

The New Sovereigntist Challenge for Global Governance: Democracy without Sovereignty¹

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The “new sovereigntists,” a prominent group of scholars and policymakers, articulate a widely held view that global governance is inherently undemocratic because it undermines popular sovereignty. Problems with their argument notwithstanding, we argue that they identify a real and serious tension. We also argue, however, that the vision of democracy as popular sovereignty that they advocate is becoming incoherent and untenable in an era of increasing interdependence. Conceptions of democracy anchored in popular sovereignty depend for their legitimacy on empirical conditions that no longer obtain. What we call the new sovereigntist challenge for global governance is to develop an alternate conception of democracy that avoids the logic and forms of popular sovereignty at the global level while still respecting and promoting democracy and democratization within states. We outline one such alternative here.

The “new sovereigntists” (Spiro 2000) are a group of American scholars, intellectuals, and policymakers who view the emerging international legal order and system of global governance with consternation.² They regard global governance as inherently undemocratic because it violates popular sovereignty and undermines constitutional government by ceding legislative authority to unelected and unaccountable entities. They also believe that a constitutionally established, popularly sovereign state must make protecting and promoting its citizens’ interests its top foreign policy priority—a priority that involvement with global governance can obstruct. Finally, the new sovereigntists insist that many global normative commitments are incompatible with popular sovereignty, inviting the insidious creep of extra-constitutional, sovereignty-eroding international law.

While unique in their emphasis on American constitutionalism, the new sovereigntists articulate a commonplace understanding of democracy as “rule by the

¹ Part of the work on this article was completed while Michael Goodhart was a Research Fellow of the Alexander von Humboldt Foundation; he gratefully acknowledges the Foundation’s support. The authors are also grateful to Dan London, to Daniela Donno-Panayides, and to several anonymous readers for their constructive comments on earlier versions of this essay.

² Prominent figures in this group include John Bolton, Curtis Bradley, Jack Goldsmith, Eric Posner, Jeremy Rabkin, and John Yoo.

people” and forcefully express a widespread fear that global governance undermines it. Many citizens—on the left and the right, on both sides of the Atlantic—share these views. Fears about global governance eroding democratic control and individual freedom are common on the right, from American worries about the limits imposed by multilateral organizations to European complaints about the concentration of power in Brussels and the democratic deficit of the European Union (EU). Indeed, the initial Irish rejection of the Lisbon Treaty seems to have been driven in large part by fears that as a small country, Ireland would be dominated in a Europe with expanded qualified majority voting. Democratic skepticism of globalism is also common on the left, with American opponents of NAFTA and the WTO and European critics of the internal market’s neoliberal orientation sharing the worry that global governance is a tool used by international capitalists and their political minions to reverse popular, democratically enacted health and environmental standards and undermine the welfare state. For democratic theorists or politicians to dismiss such concerns would be both ironic and short sighted.

Yet academics and politicians supportive of global governance do seem to wishfully regard this position as naïve or politically marginal (an earlier reader of this essay dismissed the new sovereigntists as “cranks” lacking intellectual credibility and interesting only because of their connection to the G.W. Bush administration).³ Similarly, many pro-EU elites view “Euroskeptics” as either atavistic nationalists or unreconstructed socialists—the results of treaty referenda and parliamentary elections notwithstanding. As proponents of democratic global governance, we disagree with the new sovereigntists. Nonetheless, we believe that their views concerning popular sovereignty and global governance are essentially correct and must be taken seriously: the idea of rule by the people at the heart of modern democratic theory *is* incompatible with robust global governance. This does not mean, however, that democrats should reject global governance. We shall argue that the democratic ideal articulated by the new sovereigntists is becoming incoherent and untenable in an era of increasing interdependence, showing the need for a different conception of democracy.

The essay has three aims. The first is to demonstrate how globalization undermines popular sovereignty as a viable conception of democracy, rendering it paradoxical and unworkable. It does so, we argue, by transforming the empirical conditions on which the normative ideal is premised. Our second aim is to show that many cosmopolitan democratic proposals for global governance rely on the same normative ideal and are thus similarly problematic and unpersuasive. Our final, and principal, aim is to suggest an alternative way of conceiving democracy based on the principles of freedom and equality underlying both new sovereigntist and cosmopolitan accounts. Such a conception, we believe, has the potential to transform how we understand and address the democratic challenges of global governance. It also points to a very different research agenda—one with much to learn from the new sovereigntist position.

The New Sovereignist Case Against Global Governance⁴

The new sovereigntists oppose US involvement in global governance and American acceptance of internationalism on the grounds that these contravene

³ Bolton served as Undersecretary of State for Arms Control and International Security from 2001 to 2005, during which time he led the Bush administration’s campaign against the International Criminal Court (ICC), and as US Permanent Representative to the United Nations (UN) from 2005 to 2006. Goldsmith was head of the US Justice Department’s Office of Legal Counsel from 2003 to 2004; Yoo was a prominent attorney in that same office from 2001 to 2003. For a rigorous intellectual critique of the new sovereigntists’ politics, see Moravcsik (2000a).

⁴ In what follows we sketch a “new sovereigntist” position that amalgamates the views of the doctrine’s main proponents. We realize that this composite might not accurately portray the views of all or any of the thinkers we cite and do not imply otherwise.

popular sovereignty and constitutionalism and thus undermine democracy. They make several related arguments to this effect. First, they maintain that international law, treaties, institutions, and other commitments that originate outside US legal and electoral processes and involve unelected and unaccountable decision making violate constitutional requirements for legislation. Second, they assert that global governance constrains US action and harms US interests, interfering with the government's moral and constitutional obligation to protect and promote its citizens' interests through its foreign policy. Moreover, they argue that conformity to global norms falsely presumes agreement on these norms, creating external pressures for compliance that exacerbate the aforementioned problems.

While admitting that states face new and difficult challenges as a result of globalization and acknowledging a role for international cooperation, the new sovereigntists argue that the United States should not submit to international "law" because it contravenes constitutional government. Article I of the US Constitution requires that law be derived from the enactments of elected legislatures. According to Rabkin (1999, 2005), "international law" through the nineteenth century was associated with long-standing custom in interstate relations, was relatively undemanding, and rarely concerned the rights of individuals—that is, it was unlike much contemporary international law. Bolton (1999, 2000a,b) questions the very existence of "international law," arguing that citizens of nation-states cannot be bound by it because law denotes a system of rules enforced by a legitimate coercive authority. The requisite legitimacy flows from the sovereign people, he claims, making "international law" a contradiction in terms. This hostility to international law extends to treaties, which new sovereigntist legal scholars argue are insufficiently anchored in popular sovereignty (Bradley and Goldsmith 1997, 1998, 2000; Yoo 1999).⁵ The new sovereigntists find the application of customary international law (CIL) by federal courts to be even more objectionable, for it lacks popular authorization of any kind (Bradley and Goldsmith 1997:857; see also Bradley and Goldsmith 1998). Similarly, Yoo (2004) attacks the Supreme Court's practice of citing foreign decisions because they originate outside of the American political and constitutional context and because the practice gives foreign courts an unconstitutional role in exercising federal authority.

The new sovereigntists are equally opposed to subjecting the United States to the jurisdiction of international tribunals or compelling American compliance with decisions made by intergovernmental organizations (IGOs). Such institutions, they argue, are not accountable to the people or their representatives, rendering their decisions illegitimate on essentially the same grounds that disqualify international law. For example, Bolton (2000b) opposes the ICC because he sees the Court and its Prosecutor as illegitimate actors unchecked by popular accountability. Moreover, as Rabkin (2005: chapters 7–8) contends, IGOs represent an open-ended delegation of power; the rules of the ICC and the WTO can be amended by qualified majority vote and thus "imposed" upon unwilling members. As Bolton (1999:162) stresses, the core of the American intransigence on this issue is that the "United States and its Constitution would have to change fundamentally and irrevocably before binding international law becomes possible" (see also Rabkin 2005: chapter 9). In sum, the new sovereigntists oppose global governance and international law primarily because, in their view, popular sovereignty requires that any coercive legal or political authority be accountable to the people or their representatives on constitutionally specified terms.

⁵ Article II §2 requires that treaties be approved by a 2/3 majority in the US Senate but gives no role to the House. The contrast is with the joint House-Senate process for making domestic legislation set out in Article I.

Yoo (1999) would like to push existing constitutional understandings further. In his view, treaties cannot regulate the conduct of private parties in the absence of legislation implemented by Congress. He supports this argument with a contextual analysis of the framing of the Constitution and the debates surrounding its ratification in key states. The framers, Yoo claims, were influenced by thinkers such as Grotius, Locke, and Montesquieu in entrusting the power to make important treaties to the ultimate sovereign, the people. Yoo also argues that the framers intended for federative and executive powers to be conceived of as separate powers. In other words, since the president's foreign policy acts are not "executive" in the sense of executing the law; they require the approval of the sovereign people through their representatives. He insists that Madison's idea of creating a popularly elected federal body to ensure the states' compliance with treaty commitments indicates an intention among the framers that the House should play a role in implementing treaty commitments (Yoo 1999).

The new sovereignists' opposition extends well beyond formal global governance regimes, however. For them, popular sovereignty also obliges the US government to make its citizens' interests the primary determinant of its foreign policy, an obligation with which international norms and internationalism potentially interfere. Goldsmith argues that the very institutions of liberal democracy are incompatible with cosmopolitan action such as humanitarian intervention. In his view, leaders in a democratic society "have (and perceive themselves to have) a moral duty in virtue of their election, their oath, and their identity, to promote the welfare of the State and its citizens" (Goldsmith 2003). Pragmatically, Goldsmith maintains, elected officials in a liberal democracy cannot stay far from public opinion without facing an electoral backlash, since (he asserts) only a minority supports cosmopolitan action, making liberal democracy and cosmopolitanism *de facto* incompatible. He nonetheless argues for tying elected officials' hands with respect to foreign policy as an additional safeguard (Goldsmith 2003:1686). Likewise, Bolton maintains that US leaders have a duty to pursue the interests of the American people and that the United States should use IGOs to that end as well. "The UN should be used when and where we choose to use it to advance American national interests, not to validate academic theories and abstract models" (Bolton 1997:58). In a constitutional, popularly sovereign democracy, leaders have a duty to pursue only the interests of their citizens, even at the expense of others' interests (see also Rabkin 2005:191).

The new sovereignists even fear that adherence to global *norms* violates the US Constitution and erodes US sovereignty. Rabkin (2005) and others assert that since global norms and global governance constrain US autonomy, they necessarily undermine American interests and the government's ability to defend them. In a world where international norms or standards can be imposed upon states without their consent, sovereignty—and thus democracy—has less and less meaning. Sovereignty is first and foremost the means of saying no to outsiders; when governments can be intimidated into giving up sovereignty, individuals can be intimidated into giving up rights (Rabkin 2005:69–70).

To the new sovereignists, trends in European governance epitomize the dangers facing the United States. Rabkin (1999:4) claims that the EU is democratically deficient since it has no "true legislature," and has created a system of "global domestic law" that subordinates domestic political arrangements to international treaties, bureaucratic decision-making processes, and supranational judicial proceedings (Rabkin 2005: chapter 6). EU policy therefore masks real political disagreements. Yet, it is the success of the EU that makes it so worrisome to the new sovereignists: if global governance works in Europe, why not internationally? (Rabkin 2005:157). The EU is powerful, and its influence and vision are dragging other states to its view that there are significant benefits in ceding sovereignty. In this respect, it "is only the most extreme instance of a

large trend that now does threaten to engulf the United States” (Rabkin 1999:3).⁶

Although some of their arguments appear extreme or even paranoid to many in the international studies community, the new sovereigntists subscribe to what is in essence a civics-course understanding of democracy as rule by the people. This ideal of popular sovereignty has been, until quite recently, the dominant conception of democracy among political theorists and widely taken for granted by scholars as well as by citizens.⁷ We are not suggesting that there is a single model of democracy that typifies modern political theory and practice—on the contrary, democratic theory has been a diverse and contentious field for a long time. Our point is rather that modern *models* of democracy share a *conception* of democracy in which the people are the sole source of political authority within the political community or state. Only lately have some critics begun to explore the normative and epistemological limitations of democratic theory’s exclusive focus on the spaces “inside” the state.⁸

While this conception of democracy as popular sovereignty or rule by the people is rather conventional, its implications are quite radical. As Görg and Hirsch (1998:589) explain, “the reciprocal founding relations of democratic self-government and freedoms... forbid every form of outside interference in the affairs of the state.” All legitimate authority originates in, and can only originate in, the will of the people. This view puts a premium on elections, accountability, self-determination, and democratic solidarity, and it gives rise to the moral duty to make protection and promotion of citizens’ rights and welfare the paramount objects of policy (foreign and domestic). Far from being on the fringes of contemporary political theory, these positions resemble those of nationalist and communitarian political theorists who maintain that political community is the ethical core of democracy (for example, Miller 1998, 2000; Kymlicka 2001; Taylor 2003, 2003–2004).

Of course this ideal can never be fully realized in practice: one of the purposes of constitutional government is to establish and secure consent to a set of meta-rules that specify the extent of discretionary authority and establish checks and limits on power. Indeed, constitutional government enables representative democracy by affirming the authority and safeguarding the rights and welfare of the people. Models of democracy can vary substantially within this conception, depending upon how rights and welfare are understood and upon the scope and design of institutions intended to translate popular authority into law and policy.

This understanding of constitutional government differs crucially from that outlined in an important recent paper on democracy and global governance by Keohane, Macedo, and Moravcsik (2009) (hereafter KMM). These authors argue that global governance arrangements can strengthen constitutional democracy by limiting the power of special interests, securing individual rights, enhancing the quality of democratic deliberation, and increasing capacities to achieve important public purposes. We shall return to these arguments later on; for now, it is important to note that these empirical claims (which we find persuasive) do not engage the normative issues that concern the new sovereigntists. The new sovereigntists reject outside influence on or participation in the constitutional process as an abrogation of popular sovereignty; in their view, global governance is illegitimate because of what it is, not because of its effects. While we applaud KMM’s efforts to encourage much-needed empirical research into

⁶ For a vigorous rebuttal of these claims regarding the EU, see Moravcsik (2000a).

⁷ On the ubiquity of this assumption see Beitz (1991), Held (1991, 1995) and Goodhart (2005).

⁸ Walker (1993); see also Held (1995), Taylor (1996), Archibugi (2004), Beck (2004), Kuper (2004), Goodhart (2005) and Gould (2005).

how global governance arrangements affect democratic institutions and processes at home, their findings are unlikely to persuade the new sovereignists or others whose objections to global governance are primarily ethical. Our aim in this paper is to engage such arguments at the level of principle; we thus see our argument as providing a normative theoretical complement to KMM.

The new sovereignists' position should also be differentiated from realist positions with which it is sometimes confused.⁹ While we cannot undertake a detailed consideration of similarities and differences between these two views, one important difference requires mention. Some critics attribute to realism a skepticism about the possibility of morality in international affairs, though this skepticism is perhaps more typical of classical realists than of more modern proponents of the doctrine.¹⁰ This is not to say that realists ignore or dismiss moral issues, but rather that "what Morgenthau and many other realists have in common is a belief that ethical and political behavior will fail unless it takes into account the actual practice of states and the teaching of sound theory" (Gilpin 1984:303). On this view, it is difficult or impossible for states to adhere to an international moral code while also ensuring their survival.

The new sovereignists, by contrast, base their opposition to global governance on the violation of popular sovereignty inherent in international institutions. Their position is that the constitutional principles of popular sovereignty limit the kind of international arrangement in which governments can legitimately participate. They are not (or not necessarily) skeptics about the possibility of morality in international affairs, on either ethical or behavioral grounds. Rather, they think it is *wrong* to subordinate popular sovereignty to global governance arrangements, while realists would see it mainly as unwise and likely to be unsuccessful. The new sovereignists begin with something quite similar to Rawlsian assumptions about the moral primacy of peoples, using those assumptions to justify an account of popular sovereignty that rules out many (not all) forms of global governance, though not necessarily international morality. While it is true that the realist position makes sense only when the ethical primacy of sovereign political communities is taken for granted, realism is relatively unconcerned with the problems of domestic political legitimacy and the constraints it places on participation in international institutions. Realists are more interested in the probable effects of certain kinds of behavior on the goal of ensuring survival through pursuing power. The point, in other words, is not that realists ignore or are unconcerned with moral issues; the point is that they are interested in rather different moral issues than are the new sovereignists.

What makes the new sovereignists so interesting and so important, in our view, is that by fully embracing the radical implications of popular sovereignty, they distill the challenge that global governance poses for democracy to its essence. Anything that dilutes the authority of the people (as expressed through the constitution) or threatens the primacy of their rights and welfare as objects of state policy undermines democracy. This ideal is certainly rendered less implausible by American military and economic might, but this only shows that, for most states, the tension between democracy and global governance is even more acute and threatening. While we disagree with many of their specific

⁹ This brief discussion focuses on classical and so-called modern realism. Neo-realism (an analytical rather than a prescriptive approach, at least in the first instance) says little about the appropriate place of moral considerations in international affairs, instead disputing the relevance of moral considerations for *explaining* state behavior.

¹⁰ Beitz (1999) famously made this claim, arguing that the Hobbesian assumptions underlying realist moral skepticism are false. He also attacked the "morality of states" doctrine, and specifically, the version of it that says leaders ought to follow the national interest, however that might be defined, because of their obligations, as office-holders, to their constituents. We think his critique gets (some versions of) realism wrong. Regardless of whether one agrees with Beitz's characterization or his critique of realism, neither of his points damages the new sovereignist position.

arguments, we believe that the new sovereigntists get the theory and implications of popular sovereignty for global governance right. The extremity of their positions is, for our purposes, a virtue because it emphasizes just how radical popular sovereignty's implications are with respect to outside influence on domestic political authority. Moreover, as we discussed at the outset, their ideas resonate widely among citizens possessed of the inchoate sense that global governance undermines rule by the people and threatens democracy.

Popular Sovereignty

As just indicated, we agree in outline—if not in all the specifics—with the new sovereigntists' argument about the tension between popular sovereignty and global governance. This does not mean, however, that we accept the conclusions they draw from it. They move too quickly from identifying this conflict to condemning global governance as undemocratic or antidemocratic. Seeing the problems with this move requires that we investigate the link between sovereignty, popular sovereignty, and democracy more carefully.

Krasner (1999: 4ff.) argues that International Relations (IR) scholars use the term sovereignty to refer to four analytically distinct phenomena: legal independence, the territorial exclusivity of political authority, effective (supreme) political authority within the state, and control of various flows across borders. Political theorists understand sovereignty in a somewhat different, though clearly related, way. For them, it is a conception of political authority, one that links rightful rule to a particular kind of political community, the sovereign state as characterized by the attributes Krasner identifies. In Hinsley's (1986:26) classic definition, then, sovereignty is final and absolute political authority within the political community when no such authority exists elsewhere. Sovereignty so understood is primarily a normative doctrine describing the nature and location (source and extent) of political authority.¹¹ This normative doctrine, however, is a product of its time, reflecting the emergence of political units (states) possessing the empirical attributes of sovereignty as Krasner defines them. Zacher (1992) emphasizes significant state autonomy, reinforced by low levels of economic integration and a high tolerance for war, as central pillars of this system.

Popular sovereignty is a familiar concept to democratic theorists and citizens alike; indeed, democracy and popular sovereignty are nearly synonymous in the modern political lexicon. Popular sovereignty is typically conceived as rule by the people. The doctrine specifies who holds (final) political authority—the citizens—and establishes security of their rights, welfare, and interests as the standard of legitimacy for government.¹² There have, historically, been stronger and weaker versions of this: Locke saw the doctrine as a principle for constraining power and creating (a minimum of) accountability, while Rousseau used the idea of the General Will to transform the citizens into active sovereigns. While there is no single or correct interpretation of popular sovereignty, the doctrine is distinguished by its normative commitment to the final authority of the people.

Surprisingly, given the familiarity of this doctrine and its centrality to democratic theory and practice, popular sovereignty is in important respects undertheorized. While the *popular* dimension of popular sovereignty—the question of who constitutes the people and why—has received significant scholarly attention, the *sovereignty* dimension has been essentially ignored (Goodhart 2005: chapters

¹¹ One of the reasons we believe international political theorists and IR scholars sometimes have trouble understanding one another's arguments and perspectives is that these important differences are rarely acknowledged or explored.

¹² Popular sovereignty treats the authority of the people as constitutive (Yack 2001), while classical realists typically take the existence of the state as a moral community for granted.

2–3). Historically the struggle for popular sovereignty was foremost a political struggle, but it always had an important theoretical dimension, one concerned with the normative foundations of rule by the people. Those foundations, laid down in the seventeenth century, are the two core democratic principles of freedom and equality. Popular sovereignty was (and still is) justified by making the freedom and equality of all persons the moral and rational starting point of political deliberation. When the people are sovereign, the interests of the state become the interests of the people and assume priority.¹³ In this way, seventeenth-century theorists were able to show that legitimate authority must derive from the consent of the governed.¹⁴ All subsequent democratic theory relies on some version of these two core principles.

The central point we want to stress in preparing our critique of the new sovereignists is that popular sovereignty remains fundamentally a conception of sovereignty. The seventeenth- and eighteenth-century popular revolutions were struggles over who possessed sovereignty, not over the idea of sovereignty itself (Goodhart 2005:56). While sovereignty and popular sovereignty are normative doctrines concerning the nature and location of political authority, their plausibility and legitimacy depend crucially upon the empirical features of sovereignty we have been describing: an independent and relatively autonomous territorial state exercising effective control within and over its borders, existing in an international context with low levels of economic integration and a high tolerance for war. Final or supreme authority within the state only works—it only makes sense—when these empirical conditions are (largely) satisfied. Put differently, popular sovereignty is a normative doctrine distinctive of the Westphalian states system. It presumes sovereignty—that the state is a container of politics (Held 1991, 1995). No one—king or people—can be sovereign when there is no sovereignty.

Popular sovereignty belongs to a class of normative conceptions we shall call *empirically conditioned normative principles*—principles whose coherence and appeal depend in part upon a particular set of empirical conditions. While this term is new, the idea is not; perhaps, the most familiar example is Hume's specification of the circumstances of justice, which, as reformulated by Rawls, posit that moderate scarcity and limited altruism are facts about the world that inform our theories of justice. If other circumstances obtained—abundance or unlimited altruism, say—our conception of justice would look quite different. The ideal of rule by the people, we contend, presumes and is predicated upon a Westphalian configuration of rule. As this system of rule is contingent, so is the plausibility and coherence of popular sovereignty. The new sovereignists sometimes seem to recognize this point: Rabkin (2005:226) writes, “if sovereignty is necessarily a formal or juridical concept, however, it is not a mystical or metaphysical essence which can still be claimed in the face of an overwhelmingly contrary reality.”

Right About the Past, Wrong About the Future

Our claim is not that the ideal of independent and autonomous territorial states exercising control within and over their borders—of states as containers of politics—was ever an accurate portrait of reality. It was only, at most, an abstraction or approximation of conditions in the Westphalian system. We are

¹³ While it is possible to generate a realist account of politics in which the rights and interests of the people are the state's primary concern (see Brilmayer 1999), popular sovereignty from the outset conceives the state and its authority as the embodiment and instrument of the popular will in securing freedom and equality for citizens.

¹⁴ We do not mean to suggest that all accounts of political authority based in consent recognize the genuine freedom and equality of all people in practice. The intellectual gymnastics needed to get from this starting point to some of the conclusions reached by the theorists are impressive indeed; see, for example, Pateman (1988) and Mills (1997).

interested in the relationship between the empirical presumptions of sovereignty and the normative doctrine of popular sovereignty. So long as these presumptions fit tolerably well with the facts—so long as sovereignty is a reasonable characterization of political realities—there is little difficulty. If empirical conditions deviate significantly and durably from that ideal, however, popular sovereignty will become correspondingly less appealing, plausible, and coherent. More specifically, it will become less effective in protecting and promoting the freedom and equality of citizens. It is important to recall that popular sovereignty is, in relation to these core democratic principles, an instrumental good. It is valuable and democratic precisely insofar as it promotes freedom and equality. Popular sovereignty is a way of realizing freedom and equality within a particular and contingent configuration of rule. Like justice, democracy will look different under different conditions.

The problem with the new sovereigntists' move from identifying the tension between democratic popular sovereignty and global governance to the condemnation of the latter is that it gets this relationship backward. Rabkin's comments notwithstanding, the new sovereigntists argue that global governance should be rejected as undemocratic because it conflicts with popular sovereignty. The normative ideal of popular sovereignty justifies their opposition to recent empirical developments. From the point of view we are presenting, these developments instead provide evidence that the empirical presumptions on which the normative ideal of popular sovereignty rests are increasingly shaky.

Although globalization is notoriously hard to define, at a minimum it connotes increasing global interdependence, a growing density and significance of various types of transnational and international transaction and interaction. These trends stimulate (among other things) increasing demand for governance of these transactions and interactions, whether in the form of law, regulation, bureaucratization, or *politicization* (the creation of political entities to decide transnational policy questions). Increasing interdependence leads to an increasing demand for global governance; like other states, the United States faces pressure to embrace this trend toward global governance and the internationalist outlook animating it. This trend is both an instance of and a response to globalization, one that undermines independence, autonomy, and control and renders the notion of states as containers of politics implausible. Moreover, globalization has penetrated the public consciousness through academic and political debate and through the popular media, such that there exists today a widespread and growing perception that interdependence and interconnectedness are transforming politics profoundly. Both reality and perceptions of it are changing in ways that directly challenge the empirical presumptions of popular sovereignty as a normative ideal.

Extensive empirical evidence supports these claims.¹⁵ There is no point reviewing it here, however, because the new sovereigntists themselves acknowledge that globalization is profoundly transforming governance. It is precisely this transformation that they deem so threatening to popular sovereignty and constitutional government. The ICC seeks to impose binding rules to limit the conduct of states; the WTO, through its appellate body, creates mechanisms that allow for binding trade rules to be imposed without the consent of all members (Rabkin 2005: chapter 8); the citation of foreign court decisions and CIL transforms the domestic systems of constitutional government, allowing a way for international norms to find their way into domestic law and policy;¹⁶ European-style regulatory

¹⁵ For a good (if slightly dated) overview and analysis of that evidence see Held, McGrew, Goldblatt, and Perraton (1999).

¹⁶ Judges who cite foreign law deny that it is dispositive or binding and note that the practice is as old as the Republic itself. We are grateful to Dan London for pointing this out to us.

regimes dealing with labor, the environment, and human rights subordinate democratic legislative processes to supranational judges and bureaucrats and empower non-governmental organizations and so-called global civil society to influence international regulators directly, circumventing domestic political processes and altering the constitutional dynamics of sovereign government.

The new sovereignists regard such conflicts between global governance and democratic popular sovereignty as moral hazards to be avoided. This view rests on the unspoken—and perhaps unconscious—assumption that the empirical changes in global politics that give rise to these conflicts do not amount to or reflect the kind of “overwhelmingly contrary reality” to which Rabkin refers. In other words, the new sovereignists depict states’ increasing participation in global governance arrangements as a choice to be avoided on principled grounds. They thus further assume that global governance is truly optional (rather than necessary) and that popular sovereignty militates against it. We have already suggested why we believe that globalization represents a significant reconfiguration of global politics; we also believe that, against the backdrop of such a reconfiguration, the prescriptions of popular sovereignty cut both ways.

Each of the new sovereignists’ own examples of dangerous developments in global governance can be understood as an effort by states to regain or retain control or influence in areas where heightened interdependence undercuts them. To the extent that globalization compromises states’ capacity to protect and promote their citizens’ rights, welfare, and interests effectively, these efforts could be seen as democratically required. As Drezner (2001) and others have shown, the US government itself *uses* global governance to *promote* American aims and interests—just as Bolton recommends. To abandon global governance would necessarily (further) reduce American control and influence vis-à-vis other actors (and in the case of unilateral withdrawal, vis-à-vis other states). This too has democratic costs that the new sovereignists simply overlook—perhaps because American power blinds them to what observers in other countries can see more clearly. The Irish, for example, no more want to leave the EU than they want to cede influence within it.¹⁷ If democracy obliges states to protect and promote their citizens’ rights and interests, the fact of growing interdependence strongly implies that states should seek to assert whatever control and influence they can. It is of course true that doing so through global governance regimes undermines domestic authority in the traditional sense, as the new sovereignists assert. But it is equally true that with respect to the requirements of popular sovereignty, this simply means that states are damned if they do and damned if they don’t. Paradoxically, popular sovereignty requires and also rules out global governance.

This is what we mean by saying that popular sovereignty as a normative doctrine becomes incoherent once its empirical presumptions are fundamentally altered. It is in this sense that the reassertion of democratic sovereignty in an age of globalization is increasingly less plausible. Popular sovereignty’s territorial conception of political authority, on the one hand, and the protection and promotion of citizens’ freedom and equality, on the other, sometimes pull in opposite directions in conditions of increasing interdependence. The point is not that the new sovereignists are wrong about what popular sovereignty ideally requires; it is rather that the complex normative demands of popular sovereignty can only be simultaneously satisfied under particular, historically contingent, conditions. As those conditions change, popular sovereignty becomes unworkable.

¹⁷ We recognize that for many smaller or poorer states the notion that membership of multilateral organizations provides meaningful influence is highly idealized. Among the problems with concepts of democracy rooted in popular sovereignty is that they have little to say about the inequalities that structure relations among states. Our emphasis here is on the ideal theory of popular sovereignty—which has not surprisingly been developed by theorists from the predominant states in the international system.

Popular sovereignty is not wrong or flawed; it is inadequate and increasingly ineffective in securing freedom and equality.

Before considering the implications of this argument, we want to offer four clarifications in response to potential objections. First, our position does not imply, nor do we believe, that states are dying or diminishing in political importance. The question is whether it continues to make sense to think of states as sovereign in Hinsley's sense—the sense required by normative democratic theories of popular sovereignty. We have argued that it does not. Second, our position might seem to suggest that sovereignty is fixed and unchanging. We recognize, as some scholars have argued, that there are alternative ways of conceiving authority, legally and politically, as nonterritorial, multi-jurisdictional, or multi-dimensional.¹⁸ Our position is simply that such reconceptualizations are inconsistent with popular sovereignty as a normative conception of democracy, not that they are wrong or undesirable. (That these new conceptualizations are typically described as *new forms* of sovereignty underscores our point).

Similarly, the problem posed by globalization is not simply a problem of scale. Proponents of popular sovereignty have long disagreed about whether size matters. Rousseau believed that only small, face-to-face communities could be truly self-governing; the American anti-federalists, while not quite so rigid, were nonetheless skeptical about Madison's ultimately triumphant proposal to extend republican government across vast new territories. In our view, there is no theoretical or normative limit to the size of a democratic, popularly sovereign state (though there are of course costs, benefits, and trade-offs associated with different sizes). Indeed, we see no reason why, in principle, a global state could not operate according to this same logic of popular sovereignty—though it would cease to be a state in some senses. The relevant consideration is not size but rather the nature and extent of authority: popular sovereignty requires a polity enjoying high levels of independence, autonomy, and control.¹⁹ Finally, we recognize that there is room for reasonable disagreement over the significance of recent changes associated with globalization. Our position only requires showing that these changes undercut the very robust conception of sovereignty on which the new sovereigntist defense of popular sovereignty relies. That they do so, we believe, is clear from the new sovereigntists' own arguments.

The new sovereigntists have correctly analyzed the theoretical requirements and implications of democracy understood as popular sovereignty. They have failed, however, to recognize the *contingency* of these requirements. That is, they have not recognized how changes in the empirical conditions of rule undermine the plausibility and appeal of popular sovereignty as a normative conception. (Ironically, as we shall soon see, cosmopolitan justifications of global governance suffer from a very similar mistake.) While the new sovereigntists are wrong about the future of popular sovereignty, there is still much to learn from their critique about the prospects for *democratic* global governance. We turn to these issues in the remaining sections.

The Cosmopolitan Alternative to Popular Sovereignty?

The incoherence of popular sovereignty in an era of globalization might seem to recommend cosmopolitan democratic arguments, which take the changing configuration of rule as their starting point. Unlike the new sovereigntists, cosmopolitans maintain that democracy *should be* global. They propose various forms and levels of global governance to establish democratic control over globalization

¹⁸ See, for example, Walker (1990), Onuf (1991), Bartelson (1995), Held (1995), MacCormick (1999), Zürn (2000), Friedrichs (2001), Weiler (2001), Huysmans (2003), Walker (2003) and Pauly and Grande (2005).

¹⁹ A global state would not face such issues—at least not in the same way.

and its effects. We cannot offer a comprehensive critique of cosmopolitan democracy here, but we want to highlight one important and surprising respect in which the cosmopolitan and new sovereignist positions are similar. Most cosmopolitan proposals remain committed to the normative logic of popular sovereignty—even though they view sovereignty as outmoded and problematic.

Cosmopolitan democracy is a big tent sheltering advocates of global and regional parliaments (Held 1995; Falk and Strauss 2000, 2001), of global civil society or transnational deliberative democracy (Smith 1998; Dryzek 1999, 2006; Habermas 2003), and of transnational constitutionalism (Held 1995; MacCormick 1999; Weiler 2001; Archibugi 2004). These many internal differences aside, a common thread tying cosmopolitan arguments together is their direct challenge to sovereignty as ideal for the interstate system. Despite this challenge, however, cosmopolitan democracy does not, we believe, sufficiently question the democratic understanding of popular sovereignty as popular control. As a result, many cosmopolitan democrats remain committed, perhaps unconsciously, to a theory of democratic legitimacy dependent upon the very configuration of rule whose transformation motivates their critiques.

This is clearest in proposals for regional and global parliaments or for global discursive democracy. Cosmopolitan schemes seek to break the empirical connection between sovereignty and democracy. By “democracy,” they seem to mean popular control over decisions. In these proposals, the democratic ideal is often represented as an “all-affected” principle according to which it is relatively straightforward (in theory) to extend democracy globally (for example, see Held 1995). The all-affected principle essentially says that everyone significantly impacted by a decision should have an equal say in determining that decision. This principle faces numerous practical difficulties to do with boundaries and with the operationalization of “affected” (Whelan 1983; Dahl 1989; Goodhart 2005; Gould 2005). Even if these problems could be resolved, however, the all-affected principle would remain problematic. Most importantly, for our purposes, many cosmopolitans fail to recognize that locating politics outside the sovereign state undermines the logic of popular control.

Cosmopolitan arguments typically treat popular sovereignty as the state-based realization of the all-affected principle; the cosmopolitan critique of popular sovereignty within states is primarily empirical, emphasizing that politics now routinely and systematically spills across established political borders in ways that make this model obsolete. This gets the logic of popular sovereignty wrong. Democracy as popular sovereignty was never justified through the all-affected principle; if it had been, the exclusion of women, working people, and minorities would never have been possible—never mind the “principled” disregard of everyone living outside the state. Rule by the people was justified, as we have seen, by the application of principles of freedom and equality to the doctrine of sovereignty—with its internal exclusions turning on bogus arguments about who counted as free and equal and its external ones explained by sovereignty itself. Thus, the legitimacy of collective self-rule piggybacks on pre-existing notions of the state or people as a rightful moral-political community. “The people” was a pre-existing or constructed notion tied to sovereignty and territory (later ethnicity); popular sovereignty—again paradoxically—requires an antecedent definition of the what is supposed to be a self-constituting people (Yack 2001). In a Westphalian system of sovereign states, democracy as popular sovereignty and democracy on the all-affected principle look effectively the same.

This point is important because cosmopolitans often do not seem to realize that in breaking the empirical link between sovereignty and democracy they also shatter the normative justification for popular control. The legitimacy of democracy as rule by the people rests on the “taken-for-grantedness” of the political

communities in which it is realized—a fact attested to by the troubled record of democracy in contexts where the boundaries and composition of the sovereign political community are *not* taken for granted. Once that taken-for-grantedness is gone, rule by the people loses its legitimacy. The question of “who decides” cannot itself be decided democratically (see Dahl 1989); as Manent (1997) has argued, there is no democratic way to determine who “the people” are. In effect, then, cosmopolitan democrats make a different variation of the same mistake that the new sovereigntists do. The new sovereigntists fail to recognize that empirical changes are undermining their normative ideal; cosmopolitans fail to recognize that their normative ideal remains conceptually tied to empirical conditions that they themselves acknowledge have undergone profound transformation.

There are cosmopolitans who try to avoid this difficulty, abandoning calls for popular control and instead advocating transnational constitutionalism or the global extension of the rule of law (Archibugi 2004: 452ff.; see also MacCormick 1996; Weiler 2001). They imagine a global constitutional order embedded within the emerging multi-level and multi-layered systems of governance typical of globalization. Constitutionalism would provide a rule-based foundation for regulation of IGOs and transnational corporations (TNCs) and for the adjudication of a variety of disputes, and it would accommodate subsidiarity and greater autonomy for minority groups. Yet, as Walker (2003) argues, a sovereign order is a *precondition* of any constitutional act. Conceptually, constitutionalism only pushes back the question of who decides by one step: who are the people legitimately or democratically entitled to establish the democratic constitutional order in the first place?

Our critique of cosmopolitan democracy shows that rule by the people becomes incoherent once who constitutes “the people” comes into question, demonstrating another aspect of what it means to call popular sovereignty an empirically conditioned normative principle. This mistake is significant for cosmopolitan theorists because it leads them to propose institutions—notably parliaments—whose legitimacy depends precisely on this outmoded principle. Supranational parliaments might look democratic in the familiar way, but they are unlikely to achieve legitimacy. As the EU case suggests, creating effective supranational institutions based on a sort of regional all-affected logic is not enough to overcome people’s deeply felt attachment to traditional political communities and to the idea of rule by the people within those communities. Noting this, some scholars of European integration argue that a European demos must emerge before the EU can become more democratic, while others argue that only by creating more genuinely democratic institutions will a European demos emerge.²⁰ Both arguments support our point: popular sovereignty can only work under specific empirical conditions; an EU democracy based on popular sovereignty could only emerge if conditions at the supranational level become state-like. Even if such conditions were to develop, however, they would not provide a model for global democracy or democratic global governance; they would merely represent a change in the location of sovereignty (Goodhart 2007). We agree with the new sovereigntists, then, in thinking that for global popular sovereignty to work would require that many or most people identify with the global political community more intensely than with their national communities (Rabkin 2005:226).

None of this indicates that global governance cannot work or cannot be democratic. Indeed, we agree with much of the cosmopolitans’ assessment of the challenges globalization poses to state-based conceptions of democracy. But we also

²⁰ For the former view see Andersen and Eliassen (1996), Mancini (1998) and Scharpf (1999); for the latter see Habermas (2003) and Eriksen and Fossum (2004).

think that the new sovereignists are right in doubting the prospective legitimacy of popular sovereignty beyond the state. It follows that any persuasive account of democratic global governance must rely on a different logic of legitimacy. What we have styled the “new sovereignist challenge for global governance” is to articulate such a justification.

Democracy Without Sovereignty

We argued above that popular sovereignty represents the reconciliation of sovereignty, which describes the nature and extent of political authority, with the democratic principles of freedom and equality, which locate legitimate authority in the people. Freedom and equality do not require popular sovereignty; they require that if there is sovereignty it must be popular. To put the point differently: democracy as popular sovereignty was one way to realize freedom and equality, one necessary for democratization in the particular historical conditions of Westphalian sovereignty in which modern democracy emerged. Virtually all modern democratic theories are built upon these same core principles—including conceptions of autonomy and nondomination that animate most cosmopolitan arguments. The challenge, then, is to decouple democratic freedom and equality from the notion of popular control, to develop new democratic criteria more appropriate for making sense of and evaluating global governance arrangements.

Popular sovereignty, through familiar liberal democratic political institutions, provided an (imperfect) mechanism to hold power to account, to limit its exercise and constrain its abuse, and to try to ensure that it protected and promoted the rights, welfare, and interests of citizens, as the principles of freedom and equality require. For the sake of parsimony, we shall refer to these democratic aims as limiting power and enabling meaningful political agency. In our view, these same aims can and should apply to global governance arrangements. We want to state clearly that we do not envision or advocate the replacement of liberal democratic constitutional mechanisms within states; global governance should supplement rather than supplant domestic democracy. Indeed, domestic democracy remains essential to realizing freedom and equality; anyone concerned with global democracy must be primarily concerned with meaningful democratization in states. Nonetheless, we maintain that achieving democratic limits on power and enabling meaningful political agency in the global context is possible, compatible with domestic democracy, and itself a democratic imperative in a highly interdependent world.

These basic democratic imperatives—constraining power and enabling meaningful political agency—can be conceptualized and operationalized in a variety of ways. For the purposes of illustration, we shall utilize a conception of democracy as human rights developed elsewhere (Goodhart 2005, 2008). While we cannot fully defend this interpretation here, we shall flesh it out somewhat in the course of the following discussion, which is intended primarily to demonstrate the possibility and potential of eschewing the logic and the forms of popular sovereignty. Our approach steers a middle course between new sovereignist and cosmopolitan extremes, making global governance more democratic and democracy-supporting, without making it the primary locus of democracy. We invite readers dubious about the substance of our account to focus on the democratic *approach* to global governance that we are proposing; if the approach is viable, the debate can usefully focus on the appropriate democratic criteria and their operationalization and implementation.

We begin by briefly fleshing out the ideas of democratic constraints on power and meaningful political agency in terms of human rights. We next argue that these democratic criteria or standards suggest two distinct levels of democratization

of global governance. The first level, focused on compliance, applies the democratic criteria to the structure, operation, and decisions of IGOs; the second level, focused on democratic transformation, adds a positive requirement to create and reform global governance arrangements so that they actively promote democracy and democratization. Finally, we sketch a number of specific recommendations for the democratization of global governance to demonstrate what we have in mind.

The idea of *human* rights captures well the democratic commitment that freedom and equality should be global in scope—that they apply to everyone, everywhere. Modern democracy and human rights have a long—if neglected—history together.²¹ While democracy is typically associated with familiar representative and electoral institutions, these institutions are commonly conflated with the values or principles that animate them (Beetham 1999: chapter 1). Representative and electoral institutions can be (better) understood as requirements that follow from democratic principles in particular settings. Another, related mistake is to dwell on potential conflicts between democracy and human rights—a mistake made both by critics of human rights (like the new sovereigntists) and by critics of democracy (see, for example, Zakaria 1997). These criticisms presuppose that democratic majorities (for better or for worse) have the right to do whatever they want, constrained only, if at all, by domestic constitutions. When a democratic majority violates minority rights, however, it also violates the premises that justify its authority in the first place (see also Goodhart 2008:412–15).

The democratic requirements of freedom and equality can be specified in terms of four clusters of human rights: fairness rights, liberty and security rights, social and economic rights, and civil and political rights.²² Much could be said in developing this idea, but we shall focus on how these rights can be used to develop criteria for democratic constraints on power and for meaningful political agency that can be applied to IGOs. Democratic constraints on power take two forms. First, democracy requires personal liberty, security, due process, nondiscrimination, and fair treatment. In modern democratic theory, these constraints are commonly included among the rights associated with citizenship and recognized as essential in checking domination and oppression. Second, democracy requires that power holders be accountable for their exercise of power—again, to prevent its abuse and to ensure that freedom and equality are protected. This requirement is traditionally understood, on the model of popular sovereignty described by the new sovereigntists and others, as demanding responsiveness to the wishes of the people.

Reinterpreting these constraints in terms of human rights provides democratic criteria much more amenable to global governance arrangements. Citizenship rights are limited to a particular polity in ways that reflect and help to reproduce the framework of popular sovereignty. Human rights, appropriately for an era of growing interdependence, point to the global extension of these guarantees. Among the chief threats globalization poses to freedom and equality is the exercise of power that is not subject to traditional democratic constraints through the state. This power might be exercised by IGOs like the IMF or the World Bank or by TNCs. State-based mechanisms are insufficient—they lack the authority and the reach to address these threats. Robust guarantees of human rights would constrain the power of such entities. Similarly, the ideal of citizens holding elected officials to account relies on a statist conception of politics, but

²¹ Even Dahl, whose work on polyarchy epitomizes the ideal of democracy as popular control, recognizes that democracy can also be understood as a system of fundamental rights (Dahl 1999:20).

²² Rather than try to fill out and defend this account here, we would simply note that the rights specified in the Universal Declaration of Human Rights fall fairly neatly into these four categories and give a good idea of what we have in mind. For a fuller account see Goodhart (2005:141–48); see also Held (1995: chapter 8).

there are numerous alternatives to electoral accountability of this kind, including holding power wielders to specified normative standards (see also Grant and Keohane 2005). Human rights provide clear standards to which power wielders can be held, standards that flow directly from the democratic principles of freedom and equality and thus do not depend on variable or controversial definitions of who the appropriate accountability holders are.²³ This is not to say that human rights are a substitute for electoral accountability; our point is simply that, where electoral accountability is unavailable or incoherent, human rights help to define the parameters of what counts as decisions consistent with democracy, the range of decisions that can plausibly be understood as democratic.

In addition to constraints on power, democracy also requires meaningful political agency. Within the framework of popular sovereignty, this agency is often understood as (direct or mediated) participation in decision making, a form of autonomy or self-government. Even apart from questions raised by globalization, this understanding is strained: as Dunn (1998) has argued, the notion that casting one of tens of millions of votes for a representative gives one control or autonomy with respect to some law or policy is absurd, and the problem becomes only more acute globally. Democracy understood in terms of human rights interprets agency differently, as requiring institutionalized opportunities to deliberate, influence, and contest decisions and policies as a means of limiting power and protecting and advocating for one's rights and interests. As Mill (1972:275) saw, the only way to ensure that people's welfare is not disregarded is for the people to stand up for themselves.²⁴ Democracy thus entails institutions that provide a framework for political agency so that people can protect their rights and express their interests. Standard civil and political rights—as well as the social and economic rights that enable participation, such as rights to an education and to guaranteed subsistence—are essential in this connection.

Again, we do not wish to diminish the importance of domestic democracy. Our approach involves supplementing it with clear democratic standards that are well suited to regulating the dispersed, overlapping, multi-layered, and often highly technical system of global governance emerging today. These standards suggest two distinct levels of assessment and reform of global governance arrangements. The first level, compliance with democratic human rights standards, requires that IGOs be subjected to democratic standards in their formulation and implementation of policy and in their operations. The second, more ambitious level, democratic transformation, would take democracy's core principles and the standards derived from them as guidelines for promoting democratization within states and internationally. Limitations of space prevent us from going into great detail, but we want to sketch some specific proposals to illustrate and flesh out the mechanisms we have in mind at each level.

Level 1—Compliance with Democratic Human Rights Standards

- *Reform existing global governance institutions to respect and enhance domestic democratic arrangements.* KMM (2009) show that it is possible to design multilateral institutions in ways that enhance, rather than diminish, constitutional democracy. We applaud and encourage research along the lines they recommend.
- *Make human rights standards operational constraints on international organizations.* This would entail requiring all international organizations to respect human rights in their operations and in their policies. The former requirement is

²³ Human rights are of course also controversial—though whether this controversy stems from genuine ethical or philosophical disagreement, as opposed to political calculation, is doubtful.

²⁴ Many cosmopolitans also recognize this, but they too often see the only response as one that recreates familiar democratic institutions at the supranational level; see also Held (2004).

straightforward. The latter would require not only that such violations be directly avoided in the implementation of policies but also that the likely human rights impact of policies be assessed and considered prior to their implementation. This would place an important check on the operation of power transnationally and create greater accountability to democratic standards. This requirement could be monitored by, for instance, regional human rights bodies such as the European Court of Human Rights (ECHR).

- *Create institutionalized points of access for all international organizations.* Protecting freedom and equality requires that people be able to deliberate about, influence, and contest decisions made by international organizations. These requirements facilitate holding power to account and help to ensure that people have opportunities to promote their interests and protect their rights. Global governance arrangements should only be considered democratic to the extent that they recognize and institutionalize these agency rights. This can be achieved in part by ensuring that agency rights are among those that IGOs must recognize and respect. In addition, all institutions of global governance should be required to create institutionalized points of access for deliberation, influence, and contestation of their decisions (see, for example, Jacobson and Ruffer 2003; Bohman 2004; for a fuller defense of this type of agency, see Goodhart 2008). This could include forums for popular input at various stages of the planning, decision, and implementation process, mechanisms for providing information and gathering feedback, and opportunities (legal or administrative) for challenging decisions.²⁵

- *Require full publicity.* The virtues of transparency and publicity are well known in the literature on governance. Publicity is essential for meaningful political agency, and exposing proposals to public scrutiny can have important democratic benefits. This requirement should apply to the deliberations and decisions of all international organizations.

- *Establish common administrative standards for global governance based on human rights criteria.* The rapidly evolving system of global administrative law presently lacks a democratic standard on which to predicate the system's legitimacy (see Kingsbury, Krisch, and Stewart 2004:13). Democratic human rights standards can fill this gap, providing a common standard for regulation and administration in a variety of domains and with respect to many different international organizations.

We want to emphasize that our aim in proposing compliance with democratic standards is to make global governance *more* democratic. These arrangements would not justify or legitimize decisions in the same way that popular authorization does in the domestic context; nonetheless, such requirements would be an improvement in light of the democratic criteria we have identified.

Level 2—Democratic Transformation

- *Create a tougher international human rights regime to monitor and enforce human rights within states.* Such a regime would have crucial “lock-in” and “insurance” functions for democratizing countries, helping to entrench and protect new democracies, and to check abuses in established ones (Moravcsik 2000b; Mayerfeld 2001).

²⁵ These mechanisms and procedures are necessarily participatory: as Shue (1996: 84) puts it, “we have no reason to believe that it is possible to design non-participatory procedures that will guarantee that even basic rights are in substance respected.” Yet these mechanisms need not mean popular control in the familiar sense implied by popular sovereignty. For example, institutions like the IMF or World Bank make highly technical decisions specific to a particular functional domain of governance (though their impact is sometimes much broader). Popular control over or maximum participation in such decisions is not only difficult to specify, but quite possibly a bad idea. Still, institutionalizing opportunities for agency can help to ensure that basic rights are respected. Such participatory input can also have significant epistemic value for the policy-making process.

- *Apply the compliance standards outlined above to the operation of TNCs.* Decisions made by TNCs can have effects on groups and individuals similar to those of IGOs; we maintain that the same logic should therefore apply to TNCs as agents of governance as to IGOs. Applying democratic human rights criteria to their operations and policy decisions would be tricky but essential in a context where corporations operate outside or above democratic control.

- *Reform IFIs to make promoting greater freedom and equality one of their primary purposes.* We do not imagine that every international organization should be required to protect and promote human rights. However, IFIs, which use global resources to promote economic development and combat poverty. Should consciously promote democratic development as well. Besides, there is reason for thinking that these aims are mutually supporting (Sen 1999). This means making meaningful democratization and respect for human rights an objective of their policies—not merely a constraint on them. Much more research on how to promote democratic forms of development that unify economic and political objectives is urgently needed. Such research might lead to the creation of international organizations dedicated specifically to the promotion of democratic development.

- *Create and reform international organizations to discourage anti-democratic behavior.* As Pogge (2001) argues, democracy can be promoted by discouraging coups and authoritarian regimes through methods like cutting resource and borrowing privileges for nondemocratic regimes. Such requirements would help to create conditions through which existing and newly democratic regimes could be stabilized. The participation of anti-democratic regimes in global diplomatic forums like the UN might perhaps also be limited.

- *Create a form of democratic conditionality for participation in international organizations.* This proposal is closely related to the previous one, and takes EU accession as a model. The carrot of membership was used to entice prospective members to initiate democratic reforms. Similar models could be instituted within global governance regimes. In cases where present member-states are not democratic, agreements with those states could be negotiated, establishing consensual benchmarks for progressive implementation of democratic reform. These benchmarks would then be used to assess reform, with slippage resulting in progressively stiffer penalties, including limiting participation in the IGO in question. Generous technical assistance and capacity building should be made available to facilitate these reforms and a multilateral authority established to assess performance and compliance. The idea here is to utilize the benefits of membership as an enticement to democratic reform within states.

These proposals for democracy promotion are much more ambitious and likely to be more controversial. We doubt sufficient consensus or political will exists presently to implement many of them. Nonetheless, we think they are consistent with the underlying logic of our argument: global governance is only justifiable when it enhances freedom and equality or when it preserves them while addressing technical, regulatory, or other problems. If we take democracy's core principles seriously, they imply both limits on and a direction for global governance. Even these more ambitious requirements, note, emphasize the extension and consolidation of meaningful democracy at the domestic level as a necessary first step in achieving freedom and equality for everyone. In this respect, they take the spirit of new sovereignist arguments seriously. Importantly, however, our claim is not that these proposals are equivalent with domestic democracy. It is rather that, in a context in which the traditional democratic model based on popular sovereignty is incoherent and unworkable, it is still possible to make global governance more, if differently, democratic. Obviously much more could and needs to be said to support this view; the foregoing discussion is meant only to illustrate the coherence, feasibility, and appeal of this approach.

Cosmopolitans might reasonably object that there is little here that differs from their proposals. Most cosmopolitans are sympathetic to human rights and see them as broadly consistent with the cosmopolitan agenda (Beetham 1999: chapter 7). Most also agree that freedom and equality are core democratic values to be respected and promoted. Those cosmopolitans who favor constitutionalism might even see the human rights standards articulated here as precisely the kind of thing they are calling for. We have no wish to distance ourselves from cosmopolitan ideas and proposals, except in one crucial respect: in the *justifications* we offer for our proposals. These, we believe, avoid any reliance on popular sovereignty, flowing directly from the values of freedom and equality themselves. Cosmopolitan proposals, even those advocating constitutionalism, rely for justification on (sometimes latent or implied) notions of popular authorization or sovereignty. By avoiding these conceptual entanglements, our proposals should appeal more to democratic citizens and activists around the world, who will not confront in them a choice between popular control at home and popular control elsewhere.

New sovereigntists and other traditionalist defenders of rule by the people might raise a different objection: that the rights we propose, and the institutions that will uphold them, lack democratic legitimacy precisely because they originate outside any duly constituted sovereign democratic state. Further, these rights and institutions might contravene popular sovereignty at home. We have three related replies: First, the same principles that justify popular sovereignty—freedom and equality—also directly and straightforwardly justify the human rights we are proposing. Democracy and human rights are mutually constitutive; each entails the other, making conflicts between them theoretically unproblematic (see Habermas 1996). As Dahl (1956:36) once argued, no friend of democracy has ever held that it gives the majority the right to do whatever it wants. What majorities are specifically precluded from doing is violating others' human rights. That is not to say that conflicts will not arise in practice: majorities are not always sensitive to the niceties of democratic theory. Still, the approach we propose is consistent and compatible with existing democratic arrangements in states and agnostic about the nature and extent of possible developments in the international system. This agnosticism endows the approach with a flexibility permitting its adaptation to various institutional forms in different functional domains of governance.

Our second response is that a global governance regime that respects, protects, and promotes human rights would actually expand participating states' ability to protect their citizens' rights. Insofar as all citizens of democratic states have an interest in making the exercise of global governance more humane and more accountable, these recommendations would advance a quite general democratic interest as well.

Finally, we think the new sovereigntists deny the implications of their own argument. After all, for them sovereignty is necessarily a conditional good, one valued because it enables constitutional democratic government. When we consider how globalization diminishes the effectiveness of popular sovereignty as well as the democratic costs of sovereignty—such as its defense of undemocratic regimes and human rights violators (costs the new sovereigntists acknowledge)—the strong traditionalist case for popular sovereignty becomes much less persuasive. If sovereignty no longer enables democracy or represents an obstacle to the realization of freedom and equality, its normative justification collapses.

In sum, we think that our substantive account of democratic global governance upholds democratic norms, advances the rights, welfare, and interests of democratic citizens, and supports democracy and democratization within states, all without appealing to problematic notions of popular sovereignty. It generates democratic standards based on the democratic values of freedom and equality

shared by all modern democratic theories. We recognize that we have not provided a complete conception of global democracy, and a range of important questions necessarily remain unanswered here. We do hope, however, to have shown what democracy without sovereignty might look like and why it might be appealing in the context of globalization. Our aims have been to establish conceptually that there is no necessary tension between democracy and global governance; to show that democratization is possible through means other than the extension or retrenchment of popular sovereignty; and, to suggest how such an alternative democratic account might be justified.

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