through collective action, concentrate their efforts on representing particular publics or communities affected by transnational decisions, rules and policies.[8]

Since international institutions play a key role in producing and reproducing global injustice, a reasonable solution might be to reform and/or create global governance mechanisms to better serve the needs of those people which have been the victims of the current international order. Iris Marion Young argues that global structural inequalities can only be tackled with an approach that guarantees that 'needs, interests, and perspectives of relatively marginalized people gain voice and influence in the deliberative process'.[9] In the same vein, Young holds that existing international organizations like the World Bank, the International Monetary Fund or the World Trade Organization do not provide those people who are affected by poverty, hunger, etc with the

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[6] See the following examples of this cosmopolitan view of global democracy: D Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Polity, Cambridge, 1995); J Habermas, *The Postnational Constellation: Political Essays*, trans M Pensky (Polity, Cambridge, 2001).

[7] J Bohman, *Democracy across Borders: From Dêmos to Dêmoi* (MIT Press, Cambridge, MA, 2007).

[8] It is beyond the scope of this article to explain in more detail the term 'affected publics or communities'. Macdonald and Gould use the term 'affected communities' to refer to the possibility of representing those people who are particularly affected by specific decisions, rules or policies. For instance, global governance mechanisms could be structured in a way to represent particularly those people who suffer from food insecurity regardless of their national background or national borders. See for a more profound discussion Macdonald (n 5); C Gould, Interactive Democracy: The Social Roots of Global Justice (Cambridge University Press, Cambridge, 2014).

[9] IM Young, 'Modest Reflections on Hegemony and Global Democracy' (2004) 103 *Theoria: A Journal of Social and Political Theory* 1, 4.

possibilities of participation.[10] Or in James Tully's words, 'the laws must always be open to the criticism, negotiation, and modification of those who are subject to them'.[11] From scholars like Tully, Young or Pogge, to name just a few, we have learned that the institutional design of the current international order is part of the problem and definitely not part of the solution. So, how to make global governance mechanisms more just and democratic if the existing international order produces and reproduces global injustice and thus perpetrates global poverty, hunger or health crises?

In a global governance system which is characterized by the manifold activities of a maze of state and non-state actors without the existence of an overarching authority Archibugi *et al.* suggest the type of 'democratic polycentrism' as a realistic possibility to advance democracy on the global level.

> in today's global space power is exercised not only by states but also by a myriad of non-state actors, such as companies, business associations, specialized IOs, non-governmental organizations (NGOs), social movements and networks of experts; these actors and sites of power can be democratized directly by linking them, through mechanisms of authorization and accountability, to those whose interests are more intensely affected by their activities; these mechanisms of authorization and accountability can be specific to particular non-state actors and sectoral networks rather than to overarching state-like political structures; these mechanisms do not need to take the form of electoral authorization and accountability, as long as effective control by the relevant stakeholder group is ensured.[12]

When we look at various sectors of global governance, democratic polycentrism seems to serve as a highly relevant analytical blueprint to realize more democratic global governance mechanisms. Sectors dealing with health, climate change or food security are characterized by a retreating role of the state, the high involvement of non-state actors and the mushrooming of multi-stakeholder governance mechanisms.[13]

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[10] Ibid, 8.

[11] J Tully, 'Modern Constitutional Democracy and Imperialism' (2008) 46 *Osgoode Hall Law Journal* 461, 488.

[12] D Archibugi, M Koenig-Archibugi and R Marchetti, 'Introduction: Mapping Global Democracy' in Archibugi, Koenig-Archibugi and Marchetti (n 4) 8–9.

[13] See W Hein and S Moon, *Informal Norms in Global Governance. Human Rights, Intellectual Property Rules and Access to Medicines* (Ashgate, Farnham, 2013); Fraundorfer (n 3).

Many scholars have focused on the role of actors such as civil society organizations (CSOs),[14] transnational companies,[15] governance networks[16] or reform proposals for international organizations.[17] An increasing number of scholars has also paid more attention to new multi-stakeholder mechanisms where different state and non-state actors come together to cooperate on trans-boundary issues.[18] All these studies have emphasized the key role of non-state actors showing that democratic polycentrism is not only a theoretical and normative blueprint. On the contrary, it may actually be a very realistic way to pursue more democratic global governance mechanisms. This article intends to contribute to this literature by examining how states in facilitating the joint governance efforts of state and non-state actors may reinforce more democratic structures on the global level. This perspective entails a more detailed examination of the role of the state and the joint governance activities of various state and non-state actors.

[14] JA Scholte, 'Civil Society and Democratically Accountable Global Governance' (2004) 39(2) *Government and Opposition* 211–33. M Saward, 'In Place of "Global Democracy"' (2008) 15(4) *Ethical Perspectives* 507–26. JE Lord, D Suozzi and AL Taylor, 'Lessons from the Experience of U.N. Convention on the Rights of Persons with Disabilities: Addressing the Democratic Deficit in Global Health Governance (2010) 38 *Journal of Law, Medicine & Ethics* 564–79. Scholte, *Building Global Democracy?* (n 5). J Tallberg and A Uhlin, 'Civil Society and Global Democracy: An Assessment' in Archibugi, Koenig-Archibugi and Marchetti (n 4) 210–32.

[15] K Macdonald, 'Global Democracy for a partially joined-up world. Toward a multi-level system of public power and democratic governance?' in Archibugi, Koenig-Archibugi and Marchetti (n 4) 183–209. A Little and K Macdonald, 'Pathways to global democracy? Escaping the statist imaginary' (2013) 39(4) *Review of International Studies* 789–813.

[16] AM Slaughter, 'Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks' (2004) 39(2) *Government & Opposition* 159–90.

[17] D Archibugi, 'The Reform of the UN and Cosmopolitan Democracy: A Critical Review' (1993) 30(3) *Journal of Peace Research* 301–15; M Imber, 'The Reform of the UN Security Council' (2006) 20(3) *International Relations* 328–34; G Silberschmidt, D Matheson and I Kickbusch 'Creating a committee C of the World Health Assembly' (2008) 371 *The Lancet* 1483–6.

[18] Some important studies on multi-stakeholder cooperation are the following: K Bäckstrand, 'Multi-stakeholder partnerships for sustainable development: rethinking legitimacy, accountability and effectiveness' (2006) 16(5) *Environmental Policy and Governance* 290–306; K Dingwerth, *The New Transnationalism: Transnational Governance and Democratic Legitimacy* (Palgrave Macmillan, Basingstoke, 2007); S Antonova, Powerscape of Internet Governance: How was global multistakeholderism invented by ICANN? (VDM Verlag, Saarbrücken, 2008); J Malcolm, *Multi-stakeholder Governance and the Internet Governance Forum* (Terminus Press, Perth, 2008); D Fuchs, A Kalfagianni and T Havinga, 'Actors in private food governance: the legitimacy of retail standards and multistakeholder initiatives with civil society participation' (2009) 28(3) *Agriculture and Human Values* 353–67; GW Brown, 'Safeguarding deliberative global governance: the case of The Global Fund to Fight AIDS, Tuberculosis and Malaria' (2010) 36(2) *Review of International Studies* 511–30; M Flyverbom, *The Power of Networks: Organizing the Global Politics of the Internet* (Edward Elgar, Cheltenham, 2011).

In particular in the last decade, ever more global governance mechanisms have emerged with the objective of tackling global development challenges to contribute to the Millennium Development Goals.[19] This increasing institutionalization gave rise to the creation of two innovative global governance mechanisms which I selected as my case studies, namely UNITAID (an International Drug Purchase Facility) and the FAO Committee on World Food Security (CFS), the former established by several states in 2006 and the latter reformed by the FAO member states in 2009. Their existence is fundamentally owed to the initiative of various state actors and the joint governance efforts of both state and non-state actors.[20] This article aims to highlight that democratic states, in joint governance efforts with non-state actors, remain fundamental in advancing democratic elements on the global level because of their prominent role in global governance.

The article proceeds by presenting three elements fundamental to democratic projects on the global level, namely the promotion of human rights and the creation of mechanisms of participation and accountability. The empirical part analyses the origins, mission, structure and decision-making processes of UNITAID and the CFS along these three elements and evaluates to which degree these two mechanisms can be viewed as first encouraging experiments in democratic polycentrism.

II. Democratic polycentrism

In this article, global governance[21] is understood as 'collective actions to establish international institutions and norms to cope with the causes and consequences of adverse supranational, transnational, or national problems'.[22] The fundamental question is how to make these international institutions more democratic to better tackle transnational or national development problems.

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[19] For more information on the UN Millennium Development Goals see <http://www.un.org/millenniumgoals/> accessed 16 December 2014.

[20] For an important study on the involvement of the NGO La Via Campesina in the reform and decision-making process of the FAO Committee on World Food Security see JW Brem-Wilson, *La Via Campesina and the Committee on World Food Security: A Transnational Public Sphere?* (PhD Thesis, University of Bradford, 2011).

[21] See also the emerging field of global administrative law as an alternative to the concept of global governance. See the following two examples: S Cassese, 'Administrative Law without the State? The Challenge of Global Regulation' (2005) 37 *International Law and Politics* 663–94; B Kingsbury, N Krisch and RB Stewart, 'The Emergence of Global Administrative Law' (2005) 68 *Law and Contemporary Problems* 15–61.

[22] R Väyrynen, 'Norms, Compliance, and Enforcement in Global Governance' in R Väyrynen (ed), *Globalization and Global Governance* (Rowman & Littlefield, Lanham, MD, 1999) 25. This is but one definition of global governance. In the vast literature on this subject many different and controversial notions exist of how to conceive of global governance.

Rosenau characterized global governance as a process constituted by the activities, practices and the shared knowledge agreed upon by the majority of the actors involved.[23] In the same vein, polycentric democracy can be understood as a (long-term) process constituted by the 'democratic practices' of all the actors involved, without necessarily establishing institutions essential for national democracies such as parliaments, elections, etc. According to Little and Macdonald, research based 'on an incremental expansion of democratic practices'[24] rather than a normative focus on 'a transcendental model of wholesale systemic change'[25] provides a more realistic approach to studying global democracy, and does not fall prey to accusations from critics who see the normative realization of global democracy in terms of systemic change rather far-fetched and illusionary.[26] In the same vein, Little and Macdonald emphasize that 'the notion of democratic practices helps us to maintain our focus on evaluating how much work given institutions do in promoting democratic values, rather than assessing whether democratic values have been "fully" (or almost fully) realised'.[27]

But what would these democratic practices in democratic polycentrism look like? This article concentrates on three democratic elements which have been discussed by scholars of normative democratic theory and global democracy with recurring emphasis, namely (1) the promotion of human rights and the creation of mechanisms of authorization to increase (2) participation and (3) accountability.[28]

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[23] JN Rosenau, 'Governance, order, and change in world politics' in JM Rosenau and EO Czempiel (eds), *Governance without Government: Order and Change in World Politics* (Cambridge University Press, Cambridge, 1992) 7–8.

[24] A Little and K Macdonald, 'Pathways to global democracy? Escaping the statist imaginary' (2013) 39(4) *Review of International Studies* 792.

[25] Ibid.

[26] Ibid, 789–92.

[27] Ibid, 794.

[28] The literature provided here is not exhaustive and constitutes only a small selection of examples. On human rights see: T Pogge (ed), *Freedom from Poverty as a Human Right: Who owes what to the very poor?* (Oxford University Press, Oxford, 2007); S Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (Oxford University Press, Oxford, 2008); Sen (n 2). On participation see: C Pateman, *Participation and Democratic Theory* (Cambridge University Press, Cambridge, 1970); Macdonald (n 5); G Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (Cambridge University Press, Cambridge, 2009). On accountability see: RD Behn, *Rethinking Democratic Accountability* (Brookings Institution, Washington, DC, 2001); D Held and M Koenig-Archibugi (eds), *Global Governance and Public Accountability* (Blackwell, Oxford, 2005); L Lewin, *Democratic Accountability: Why Choice in Politics Is Both Possible And Necessary* (Harvard University Press, Cambridge, MA, 2007).

First and foremost, the objectives of global democratic projects need to be directed towards the *protection and enforcement of human rights*. Even though different theoretical strands and models exist on how to realize global democratic projects,[29] many scholars consider human rights a principal element. Goodhart, for instance, argues that 'human rights are a necessary component of *any* plausible account of global democracy'.[30] He further holds that '[u]nderstanding democracy as a system to protect and promote human rights shifts the focus away from institutions, mechanisms and procedures and back to the core values underlying them'.[31] These core values are freedom and equality as guarantees to fight oppression and domination.[32]

Human rights 'include the absence of constraints such as threats to bodily security, or restrictions on liberty (including freedom from domination), as well as a set of enabling material and social conditions, such as means of subsistence and health care'.[33] In the context of this article, I am particularly interested in the understanding of human rights as a 'set of enabling material and social conditions' by focusing on the enforcement of the human right to health and the human right to food.

Both the human right to health and the human right to food were significantly reinforced and codified in international law over the last few decades.[34] Consequently, a clear legal mandate exists for state actors in global governance to reduce the suffering of millions of people and guarantee the access to basic needs such as health and food through the progressive realization of the human right to health and the human right to food.

Gould argues that the realization of human rights is not limited to states alone but includes non-state actors as well.[35] Her concept of transnational

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[29] See (n 14 and n 18).

[30] M Goodhart, 'Human Rights and Global Democracy' (2008) 22(4) *Ethics & International Affairs* 400.

[31] Ibid, 416.

[32] Ibid.

[33] C Gould, *Interactive Democracy: The Social Roots of Global Justice* (Kindle edn, Cambridge, Cambridge University Press, 2014) 410.

[34] For a more profound discussion on the codification of the human right to health see: J Tobin, *The Right to Health in International Law* (Oxford, Oxford University Press, 2012); J Wolff, The Human Right to Health (New York and London, Norton & Co, 2012); W Hein and S Moon, *Informal Norms in Global Governance: Human Rights, Intellectual Property Rules and Access to Medicines* (Farnham, Ashgate, 2013). For a more profound discussion on the codification of the human right to food see, for example: B Atwood, K Thompson and C Willett, *Food Law* (3rd edn, West Sussex, Tottel, 2009); A Alemanno and S Gabbi (eds), Foundations of EU Food Law and Policy (Farnham, Ashgate, 2014); N McKeon, *Food Security Governance: Empowering Communities, Regulating Corporations* (Abingdon, Routledge, 2015).

[35] See (n 33) 555.

solidarity emphasizes this point. Solidarity, in Gould's words, 'can be concerned with action to help realize rights, including the range of human rights'.[36] Solidarity, in her account, goes beyond the solidarity among individuals and includes the transnational relations among groups, associations and other organizations.[37]

> We can say further that when people or associations stand in solidarity with others at a distance, they identify with these others in their efforts to overcome oppression or to eliminate suffering, and they take action to aid these others or stand ready to do so if called upon. […] The shared values that characterize these solidarity relationships consist, then, in a shared commitment to justice, or perhaps also, in more consequentialist terms, to the elimination of suffering.[38]

Solidarity involves joint action among individuals and/or organizations to strengthen the human rights of distant others. However, transnational solidarity does not mean to impose those solutions found to eliminate suffering on others. On the contrary, transnational solidarity 'recognizes that it is the people in the oppressive or needy situation who are usually best able to say what support they wish and expect to benefit from'.[39]

> Solidarity, especially in its transnational variants, crucially adds to empathy an emphasis on understanding the social perspective of others, and on constructing ties in action among multiple individuals or associations. Accordingly, solidarity may exist among civil society associations, as well as among individuals operating within them and the people the organizations serve; yet, it applies as well to social movements, where these are understood as involving (loosely) shared goals and overlapping networks of people and groups.[40]

Besides the promotion of human rights through transnational solidarity, a second core element refers to the *participation* of non-state actors in global governance mechanisms. A huge majority of scholars agrees that the inclusion of non-state actors, in particular civil society organizations (CSOs), in the decision-making processes of global governance mechanisms is

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[36] Ibid, 2602.

[37] For a discussion on the concept of solidarity among nation states see RSJ MacDonald, 'Solidarity in the Practice and Discourse of Public International Law (1996) *Pace International Law Review* 8(2) 259–302; R Wolfrum and C Kojima (eds), *Solidarity: A Structural Prinicple of International Law* (Springer, Heidelberg, 2010); H Hestermeyer, D König, N Matz-Lück, V Röben, A Seibert-Fohr, PT Stoll and S Vöneky (eds), *Coexistence, Cooperation and Solidarity* (Leiden, Brill, 2012).

[38] See (n 33) 2650.

[39] Ibid, 2678.

[40] Ibid.

fundamental to global democratic projects. Non-state actors tend to support the promotion of human rights and global public goods. In an international system characterized by an ever higher degree of participation and influence of actors other than the state, the inclusion of CSOs 'broadens the range of actors involved in international policymaking and the provision of public goods', which leads to the input and representation of different ideas and policy proposals.[41]

Yet, essential questions about the democratic character of CSOs remain. Attention needs to be paid to questions about which CSOs participate, how they should participate and on which issue-areas in global governance they participate.[42] As in the case of states, more powerful and influential CSOs from the developed global north are normally more often represented in global governance mechanisms than those from the global south.[43] No less important, real participation of CSOs in decision-making processes is still rare and their participation remains largely limited to contributing to agenda-setting, implementation and enforcement.[44] That is why one needs to distinguish between different degrees of participation such as passive (observer status or consultation), active (presenting information, making statements in the decision-making body or contributing to the implementation of policies) or full (voting rights and agenda-setting power) participation.[45] So far, full participation in terms of voting and agenda-setting power is still an exception for CSOs.[46] Similarly, whereas in development sectors like health or food security the participation of CSOs is traditionally very strong, CSOs are generally still confronted with shut doors in policy areas dealing with security and military issues.[47] Notwithstanding these question marks, a broad consensus exists that a higher degree of participation of non-state actors is fundamental to any legitimate global democratic project.

Even if shut out from the official decision-making circles of global governance mechanisms, non-state actors are able to contribute to more global democracy. Gould suggests that non-state actors, in particular CSOs, democratize their own activities by developing their own democratic mechanisms, including democratic procedures to elect their representatives

[41] M Bexell, J Tallberg and A Uhlin, 'Democracy in Global Governance: The Promises and Pitfalls of Transnational Actors' (2010) 16(1) *Global Governance* 82.

[42] Ibid, 87. J Tallberg and A Uhlin, 'Civil Society and Global Democracy: An Assessment' in Archibugi, Koenig-Archibugi and Marchetti (n 4) 216–17.

[43] See (n 41) 87.

[44] Ibid.

[45] Tallberg and Uhlin (n 42) in Archibugi, Koenig-Archibugi and Marchetti (n 4) 218.

[46] Ibid.

[47] Ibid, 217.

and ensure that those communities which CSOs claim to represent are also able to participate in the transnational activities of the respective CSO.[48] Thereby, non-state actors could lead by example, increase their own legitimacy in global governance and exercise pressure on the states to follow this example. Participation, in this sense, would also relate to the participation of those individuals and publics which are in the end affected by the decisions of the respective global governance mechanism. Gould calls this kind of participation 'the responsiveness to distant others', which is directly related with her notion of transnational solidarity.

> This responsiveness to distant others follows from the normative priority of a cosmopolitan set of human rights in global affairs […] and specifically derives from the idea that political, economic, and social organizations ought to be structured so that people can fulfill their human rights through the functioning of these organizations. The democratic principle would therefore support expansive and regularized representation for people, especially from poor and developing countries, within these organizations.[49]

Ensuring the participation of distant others in global governance mechanisms would also establish a counterweight against the interests of powerful states and global corporations, and contribute to less economic exploitation of the poor.[50]

Along with the *protection of human rights* and the *promotion of increased participation* of non-state actors, *accountability* represents a third essential democratic element widely discussed among scholars of normative democratic theory and global democracy. According to Tallberg and Uhlin, '[a]ccountability as an ideal entails that some actors have the right to hold other actors to a set of standards, to assess whether they have fulfilled their responsibilities in the light of these standards, and to impose sanctions if they find that these responsibilities have not been met'.[51] It can be distinguished between internal and external accountability. While internal accountability relates to the principles the decision-making process is governed by, external accountability relates to those publics affected by these decisions.[52] The question is how those affected by the policies and decisions are able to evaluate the actions of those who make the decisions. Mechanisms and procedures to pursue external accountability may include

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[48] See (n 33) 5792.
[49] Ibid, 5821.
[50] Ibid, 6491.
[51] See (n 45) 211.
[52] Ibid.

voting procedures, monitoring and policy review activities.[53] Since CSOs very often claim to represent those citizens affected by the decisions made in global governance mechanisms, they find themselves in a particularly responsible position to advance democratic accountability of the decision-making processes in global governance mechanisms.

According to Scholte, CSOs have advanced democratic accountability in global governance in the following ways:[54] CSOs have called on governments to be more transparent in their decision-making procedures and demand that policy documents and reports are not only made public, but written in a language understandable to those people not involved in the decision-making process. CSOs have engaged in monitoring and reviewing the effectiveness of governance mechanisms, or the activities of governments in compliance with international human rights legislations. CSOs may also draw the attention of the mass media, national parliaments or courts to the wrongdoing of governments in global governance and pressure them to change course. CSOs have campaigned for the establishment of formal accountability mechanisms to monitor the decision-making processes of international organizations or promote good practices of corporate social responsibility. One central challenge here lies in the accountability of CSOs themselves. When CSOs are not able to build up adequate accountability mechanisms in their own organizations, it is difficult to demand more accountability from the governments.[55]

New communication technologies might provide new possibilities to intensify the participation of CSOs and increase the accountability of both governments and CSOs. Even though Internet communication like social networking, blogging or petitioning has not made international decision-making processes more inclusive, it has played an increasingly important role among social movements.[56] Milton Mueller argues that the Internet has the power to put pressure on the states by distributing control and authority.[57] Actors from civil society particularly benefit from these developments by facing completely new opportunities to organize themselves, mobilize, campaign, disseminate knowledge and put pressure on the governments.[58] Gould argues that the Internet may contribute to movements of transnational solidarity, since 'Internet groups, forums, or collaborative

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[53] Ibid, 218–20.

[54] Scholte, 'Civil Society and Democratically Accountable Global Governance' (n 14) 218–22.

[55] Ibid, 230–2.

[56] See (n 33), 4842–59.

[57] ML Mueller, *Networks and States: The Global Politics of Internet Governance* (Kindle edn, MIT Press, Cambridge, MA, 2010) 60–9.

[58] AL Dick, 'Established democracies, Internet censorship and the social media test' (2012) 28(4) *Information Development* 259–60.

websites can sometimes exemplify features of affiliation and care, or of easy dialogue, thought to be characteristic of local communities'.[59] Gould also proposes to take advantage of the possibilities of the Internet to think about new forms of public input and transnational representation in global governance mechanisms.[60] In other words, the Internet may prove to be an important tool to support the promotion of human rights, the participation and inclusion of non-state actors and the accountability of the activities of state and non-state actors in global governance mechanisms.[61]

The following part explores to which degree UNITAID and the FAO Committee on World Food Security can be seen as encouraging experiments in global democracy by having promoted these three democratic elements (promotion of human rights, mechanisms of participation and accountability) through the initiative of various states and the joint governance efforts of state and non-state actors.

III. The case of UNITAID

The promotion of human rights

UNITAID was officially created in 2006 as an international drug purchase facility by the governments of France, Brazil, Chile, Norway and the UK to jointly reach the health-related Millennium Development Goals.[62] UNITAID particularly focuses on combating HIV/AIDS, Tuberculosis (TB) and malaria by guaranteeing a better and more affordable access to medicines for millions of people in the developing world.[63] To avoid the duplication of efforts with other health initiatives like the Global Fund to Fight AIDS, Tuberculosis and Malaria, UNITAID attempts to fill existing niches and 'targets undeserved markets in developing countries, such as child-friendly medicines, treatment for drug-resistant patients and innovative diagnostic products'.[64] Among its

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[59] See (n 33) 5778.

[60] Ibid, 5778–93.

[61] The Internet, as any other technology, can also be abused by governments and big corporations in negative ways as the NSA surveillance scandals in 2014 illustrated very clearly. For further information see for example DeNardis's comprehensive account of the dark side of the Internet: L DeNardis, *The Global War for Internet Governance* (Yale University Press, New Haven, CT, 2014).

[62] UNITAID, 'Annual Report 2013. Transforming Markets, Saving Lives' (2013), available at <http://www.unitaid.org/media/annual_report/2013/UNITAID_Annual_Report_2013.pdf> accessed 8 September 2014.

[63] PH Douste-Blazy and D Altman, *Power in Numbers UNITAID, Innovative Financing, and the Quest for Massive Good* (Public Affairs, New York, NY, 2010) 6.

[64] UNITAID, 'Factsheet: UNITAID, Increasing testing and treatment coverage for HIV/AIDS, TB and malaria market solutions' (2012) 2, available at <http://www.unitaid.eu/images/Factsheets/EN_Factsheet_May_2012.pdf> accessed 8 September 2014.

many achievements, UNITAID created a market for child-friendly AIDS medicines and reduced the prices for child-friendly AIDS medicines up to 80 per cent, reduced the prices for essential second-line medicines up to 60 per cent, supplied around 1.5 million first- and second-line TB treatments to patients in 72 countries and became the largest single provider of child-friendly TB medicines.[65]

UNITAID has a clear mission to contribute with its activities to the progressive realization of the human right to health and the human right to access to medicines. The success of this mission relies on an innovative experiment of transnational solidarity, the implementation of an airline tax. Debates on international taxes have existed for several decades, for instance on financial transactions, as a means to distributing global wealth more equally between the global rich and poor, but had only been revived in the years preceding the creation of UNITAID.[66] The rationale behind the airline ticket tax is to finance UNITAID through individuals from all over the world, when they buy an airline ticket.

> Every time each of us buys an airline ticket from a website such as Orbitz or Opodo […] we can participate directly in the fight against the big three infectious diseases. When we pay for our travel, we have the option to make a small donation – a voluntary contribution of as little as two dollars – to show our solidarity and save lives in the developing world.[67]

The airline ticket tax is designed as an international tax on flight ticket purchases 'to convert the prosperity generated by globalization into an engine for change in poor countries'.[68] Since international air traffic represents one of the key symbols of globalization, only those individuals are affected by the tax who could afford paying one or two dollars more for their plane ticket without any problem.[69]

For the airline ticket tax, UNITAID cooperates with the three biggest companies dealing with airline reservations worldwide (Amadeus,

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[65] Ibid.

[66] See (n 63) 16. Talks exist about an international tax on financial transactions originally suggested by James Tobin in 1972. In 2004, the presidents of Brazil, Chile and France (founding members of UNITAID) came together to advance the international debate on international taxes. See K Wahlberg, 'Progress on Global Taxes?' (2005) Global Policy Forum, available at <https://www.globalpolicy.org/images/pdfs/SocEcon/2005/Global_Taxes/Dec05ProgressonGlobalTaxes.pdf>.

[67] See (n 63) 6.

[68] Ibid, 16.

[69] Ibid, 17.

Travelport and Sabre) complemented by voluntary contributions on hotel reservations.[70,71]

> Gilles Pelisson, the chief executive of Accor Hotels (which owns the Sofitel, Novotel, Mercure, Ibis, and Motel 6 chains, among others, for a total of more than four thousand hotels worldwide), became the first leader of his industry to agree that every one of his customers would be given the chance to make a voluntary contribution at check-out time.[72]

Nine countries (Cameroon, Chile, Congo, France, Madagascar, Mali, Mauritius, Niger, Republic of Korea) have implemented the airline ticket tax on transnational flights departing in the respective country, while other countries and the Bill & Melinda Gates Foundation provide multi-year contributions.[73]

Between 2006 and 2012, France alone collected more than €1 billion from the airline tax.[74] For domestic flights France charged a fee of approximately €1, for international economy flights €4 and for international business-class flights up to €40.[75] As an example of the immense impact of this tax, one flight from Paris to New York can raise sufficient financial resources to cover the expenses of the treatment of 60 HIV-positive children for one whole year.[76] Altogether, in the same period UNITAID has received from all members US$2.2 billion.[77]

The airline ticket tax proved to be an outstanding success. This is why UNITAID is currently elaborating a financial transaction tax which could raise even more money to be used for tackling development challenges in poor countries.[78] Yet, UNITAID's huge dependence on the airline ticket tax may also be a significant weakness. The tax is susceptible to economic fluctuations. During the economic crisis of 2008/09, when air traffic fell, UNITAID's revenues also fell by 21 per cent which could significantly compromise the organization's political process.[79]

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[70] Since UNITAID forms part of the United Nations system it is prohibited from collecting donations from private individuals. To get access to the voluntary contributions, UNITAID created in 2008 the Millennium Foundation to collect the donations and channel them to UNITAID. Ibid, 51.

[71] Ibid, 40.

[72] Ibid, 43.

[73] See (n 64) 1.

[74] See (n 62) 10.

[75] Ibid. J Bermúdez and E 'T Hoen, 'The UNITAID Patent Pool Initiative: Bringing Patents Together for the Common Good' (2010) 4 *The Open AIDS Journal* 37–40.

[76] Ibid.

[77] See (n 62) 98.

[78] See (n 64) 2.

[79] R Silverman, 'UNITAID', Background paper prepared for the Working Group on Value for Money: An Agenda for Global Health Funding Agencies (Global Health Policy Program, Center for Global Development, 2013) 7.

In terms of the promotion of human rights, UNITAID is definitely well placed. With its humanitarian mission it aims to contribute to the progressive realization of the human right to health and the human right to access to medicines in the developing world, aiding millions of people affected by HIV/AIDS, TB and malaria. UNITAID's budget relies on the transnational solidarity of individuals throughout the world through the creation of the airline ticket tax. The airline ticket tax appeals to the transnational solidarity of flight passengers with the world's poor. At the same time, the success of the tax wholly depends on its successful implementation by the member states.

The participation of non-state actors

Apart from the implementation of the airline ticket tax, UNITAID has also been creative in involving non-state actors. All the decisions concerning UNITAID are taken in the executive board, which is composed of 12 members. Beside the five seats reserved for the five founding members, a further seven seats are reserved for the following representatives: one seat each for the WHO (non-voting seat), Spain, an African country selected by the African Union, an Asian country (the Republic of Korea), the constituency of foundations (represented by the Bill & Melinda Gates Foundation) and two seats for civil society organizations representing those organizations and communities living with the three infectious diseases.[80] The executive board is chaired by Philippe Douste-Blazy, a former French Minister of Health and Minister of Foreign Affairs under French President Chirac and UN Under-Secretary General for Innovative Financing who had the original idea of what later became UNITAID.[81] Initially developed by Douste-Blazy in the French Foreign Office, the organization was later transferred to the WHO in Geneva where its secretariat was set up.[82]

All the members of the executive board have equal voting rights (except for the WHO) which attributes a significant role to those members representing philanthropic foundations, civil society and affected communities or publics. Two seats are reserved for civil society of which one civil society seat represents NGOs and the other one those publics affected by the three diseases (a person living with HIV/AIDS, TB or malaria).[83] The board members (one board member and an alternate) representing NGOs and

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[80] See (n 62) 79–80.

[81] Ibid, 80; see (n 63).

[82] See (n 63) 34–5.

[83] Oxfam, 'Civil Society and UNITAID: An Introduction' (2009) published on behalf of the Civil Society Delegations to the UNITAID Executive Board, 6, available at <http://www.oxfam.org/sites/www.oxfam.org/files/bp-civil-society-unitaid-english.pdf> accessed 24 September 2014.

affected publics are selected through an open call for applications by a board of civil society experts, based on specific criteria.[84] Each representative serves a two-year term, before new possible candidates from NGOs and affected publics worldwide are selected.[85]

In addition to this selection process for membership in the executive board, civil society groups have established institutions independent of the executive board to facilitate and strengthen the voice of civil society in the decision-making process. The post of the Civil Society Liaison Officer 'facilitates the wider engagement of civil society with their representatives and supports the delegations in carrying out their work'.[86] The Civil Society Advisory Group consists of experts from developing and developed countries on intellectual property, access to medicines, etc and advises the CSO delegations in their work on the executive board.[87, 88] The Communities' Support Team comprises activists in the access-to-medicines debate and people affected by the three diseases to support the affected communities' delegation and better connect with the needs of the affected communities.[89] The Civil Society Contact Group was created as an information portal and forum to exchange information about the delegations' work at UNITAID and foster debate about issues related to the work of UNITAID.[90]

Through the Facebook page of the 'civil society organisations to the executive board'[91] CSOs make a whole range of information available about the current activities of UNITAID in general and particular activities of CSOs, including how people from any community affected by HIV/AIDS, TB or malaria can actually become a board member and participate in the activities of the CSO Contact Group and the Communities' Support Team. To disseminate information about civil society activities at UNITAID and publish calls for selection processes to become a member of the executive board, CSOs such as Oxfam, Médecins Sans Frontières, etc also use email lists like IP-Health which are an established communication tool for CSOs engaged in the access-to-medicines debate.[92] Through these communication

[84] Ibid. Track record on access to medicines, experience in representing those organizations affected by HIV/AIDS, malaria and TB, string advocacy and communication skills.

[85] Ibid.

[86] Ibid.

[87] Ibid, 8. Members include among others Médecins Sans Frontières, Oxfam International, Health Action International, Health GAP USA, Knowledge Ecology International or the Global AIDS Alliance.

[88] Ibid, 6–7.

[89] Ibid, 7.

[90] Ibid.

[91] See <https://www.facebook.com/CSDelegationstoUNITAIDBoard> accessed 24 September 2014.

[92] See, for instance, <http://lists.keionline.org/pipermail/ip-health_lists.keionline.org/2015-January/004732.html> accessed 21 June 2015.

tools, the Liaison Officer of the Civil Society Delegations to the UNITAID Board informs about UNITAID's activities including the meetings of the executive board and the monitoring and review activities of CSOs.

Non-state actors like CSOs have a crucial role to play in the current decision-making processes of UNITAID. Specific non-state actors and individuals have already been part of the conception and development of UNITAID prior to its official launch in 2006. Douste-Blazy exchanged his original views and ideas about an innovative finance mechanism with Bill Clinton, the former US president and founder of the Clinton Foundation, Lee Jong-wook, then the director-general of the WHO, Peter Piot, then the head of UNAIDS, Ira Magaziner, then the chairman of the Clinton Foundation, Richard Feacham, then the executive director of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and Khalil Elouardighi, a representative of the AIDS NGO ACT-UP (AIDS Coalition to Unleash Power).[93] This communicative process resulted in the realization of the airline ticket tax as the principal source of funding for UNITAID.[94]

Through the Medicines Patent Pool, created in 2010, UNITAID also cooperates with private actors.[95] UNITAID combines its public health mission with a clear market approach. This is not surprising given the important role of pharmaceutical companies and their ownership of intellectual property rights of important medicines.

> The idea behind a patent pool is that patent holders – companies, governments, researchers or universities – voluntarily offer, under certain conditions, the intellectual property related to their inventions to the patent pool. Any company that wants to use the intellectual property to produce or develop medicines can seek a license from the pool against the payment of royalties, and may then produce the medicines for use in developing countries as defined by the World Bank. Producers that make use of the patents in the pool would need to meet agreed quality standards.[96]

Without the patent pool a pharmaceutical company may need to approach several patent holders for a licence which increases the transaction costs and risks for the company.[97] Based on voluntary commitments by the patent holders, the patent pool may offer benefits to all stakeholders by rewarding pharmaceutical companies for their investments, providing generic

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[93] See (n 63) 21, 24, 36.

[94] Ibid, 24.

[95] See (n 62) 55.

[96] J Bermúdez and E 'T Hoen, 'The UNITAID Patent Pool Initiative: Bringing Patents Together for the Common Good' (2010) 4 *The Open AIDS Journal* 38.

[97] Ibid.

drug producers easier access to patents and guaranteeing patients in developing countries more affordable and faster access to medicines.[98] The patent pool has signed licencing agreements with several pharmaceutical companies (Roche, Bristol Myers Squibb and ViiV Healthcare, a joint venture between GlaxoSmithKline, Pfizer and Shionogi) and six generic manufacturers (Auribundo Pharma Limited, Shasun Pharma Solutions, Laurus Labs, Hetero Labs, Emcure Pharmaceuticals Limited and Shilpa Medicare).[99] One of the key achievements of the patent pool resulted from its agreement with Roche to reduce the price for the AIDS-drug valganciclovir (used for treating blindness caused by an HIV-related infection) by 90 per cent.[100] The innovative market incentives created for pharmaceutical companies to share their intellectual property are fundamental to the success of UNITAID. Douste-Blazy concedes that, besides its humanitarian mission, the success of UNITAID is also related to the commercial attractiveness of HIV/AIDS, TB and malaria with a particular emphasis on HIV/AIDS.[101]

In terms of participation of non-state actors, relevant civil society organizations in the access-to-medicines debate and representatives of communities or publics affected by HIV/AIDS, TB and malaria actively participate in UNITAID's key decision-making body, the executive board, as full members. CSOs and affected communities are allowed to vote, on an equal footing with the states, on all relevant issues related to the functioning of UNITAID. Given the two-year term of representatives for the seats of CSOs and affected communities, manifold opportunities arise for the input of different views and standpoints from different affected communities and CSOs worldwide. In addition, CSOs have built their own independent institutions to increase their voice, better coordinate their actions in the executive board and connect with affected communities. The most prominent CSOs in the global access-to-medicines debate such as Oxfam, Médecins Sans Frontières, Health Action International, etc collaborate with representatives from communities affected by the three diseases. Given the variety of different stakeholders with voting rights on all issues concerning UNITAID, the organization provides a platform for the input of different viewpoints on the access to medicines. In the same vein, the distribution of the 11 voting seats is fairly balanced, with 4 seats reserved for countries from the global north (France, UK, Norway and Spain), four seats for the global south (one member-state of the African Union, Brazil, Chile, South Korea), one seat for philanthropic foundations

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[98] Ibid, 38–9.
[99] See (n 62) 55.
[100] Ibid.
[101] See (n 63) 64.

and two seats (whose representatives change every two years) for actors from civil society (NGOs, affected communities).

It is noteworthy that private sector organizations are not part of the executive board (as is the case of the Global Fund to Fight AIDS, Tuberculosis and Malaria). Instead, UNITAID attempts to *attract* the private sector to the Medicines Patent Pool by offering rewards to pharmaceutical companies for obtaining the intellectual property rights of particular medicines.

Accountability

By enjoying full voting rights in the executive board, CSOs are able to hold the governments to account to comply with UNITAID's mission and the needs of affected publics (internal accountability). Both the debate on the development of a financial transaction tax and the creation of the Medicines Patent Pool received significant input from the representatives of civil society organizations and affected communities in the executive board.[102] Thus, it is not exaggerated to argue that most of the innovative ideas UNITAID stands for would not have been possible without the input from different stakeholders representing different constituencies, be they states or representatives of civil society organizations and affected communities.

It is much more challenging, however, to guarantee external accountability to those communities affected by the three diseases. UNITAID works as a funding agency deciding on particular funding proposals from other international organizations (WHO, UNICEF, UNAIDS, etc), specialized health funds and partnerships (The Global Fund, the Roll Back Malaria Partnership, the Stop TB Partnership, etc), philanthropic foundations (Clinton Health Access Initiative of the Clinton Foundation) or civil society organizations (Médecins Sans Frontières, etc) to fill niches unattended by other health initiatives.[103] UNITAID's funding proposals, received through open calls, are evaluated in the Proposal Review Committee. This committee is composed of independent public health experts[104] which review the proposals according to seven criteria (public health problem and commodity access, market shortcomings and their reasons, innovative market intervention,

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[102] N Otwoma, 'The Medicines Patent Pool and the Civil Society Delegations to UNITAID' (2012), available at <http://pag.aids2012.org/session.aspx?s=101#3> accessed 16 December 2014. K Nichols, 'What do the Civil Society Delegations at UNITAID do? How have they represented me?' (2012), available at <http://pag.aids2012.org/session.aspx?s=101#3> accessed 16 December 2014.

[103] See (n 64) 2.

[104] See the list of the current members at <http://www.unitaid.eu/en/how/gov/expert-committees/7-home/home/996-proposal-review-committee-prc> accessed 24 September 2014.

sustainable market effects, public health effects, logical framework/budget/ value for money, capacity and capability to deliver),[105] before the proposal is submitted for consideration to the executive board. It is important to note that governments do not belong to the beneficiaries of UNITAID-funded projects.

To ensure that UNITAID products reach affected communities in the most efficient way possible, the organization aims to approve projects which concentrate on providing specific needs for affected communities in specific regions in the developing world, in particular in rural and remote areas. The Communities' Support Team organizes in-country consultations and site visits of UNITAID-funded projects to get in contact with affected communities, local health workers and the members of the project to learn more about the existing achievements, challenges and possible improvements.[106] Civil society representatives at UNITAID currently discuss the possibility of creating a tracking system as a further tool to monitor which UNITAID product reaches which affected community in which region of the developing world.[107] In other words, UNITAID aims to involve affected communities and locals in its projects to ensure a higher level of accountability to those people in need of UNITAID products.

In Malawi, for example, UNITAID supports the CSO Médecins Sans Frontiéres (MSF) in its local efforts to increase viral-load testing in rural areas. Affected publics such as the National Association for People Living with HIV/AIDS in Malawi (NAPHAM) support MSF and UNITAID in guaranteeing that their efforts actually reach those people affected.[108] In Uganda, UNITAID funds a project which aims to increase treatment and diagnostics for people affected by HIV/AIDS, malaria and TB. In this project, Ugandan health and community workers try to make sure that the treatment reaches affected people in villages and other remote areas.[109] In another project, UNITAID supports the Medicines for Malaria Venture

[105] UNITAID, 'UNITAID Strategy 2013–2016' (2013) 97, available at <http://www.unitaid. eu/images/strategy/UNITAID-Strategy_2013-2016-Full-English.pdf> accessed 24 September 2014.

[106] See the official documents on the following website: <http://www.unitaid.eu/en/how/ gov/in-country-consultations> accessed 15 January 2015.

[107] The Communities' Support Team, 'Ensuring UNITAID products reach affected Communities' (2012), available at <http://pag.aids2012.org/session.aspx?s=101#3> accessed 16 December 2014.

[108] UNITAID, 'Malawi and Viral-Load Testing – The Future of the HIV Response in Rural Areas?' (2014), available at <http://www.unitaid.eu/en/resources/press-centre/stories/1372-malawi-and-viral-load-testing-the-future-of-the-hiv-response-in-rural-areas> accessed 15 January 2015.

[109] UNITAID, 'UNITAID in Uganda – A Photo Essay' (2012), available at <http://unitaid. org/en/what/cross-cutting/21-news/stories/1219-unitaid-in-uganda-a-photo-essay> accessed 15 January 2015.

(MMV) to replace the malaria drug 'intravenous quintine' for 'injectable artesunate', a drug which is much healthier to malaria patients, much more efficient and much easier to administer, in malaria-endemic regions in six African countries. Here again, local health workers try to guarantee that 'injectable artesunate' really reaches those people in need.[110]

Challenges in guaranteeing UNITAID's internal and external accountability remain. For example, even though UNITAID publishes its financial statistics and grant portfolios (including the amount granted and the main grantee) in the annual reports, the UK's Department for International Development (DFID) criticized in 2011 that the 'publication of documentation is patchy and often very slow'.[111] The Centre for Global Development worried that UNITAID '"measures its success based on its impact on the markets for medicines, diagnostics and related products" – potentially conflating strategy with mission'.[112] DFID also observed that UNITAID's 'financing choices have not been strategically aligned or necessarily delivered the best possible value for money'.[113] Also, DFID criticized that UNITAID selected funding proposals on a '"first come, first served" approach' undermining the credibility of the selection process.[114] Accordingly, Douste-Blazy conceded that the contributors of voluntary contributions to UNITAID (including the millions of airline travellers) have no say in how their money is finally spent. Since the organization almost exclusively depended on these contributions, they needed to be invested according to the needs and plans of the organization to ensure the effectiveness of its activities and the achievement of its targets.[115] Considering potential economic fluctuations in the airline ticket revenues[116] this argument is understandable. However, providing for more transparency in how voluntary contributions are finally spent would reinforce the symbolic power of the airline ticket tax and UNITAID's accountability to those people who in the end benefit from the contributions.

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[110] MMV, 'UNITAID awards MMV-led consortium up to US$ 34 million (2012), available at <http://www.mmv.org/newsroom/news/unitaid-awards-mmv-led-consortium-us-34-million> accessed 15 January 2015. See also a short documentary about the project at <http://blog.unitaid.eu/post/89792514390/a-recent-episode-on-al-jazeeeras-global-health> accessed 15 January 2015.

[111] DFID, 'Multilateral Aid Review: Assessment of UNITAID' (2011) 3, available at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224801/UNITAID.pdf> accessed 25 September 2014.

[112] V Fan, 'Should UNITAID Rethink Its Raison d'Être?', 17 September 2012, Global Health Policy Blog, available at <http://www.cgdev.org/blog/should-unitaid-rethink-its-raison-d%E2%80%99%C3%AAtre> accessed 23 September 2014.

[113] See (n 111) 2–3.

[114] Ibid, 3.

[115] See (n 63) 69.

[116] See (n 79).

CSOs also need to further improve their accountability. Even though CSOs have established autonomous structures to improve their coordination and representation efforts, no official website exists (as in the case of UNITAID) which may better explain these structures, their objectives and the actual activities of the CSOs involved. Nevertheless, the Liaison Officer of the Civil Society Delegations to the UNITAID Board informs about civil society activities, selection processes and the activities of CSOs in the executive board meetings through a Facebook page and public email lists commonly used by CSOs and activists in the access-to-medicines debate.

In terms of accountability, the active participation of CSOs and affected communities as full members provides these representatives with possibilities to hold the states to account (internal accountability). The Communities' Support Team serves as a link between UNITAID and benefitting affected communities to guarantee that UNITAID's products reach affected communities. By organizing in-country consultations with affected communities, visits to places where UNITAID-funded projects are implemented and finding ways to track which products reach which communities, the Communities' Support Team aims to increase their accountability to those affected by the three diseases (external accountability).

To sum up, in the context of promoting human rights, involving non-state actors and creating accountability mechanisms UNITAID represents an inspiring experiment in global democracy. UNITAID is committed to contributing to the progressive realization of the human right to health and implemented an international tax as the main source of its budget, one of the many proposals suggested by scholars like Pogge, Young and others to promote human rights and make the international system more just and democratic.[117] The executive board represents a fairly balanced distribution of various stakeholders from the global north, the global south and civil society, providing opportunities for the participation of affected communities. Instead of including the private sector in the executive board, UNITAID tries to attract pharmaceutical companies to collaborate on a voluntary basis via the Medicines Patent Pool, another idea which echoes a proposal by Pogge to make the international system more just.[118] This strategy proves to be a promising way to avoid an overrepresentation of commercial interests at the expense of human rights and as such the representation of powerful

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[117] See (n 1).
[118] To reduce the prices of medicines on the global level Pogge suggested a public-good strategy which envisages that 'results of any successful effort to develop [...] a new essential drug are to be provided as a public good that all pharmaceutical companies may use free of charge'. T Pogge, 'Human Rights and Global Health: A Research Program' (2005) 36(1–2) *Metaphilosophy* 188.

interests of global corporations. Notwithstanding several accountability mechanisms in place (the full participation of CSOs/affected communities in the executive board and the important role of the Communities' Support Team), UNITAID needs to further improve its accountability mechanisms to guarantee that the organization continues to contribute effectively to the progressive realization of the human right to health. UNITAID also needs to be careful in its bias towards HIV/AIDS and should not lose out of sight its other two diseases.

The example of UNITAID also emphasizes the significant role of the Internet in democratic efforts on the global level. The Internet via websites, email lists and online publications is not only essential to guaranteeing the functioning of basic participation and accountability mechanisms. In addition, the Internet provides new opportunities for collecting financial resources via the airline ticket tax and thus strengthens transnational solidarity among citizens, NGOs, affected communities and governments. If UNITAID could go further and create a tracking system (currently under discussion by civil society representatives) to monitor which affected communities actually benefit from which UNITAID products, the organization would champion a further move towards more democracy and transnational solidarity on the global level.

IV. The case of the FAO Committee on World Food Security

The promotion of human rights

The reform of the FAO Committee on World Food Security (CFS) can be seen as the most inspiring response to the global food crisis in 2007/08.[119] Ironically, the original CFS, established in 1975, was also the result of an emergency response to the global food crisis of 1974, which envisaged the creation of a global forum on food security.[120] Yet, over the decades the CFS had developed into a lethargic animal unable to adequately respond to the global food crisis in 2007/08, which sparked widespread criticism from civil society organizations and governments.[121]

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[119] P Seufert, 'The FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests' (2013) 10(1) *Globalizations* 184.

[120] FAO, 'The establishment of a committee on World Food Security' (1975) Resolution 21/75, available at <http://www.fao.org/docrep/x5589E/x5589e0c.htm#a.%20establishment%20 of%20a%20committee%20on%20world%20food%20security> accessed 22 August 2013.

[121] Action Aid, Caritas Spain, Engineering without Borders – Development Association and Prosalus (2010) 'Towards a new governance in food security' (2010) 54, available at <http://www.derechoalimentacion.org/sites/default/files/pdf-materiales/Towards%2520a% 2520new%2520governance%2520in%2520food%2520security.pdf> accessed 2 July 2012.

After first proposals were exchanged in the CFS on the modalities of a reform, a contact group was created to lead the reform process.[122] The contact group comprised delegates of two FAO member states from each world region, UN agencies and civil society organizations, among them Oxfam, IPC (International Planning Committee for Food Sovereignty),[123] Biodiversity International, the UN International Alliance against Hunger[124] and ActionAid.[125] After a negotiation process involving CSOs, developed and developing countries, the final reform document was made public in October 2009, with the objective of making the CFS 'the foremost inclusive international and intergovernmental platform for a broad range of committed stakeholders to work together […] towards the elimination of hunger'.[126] The new mission of the CFS and its members resides in transforming the committee into the main platform for all stakeholders on issues concerning food and nutrition security, elaborating strategies and guidelines towards eradicating hunger, supporting countries in the implementations of their own policies in the fight against hunger and creating a global strategic framework for even better coordination among all stakeholders.[127] It remains to be seen if in a few decades the new CFS will not share a similar fate as its predecessor, even though the first few initiatives represent a promising new start.

The adoption of two voluntary documents, the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in 2012 and the Principles for Responsible Agricultural Investment (RAI principles) in 2014, gives a flavour of the new dynamization of the committee. The Guidelines, elaborated by all relevant stakeholders, aim to 'improve tenure governance by providing guidance and information on

[122] Committee on World Food Security, 'Committee on World Food Security. Thirty-Fourth Session. Proposals to Strengthen the Committee on World Food Security (CFS) to Meet New Challenges' (2008), available at <ftp://ftp.fao.org/docrep/fao/meeting/014/k3029e.pdf> accessed 14 October 2013. Committee on World Food Security, 'Concept note and terms of reference for the Contact Group to assist with renewal of the Committee on World Food Security (CFS)' (2009), available at <http://www.fao.org/fileadmin/templates/cfs/background_docs/CFS_Contact_Group_TOR_final.pdf> accessed 2 July 2012.

[123] The International Planning Committee for Food Sovereignty is an international network of NGOs and local communities involved in family agriculture.

[124] The International Alliance against Hunger was called into life in 2003 by the Food and Agricultural Organization (FAO), World Food Programme (WFP), International Fund for Agricultural Development (IFAD) and Consultative Group on International Agricultural Research (CGIAR) to create a global network of CSOs and agriculture institutions in the fight against hunger and poverty.

[125] FAO, 'CFS Contact Group Documents' (2012), available at <http://www.fao.org/cfs/workingspace/cfs-ws-home/en/> accessed 3 July 2012.

[126] FAO, 'Reform of the Committee on World Food Security. Final Version, 14, 15 and 17 October' (2009) 2, available at <http://www.fao.org/fileadmin/templates/cfs/Docs0910/ReformDoc/CFS_2009_2_Rev_2_E_K7197.pdf> accessed 2 July 2012.

[127] Ibid, 2–3.

internationally accepted practices for systems that deal with the rights to use, manage and control land, fisheries and forests'.[128] They are intended to contribute 'to the global and national efforts towards the eradication of hunger and poverty',[129] and represent the first global guidelines on tenure of land which were negotiated in an intergovernmental body.[130] The Guidelines, which will also engage with the phenomenon of land-grabbing, were enthusiastically celebrated by representatives from the FAO, CSOs and networks alike as a first step in the right direction to improve the tenure rights of smallholders.[131]

In October 2014, the CFS adopted the Principles for Responsible Agricultural Investment (RAI principles) which were negotiated over the course of the preceding two years through an inclusive process very similar to that of the Voluntary Guidelines including governments, UN agencies, civil society organizations, private sector organizations and international agricultural research institutions.[132] The objective of these voluntary principles refers to promoting responsible investment in agriculture and food systems to support the progressive realization of the right to food.

As these two voluntary documents demonstrate, the reformed CFS has turned into a serious platform for all stakeholders involved in food security issues to contribute to the progressive realization of the human right to food by taking into account the needs and views of those publics most seriously affected by the consequences of food insecurity. The inclusive process of the development of the two documents, involving state and non-state actors and in particular affected publics, can be considered a prime example of transnational solidarity in alleviating food insecurity for millions of people around the world.

The participation of non-state actors

How were these first success stories made possible? Key to answering this question is the active participation of non-state actors. The new CFS is formed by a Bureau, an Advisory Group, a Plenary, a Secretariat

[128] FAO, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (FAO, Rome, 2012) 1.

[129] Ibid, iv.

[130] N McKeon, '"One does not sell the land upon which the people walk": Land Grabbing, Transnational Rural Social Movements, and Global Governance' (2013) 10(1) *Globalizations* 110.

[131] FAO, 'Countries adopt global guidelines on tenure of land, forests, fisheries', 11 May 2012, available at <http://www.fao.org/news/story/en/item/142587/icode/> accessed 5 April 2013.

[132] CFS, 'Principles for Responsible Investment in Agriculture and Food Systems', Forty-First Session, 13–18 October 2014, available at <http://www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS_Principles_Oct_2014_EN.pdf> accessed 15 December 2014.

(based at the FAO in Rome) and a High-Level Panel of Experts. The Bureau serves as the executive body and is led by a chair and 12 FAO member states. The Advisory Group supports the activities of the Bureau and counts among its members the representatives from UN agencies, CSOs, the private sector, agricultural research institutions and international financial and trade institutions.[133] The Bureau and the Advisory Group together maintain the relationships of the CFS with other stakeholders on the regional, sub-regional and local levels such as CSOs, regional and sub-regional organizations and actors from the private sector. The Plenary serves as the principal forum for decision-making, debate and coordination among all stakeholders. The High-Level Panel of Experts (HLPE) counts 15 internationally recognized experts on food and nutrition security, and relies on several project teams to provide scientific advice to the other bodies.[134]

Even though the reformed CFS remains an intergovernmental body, with the FAO member states as the only members entitled to make decisions, other stakeholders like CSOs turned into official participants of the CFS and are strongly represented in the Advisory Group and the Plenary.[135] In addition, CSOs were able to create an autonomous Civil Society Mechanism (CSM) to better coordinate their activities in the CFS.[136] The establishment of such a mechanism was one of the central results of the reform document.[137] A proposal of what this mechanism should look like was jointly elaborated by the International Planning Committee of

[133] The members of the Advisory Group: UN Bodies: FAO (Food and Agricultural Organization); WFP (World Food Programme); IFAD (International Fund for Agricultural Development); Right-to-Food: Special Rapporteur on the right to food – Office of the High Commissioner for Human Rights; UN High Level Task Force on the Global Food Security Crisis; UN Standing Committee on Nutrition (SCN); CSOs/NGOs: The World Forum of Fish Harvesters & Fish Workers (WFHFF); Mouvement International de la Jeunesse Agricole (MIJARC); Indigenous Caucus (ICAZA); World Alliance of Mobile Indigenous Peoples (WAMIP); International Agricultural Research Bodies: CGIAR Consortium; International Financial and Trade Institutions: World Bank; Private Sector/Philanthropic Foundations: Bill & Melinda Gates Foundation; International Agri Food Network. See <http://www.fao.org/cfs/cfs-home/cfs-about/cfs-members/en/> accessed 24 September 2014.

[134] FAO, 'The High Level Panel of Experts on Food Security and Nutrition (HLPE)' (2012), available at <http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE_Key_elements_EN.pdf> accessed 22 August 2013.

[135] Civil Society Mechanism, 'The Committee on World Food Security (CFS): a guide for civil society' (2012) 28, available at <http://www.csm4cfs.org/files/Pagine/1/csm_cfsguide_finalapr2012.pdf> accessed 9 September 2014.

[136] Ibid, 40.

[137] J Duncan and D Barling, 'Renewal through Participation in Global Food Security Governance: Implementing the International Food Security and Nutrition Civil Society Mechanism to the Committee on World Food Security' (2012) 19(2) *International Journal of Sociology of Agriculture and Food* 151.

Food Sovereignty, Oxfam and ActionAid International with the final draft of the reform proposal presented and approved at a consultation of civil society organizations in late 2010.[138] Through the CSM, CSOs have coordinated their activities in the Advisory Group, the plenary sessions and other task teams and working groups of the CFS.[139]

The CSM is governed by a global Coordination Committee with 41 members from 11 constituencies (stakeholder groups) and 17 sub-regions.[140] Both the 11 constituencies worldwide and the 17 sub-regions are represented by civil society organizations. For example, the constituency of indigenous peoples is represented by the Indigenous Caucus located in Panama. Or the constituency of agricultural and food workers is represented by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) located in Moldova.[141] Each of these constituencies is represented by two members of the respective organizations (the only exception is the constituency of smallholder farmers which is represented by four members of the organization La Via Campesina due to their high affectedness in all issues concerning food security).[142] Along with these 11 constituencies the world regions are also represented in the form of 17 sub-regions (one member each). Thus, North America is represented by one member of the organization WHY Hunger located in New York. Or the Southern Cone is represented by one member of the organization Movimiento Agroecológico de América Latina (MAELA), located in Uruguay.[143] Those individuals, who are members of the Coordination Committee, are not supposed to represent their organization but all affected individuals of their constituency or sub-region.[144]

These new modes of civil society participation have positively influenced the decision-making process of the CFS. As already mentioned above, in the elaboration and development of the Voluntary Guidelines important transnational CSOs in the area of food security were involved at every single stage. FIAN (the Food First Information and Action Network) and IPC (International Planning Committee for Food Sovereignty) became the lead actors on the side of civil society to facilitate civil society involvement. In regional civil society consultations on all continents rural social movements

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[138] Committee on World Food Security, 'Proposal for an International Food Security and Nutrition Civil Society Mechanism for Relations with CFS' (2010), available at <http://www.csm4cfs.org/files/Pagine/1/csm_proposal_en.pdf> accessed 9 September 2014.

[139] See (n 137) 152.

[140] See (n 135) 40.

[141] Ibid, 50–1.

[142] Ibid, 50.

[143] Ibid, 52.

[144] Ibid, 40.

were invited to develop their own ideas about the content of the Voluntary Guidelines.[145] This consultation process lasted from 2009 to 2010 involving government officials, CSOs, the private sector and academics.[146] The ensuing negotiation stage took until 2012 when the Voluntary Guidelines were adopted by the CFS.[147] One representative of FIAN International emphasized the importance of the new character of the CFS for the negotiations and the final adoption of the Voluntary Guidelines:

> The voluntary nature of the Voluntary Guidelines may raise questions about their effectiveness and performance. However, with respect to the negotiation process and its outcomes, the combination of the UN principle of one country, one vote and the institutionalized participation of CSOs throughout the process (including a special effort by FAO to facilitate the participation of the most marginalized groups affected by landlessness and tenure insecurity) points to one of the most democratic institutional frameworks for global decision-making for international agreements ever. It is this experiment in global democracy that ascribes a high level of legitimacy and political weight to the Voluntary Guidelines.[148]

And yet, the negotiation process which led to the adoption of the Voluntary Guidelines was not free from criticism. In the end, the governments took the ultimate decisions on the Guidelines, which necessarily obliged CSOs to make concessions to the states in various points. Notwithstanding pressure from CSOs, the governments were successful in taking the issue of water in the responsible governance of land from the table.[149] Similarly, CSOs were not successful in their efforts to ultimately ban land-grabbing, a move particularly opposed by various governments from developing countries.[150] NGOs and social movements also criticized the voluntary character of the Guidelines, arguing that in the end the Guidelines were unable to successfully tackle land grabbing.[151]

The same criticism applies to the negotiation process of the RAI principles. Even though CSOs did their best to include the positions of affected constituencies like smallholders, indigenous people, workers, etc in the negotiations, the governments maintained the upper hand by compromising and undermining the rights of these constituencies in the

[145] See (n 130) 109–10.
[146] See (n 119) 183.
[147] Ibid.
[148] Ibid, 184.
[149] See (n 119) 185.
[150] Ibid.
[151] Ibid.

final text of the document.[152] CSOs were able to bring into the two-year-long negotiations the views, ideas and opinions of publics affected by food security issues, such as the recognition of smallholders as the most important investors in agriculture, the recognition of indigenous people, workers' rights, women's rights, etc. For instance, CSOs such as ActionAid succeeded in changing the opinion of the US on the recognition of indigenous people's rights in agricultural investments, which the US together with Canada had rejected.[153] However, CSOs were not successful in pressuring Canada into changing its opinion on this issue. Even though a recognition of the rights of indigenous people in agricultural investment is included in Principle 9iv of the final document, it remains in brackets as the only part of the document on which no agreement could be reached due to the rejection of one single government, namely Canada.[154]

Notwithstanding a new dynamism in the participation of non-state actors in the CFS, they remain without voting rights in the ultimate decision-making process. As a consequence, the structural power imbalances which exist in the international system are also reflected in the reformed CFS. In the end, it is always the states which can dictate their own interests leading to huge compromises CSOs must accept. This was the case in the negotiations on the Voluntary Guidelines when CSOs saw their proposed language for particular paragraphs compromised. And this was even more obvious during the negotiations on the RAI principles, when one single government, Canada, continuously blocked the reference to indigenous people in the final text. In other words, the vote of one single government can clearly outweigh the position of all other governments and civil society organizations together. The reference to indigenous people does appear in the final text, but in brackets. According to this power imbalance between states and CSOs, civil society will always have to accept compromises on their original proposals no matter how hard they try to represent the interests, opinions and views of all those constituencies affected by food and nutrition insecurity around the world.

This democratic deficit undermines the capacity of non-state actors to fight for the needs of affected constituencies in light of the remaining power dominance of the states. To strengthen their negotiation power vis-à-vis the states, civil society actors have created the Civil Society Mechanism

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[152] CSM, 'CS expressing concern for the rai principles content and their future implementation', 15 October 2014, available at <http://www.csm4cfs.org/news/?id=189> accessed 16 December 2014.

[153] ActionAid, 'Twitter action helps shift US position in RAI negotiations', 15 August 2014, available at <http://www.actionaidusa.org/2014/08/twitter-action-helps-shift-us-position-rai-negotiations> accessed 16 December 2014.

[154] See (n 132) Principle 9iv.

with the ambitious aim to represent the needs and views of different constituencies affected by food insecurity around the world. This Civil Society Mechanism provides an excellent example of transnational solidarity among a variety of different civil society organizations and social movements to adequately represent affected people worldwide in an intergovernmental forum which has set itself the goal to become the key platform for developing strategies in the alleviation of food insecurity.

Accountability

The decision-making process in the CFS is characterized by the one-country, one-vote principle.[155] During the reform process some state delegations even went as far as to offer CSOs voting rights, which was rejected by CSOs on the grounds that decision-making and thus responsibility and accountability for guaranteeing food security lay with the states.[156] Therefore, CSOs see it as their main priority to monitor the activities of the states and provide policy recommendations which pay particular attention to affected constituencies.[157]

The website of the CFS provides all the necessary information about the structure, the mission, the objectives and the activities of the committee.[158] The CSOs also launched a website of the Civil Society Mechanism which neatly describes the existing CSO structure, the objectives and a broad range of their activities through downloadable background documents and reports (including financial and budget reports). CSOs have put an enormous effort into making the CSM as accountable as possible to the CFS and those constituencies affected by food insecurity. The fact that every constituency and sub-region is represented by one member of a CSO in the Coordination Committee allows an individual to get in contact with the CFS by approaching the respective Coordination Committee member of his or her constituency and/or sub-region.[159] The Coordination Committee intends to give priority to the proposals of smallholder farmers (as the only constituency they have four members in the committee, because they represent 80 per cent of the world's hungry people and produce the largest proportion of the world's food), respect geographical and gender balance ensuring that 50 per cent of its members are women.[160] To complement

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[155] See (n 137) 151.

[156] Ibid.

[157] Ibid.

[158] See <http://www.fao.org/cfs/cfs-home/en/> accessed 24 September 2014.

[159] See (n 135) 44.

[160] Draft Terms of Reference for the Coordination Committee (n.d.) 2, available at <http://www.csm4cfs.org/files/2/cc_draft_terms_of_reference_en.pdf> accessed 9 September 2014.

these efforts, a website was created to inform every citizen about the activities of the CSM and its members.[161] CSOs also decided to take decisions in the CSM by consensus wherever possible.[162] To further increase the accountability of its decisions to the CFS and affected constituencies, every member of the Coordination Committee is required to write reports on how they facilitate participation within their constituency or sub-region with the CSM.[163]

Despite the efforts of CSOs to make the CFS as accountable as possible to the needs of affected constituencies, challenges remain. Duncan and Barling enumerated several challenges the CSM is facing so far:[164] First, there has been a focus by the Coordination Committee on structure rather than on process, diverting attention away from the actual political issues and possible solutions. This is why CSM Working Groups were created to allow for better dialogue between the CSM and the CFS on relevant issues. Second, several Coordination Committee members, in particular those from the sub-regions, have not been appointed yet, which might be due to a lack of contact and networks in the respective reasons or failed selection processes.[165] A third challenge refers to the identification of many committee members with their organization. Contrary to the original intentions that the Coordination Committee members should facilitate the participation of the affected individuals in their constituency or sub-region, it seems hard for many members to detach themselves from the positions and values of their organization. Fourth, since decisions are normally based on consensus, it has not always been easy to come to a unified position. Fifth, a committee with 41 members from organizations from all around the world is very resource-intensive, in particular if it involves decision-making by consensus (and silence is not understood as agreement), and has resulted in delays, frustration and decisions not based on consensus due to the tight time schedule within the CFS. Sixth, other bureaucratic challenges include language barriers (the official languages are English, Spanish and French), low participation of affected constituencies and organizations during harvest periods or missing access to the Internet of some members who live in areas with limited Internet access.

When holding governments to account (internal accountability), CSOs rely on their traditional monitoring and review activities, since they are

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[161] See <http://www.csm4cfs.org/> accessed 15 September 2014.

[162] See (n 160).

[163] Ibid, 3.

[164] See (n 137) 153–6.

[165] As of mid-2015 the sub-region South Africa is not represented yet in the CSM's Standing Committee. See <http://www.csm4cfs.org/coordination_committee-3/sub_regions-5/> accessed 28 September 2014.

not equal partners in the decision-making process of the CFS. At the same time, CSOs have gone to great lengths to guarantee their accountability to those constituencies worldwide affected by food insecurity through their own institutions, best exemplified by the Civil Society Mechanism. In 2013, the CSM Coordination Committee commissioned two independent consultants to review the functioning and working mechanisms of the CSM. In mid-2014, they published a report with the following key conclusions:[166] The CSM had been a crucial factor in facilitating civil society engagement with the CFS and turning the attention of the committee (that is: the governments) back to the main causes of hunger and malnutrition. The CSM had strengthened its outreach to other CSOs and affected constituencies around the world and continuously improved its website. In this context, the report suggested that communication and awareness raising mechanisms as well as coordination efforts with representatives from the various sub-regions needed to be further improved. The report also warned that constant reviews of the CSM's mandate, its bodies and activities were necessary to guarantee the transparent and accountable functioning of such an ambitious project as the CSM and avoid its mission being undermined.

To sum up, very much as UNITAID the CFS represents an inspiring model for the creation of future democratic global governance mechanisms based on promoting human rights and establishing mechanisms of non-state participation and accountability. The inclusion of civil society actors as official participants in the CSF has provided new opportunities for the further codification of the human right to food and its progressive realization, exemplified by the Voluntary Guidelines and the RAI principles. Yet, civil society actors have not turned into full participants with voting rights, which leaves the states with the power to take the ultimate decisions.

The inspiring Civil Society Mechanism provides a unique platform to bring together opinions, views and standpoints from all relevant civil society organizations and affected constituencies including smallholders, indigenous people, farmers, etc. Civil society organizations from all around the world are engaged in intensive efforts of listening to the voices of the oppressed, those suffering from food and nutrition insecurity, and try to confront the states with the needs of those communities affected. In the negotiations for the adoption of legal documents such as the Voluntary Guidelines or the RAI principles, these civil society organizations have the opportunity to represent these voices and pressure the governments to include these voices in the legal documents. The governments continue

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[166] P Mulvany and CH Schiavoni, 'Draft Report. Evaluation of the CSM' (2014) vi–vii, available at <http://www.csm4cfs.org/files/SottoPagine/120/draftexternalreportcsmevaluation_02 june.pdf> accessed 25 September 2014.

to have the power to ignore these voices. But the new structure of the CFS (and the CSM in particular) guarantees that these voices can no longer be silenced in the international negotiations taking place among the governments in the CFS. Notwithstanding the remaining challenges in the effective functioning of the CSM, this mechanism represents an inspiring example of transnational solidarity.

Due to the remaining power imbalance in favour of the states in the CFS, the role of civil society actors is fundamental to guaranteeing the accountability of the states. But civil society actors have demonstrated their determination in holding the states accountable to the ambitious mission of the CFS and investing a lot of energy to improve their own accountability to the affected constituencies. The Civil Society Mechanism and the encouraging voluntary documents (Voluntary Guidelines and RAI principles) testify to this huge investment.

The Internet represents a crucial instrument for civil society actors to better organize themselves and improve accountability mechanisms. The whole Civil Society Mechanism would hardly work without relying on the Internet for global communication, organization and mobilization.

V. Conclusion

UNITAID and the reformed FAO Committee on World Food Security represent two encouraging examples of democratic polycentrism, where both state and non-state actors have come together to engage in democratic practices and build mechanisms of authorization and accountability, with the mission to contribute to the progressive realization of the human right to health and the human right to food. Both case studies show that (1) states play a fundamental role in advancing just and democratic practices in global governance and that (2) the joint governance efforts of state and non-state actors can eventually lead to the creation of mechanisms of authorization and accountability which increase the opportunities for representation of affected publics on the global level.

Without the key initiative of several states, neither UNITAID would have been created nor the CFS reformed. The international airline tax, which constitutes the main source of UNITAID's financial resources, only works through a serious commitment of the participating states to the mission of UNITAID. In the CFS, the states contribute with their actions to the further codification of the human right to food in international law and are finally responsible for the representation of affected constituencies worldwide in international legal documents.

Yet, the states alone would not have been able to turn either UNITAID or the CFS into encouraging experiments of global democracy. The full

participation of relevant transnational CSOs and affected publics in UNITAID's decision-making process and the creation of a proper civil society structure increase the chances that those people affected by HIV/AIDS, TB and malaria really benefit from UNITAID-funded projects. UNITAID's main innovative ideas, such as the airline tax, the Medicines Patent Pool and serious talks about a tax on financial transactions, all of which received decisive input from representatives of CSOs and affected communities, show that these needs and interests are heard and taken seriously. Even though CSOs are not full members in the decision-making process of the CFS, they aim to hold the states accountable to their obligations to guarantee the human right to food to those constituencies affected by food and nutrition insecurity.

The civil society structures built up by the participating civil society organizations serve as a link between the local publics on the ground and the states on the global level. In the case of UNITAID, the civil society structure aims to guarantee that UNITAID products actually reach affected communities. In the case of the CFS, the Civil Society Mechanism aims to defend the needs and interests of affected constituencies vis-à-vis the interests of the states in the further codification efforts of the human right to food (Voluntary Guidelines or the RAI principles). The better civil society organizations succeed in representing and defending the needs and interests of the respective affected publics, the more successful both UNITAID and the CFS will be as experiments in global democracy.

As such, both global governance mechanisms represent encouraging examples of the positive results of transnational solidarity among states from different world regions, civil society organizations and affected publics. Iris Marion Young argued that 'all members of a society have to redress structural injustice by dint of the fact that they contribute by their actions to its production and reproduction'.[167] As follows from her argument, all actors of the global system (states, international organizations, civil society actors, private actors and affected communities) should be involved in efforts to redress its structural injustice, and not just one segment of actors. States remain the most prominent actors in global governance and as such a precious source of power, control and influence – in particular when we look at international decision-making processes and the codification of international law – which contribute with their actions to the production and reproduction of structural injustice. Thus, it is only together with them, the states, that structural injustice can be undermined. And here,

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[167] IM Young, *Responsibility for Justice* (Kindle edn, Oxford University Press, Oxford, 2011) 172.

transnational solidarity is of tremendous importance. Transnational solidarity among a multitude of different state and non-state actors can lead to just collective action, the inclusion and representation of the needs and interests of affected publics on the global level and the creation of a counterweight to the commercial interests of powerful states and big corporations. Transnational solidarity transcends national borders and the interests of a few powerful nation states channelling the efforts of all participating actors towards challenges and problems of a transnational dimension. Given its transnational and worldwide communication platform, the Internet plays a crucial role as an important tool to promote transnational solidarity among these different actors.

UNITAID's airline ticket tax can be seen as an ambitious international attempt to appeal to the transnational solidarity of well-off individuals and establish a link between the activities of the global rich and the needs of the global poor. The Civil Society Mechanism of the CFS shows how the transnational solidarity of a multitude of civil society organizations in the area of food and nutrition security aims to represent the needs and interests of all affected constituencies worldwide in the decision-making processes of the CFS. And if the governments embrace this kind of transnational solidarity in the CFS, the joint action of governments and civil society has the potential to include those needs and interests in the CFS's further codification efforts of the human right to food.

Considering the structural injustice of the global system and the resulting power imbalances between the Western states, big corporations and the rest, it should be recognized that big strides are almost impossible in the efforts to democratize this system. In addition, more democracy, as exemplified by the promotion of human rights and the creation of mechanisms of authorization and accountability, may not necessarily translate into more distributive justice. However, the polycentric nature of the global system may provide opportunities for the emergence of examples similar to UNITAID and the CFS. Future studies should concentrate on mechanisms where state and non-state actors come together to promote the human rights of those people most affected by the structural injustice of the current global system. Which are the similarities and differences of these other examples in terms of the promotion of human rights and mechanisms of authorization and accountability? To which extent do state and non-state actors work together to advance transnational solidarity with those communities marginalized by the international system? Are there other examples in global governance where civil society organizations build up their own structures to better represent affected publics and defend their needs vis-à-vis the states? And in the face of the current power

shifts in the global system, how and to which extent do emerging democracies from the global south such as Brazil and India engage in these collective efforts with state actors from the West, civil society actors and affected publics?

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