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Transnational Institutions and Accountability

In an early scene of the 1987 film *Roxanne*, Steve Martin places some coins into a newspaper box on the street, pulls out a paper, glances at the front page, and shrieks in horror. He digs furiously in his pocket, presses more change into the slot, opens the box, and hurriedly shoves the offending newspaper back inside. My desire to write this book was driven by similar sentiments.

A glance at the "international" section of any major daily newspaper tends to reveal stories of war-related losses, devastating poverty, corrupt and abusive government, and social injustice in myriad forms. Dictators throw dissidents into prison cells and torture them. Men with guns rape and murder civilian women in Iraq, Somalia, Liberia, Bosnia, and too many other states. Women with rusted razors scrape off little girls' genitals. Frustrated jihadists fly airplanes into buildings. And every day, approximately 4,900 more children under age five perish from disease borne by the lack of clean water and sanitation.[1]

I found the news rather depressing. The committers of violence, the enforcers of injustice, and the promoters of poverty were often anonymous and frequently got off the hook. Sometimes they were locals, citizens of the states in which they committed their human rights violations; often, they represented the state itself. Other times, the problem seemed to originate beyond a state's borders, traceable to a transnational agency, an amorphous global ideology, an absence of empathy.

The persistence of such stories, combined with seemingly casual indifference on the part of the economically and politically powerful,

[1] United Nations Development Program, *Beyond Scarcity: Power, Poverty, and the Global Water Crisis* (New York: Palgrave Macmillan, 2006), p. 42.

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eventually generated a largely unprintable research question in my mind. In its cleaned-up form, it reads something like, "What is *wrong* with the world?" This may be (as I have explained to my seminar students) a lousy research question, but it was a good starting point. Why were people suffering unnecessarily? Specifically, what could the parents of a young man "disappeared" by paramilitary forces in Chechnya do when Russia's law enforcement system refused to pursue the case? To whom might a refugee, raped by a peacekeeper in exchange for food, report the abuse? What options would be open to a pregnant woman denied employment in one of Mexico's foreign-owned textile assembly plants? What recourse would a Bangladeshi prostitute have when the international organization supporting the health clinic she uses suddenly withdraws its funds? More generally, how might the powerful be held accountable?

Imagine a worldwide ledger, a balance sheet, weighing the relative proportions of accountability and impunity. Clearly, much of the impunity we observe is firmly rooted in domestic politics, generated by governments that, in many countries, treat parts of the populace with benign neglect – or worse, with outright cruelty. But the contemporary world also boasts a great deal of transnational activity. The International Monetary Fund (IMF), transnational corporations, the United Nations, private military companies, the European Court of Human Rights (ECHR), transnational social movements, and many other border-crossing institutions exert enormous influence on states and citizens around the globe. What impact might these transnational forces – economic, political, military, judicial, and civic – have in the impunity-accountability equation?

A variety of transnational forces are engaged in promoting state accountability, broadly construed. Some transnational institutions, such as the World Bank, are explicitly trying to fight corruption. Others, such as the European Court of Human Rights, and a number of transnational social movements, aim to promote human rights and push governments to abide by the rule of law. The United Nations seeks, in some cases, to jump-start democratization in deeply troubled states, making governments accountable to citizens through elections. Private military companies (PMCs) claim to foster military security as a precondition for democratization. Some transnational forces, such as multinational corporations, do not profess to increase states' accountability to citizens and can even present barriers to it.

The question motivating this book is what roles transnational, as opposed to domestic, forces play in affecting the balance between accountability and

impunity worldwide.[2] Within this inquiry, I address not only accountability relations between governments and populations but also those between transnational forces and the people whose lives they affect. With illustrative analyses of a wide range of transnational forces, I illuminate the complicated and sometimes unexpected creation and unraveling of accountability relationships. This book looks at five kinds of transnational forces (economic, political, military, judicial, and civic) and asks under what conditions they encourage or discourage a particular aspect of liberal state-building and democracy – namely, accountability – in a variety of countries, as well as whether they practice accountability in their own activities.

In the chapters that follow, I argue that economic, political, military, judicial, and civic forms of transnational action (or "globalization") are unquestionably altering accountability relationships – within states, between states and transnational institutions, and between those institutions and the people they affect. As their reach expands, transnational forces have gained influence in policy areas formerly reserved for domestic institutions and actors. International financial institutions such as the IMF and the World Bank exercise growing power over economic policy in borrower countries. The United Nations (UN) and other international political institutions lead democratization campaigns in postconflict states. Private (and typically transnational) military contractors widen the scope of their activities into realms previously covered by national military forces. Transnational judicial institutions such as the ECHR have become available even to citizens of nondemocratic states. Civic activism, too, has been transformed; transnational social movements mobilize to affect national governments and transnational institutions alike.

The involvement of transnational forces in these areas may be detrimental to democratic accountability, as well as providing opportunities to reinforce it. On the whole, however, the impact of these varied types of globalization on accountability provides considerable cause for concern. *In many cases, the effect of transnational involvement on accountability is negative, and in others, where a net positive impact is in evidence, the effectiveness of transnational institutions and actors in provoking or bolstering*

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[2] Following Thomas Olesen, I prefer "transnational" to "global" as a way to describe the border-crossing entities discussed here. Referring to social movements, Olesen writes that *transnational* "refers to interactions…across borders" and *global* "implies something evenly distributed on a global scale." See Thomas Olesen, "The Uses and Misuses of Globalization in the Study of Social Movements," *Social Movement Studies*, Vol. 4, No. 1 (May 2005), p. 59.

governmental accountability is fundamentally limited. The constituents of
national governments and transnational institutions alike often find them-
selves metaphorically knocking on the doors of empty or invisible offices,
unable to render their governing institutions – whether domestic or trans-
national – accountable to the people their decisions most affect.

Given the ongoing power of domestic governments, transnational action
may have only a marginal impact on the accountability-impunity ledger. In
people's lives, however, that impact can be significant. To the Chechen par-
ents of sons abducted and killed by Russian military forces, it makes a dif-
ference when Russia's government is pushed to atone for its unaccountable
behavior by paying out thousands of euros in fines levied by the European
Court of Human Rights. When the efforts of foreign mercenaries helped
bring Sierra Leone's civil war to a temporary halt, it made a difference to the
villagers who had been terrorized by machete-wielding rebels. The largely
peaceful transition to (initially) pluralist elections in Cambodia, organized
by the United Nations, constituted a welcome change from the bloodthirsty
dictatorship and foreign occupation that preceded the UN's intervention.
Transnational union organizing to save workers' jobs can make the dif-
ference between a continued income and impoverishment. These forms of
transnational action have a direct impact on individuals' lives. But one of
the most important ways in which transnational forces influence people's
lives is *indirect* – namely, by encouraging or discouraging governments that
interact with transnational forces to rule in a more accountable fashion.

What makes a state move toward more accountable government? The
answer lies in a combination of agency (rulers' choices), domestic pressures,
and influences from the transnational environment. Although such processes
are hard to disentangle, it is primarily some combination of individual con-
science or calculation and domestic pressure that leads rulers to embrace a
more accountable style of governance.[3] But what role might transnational
factors play in that process?[4] Even if their actions are not determinative,

[3] In accounting for democratization, Charles Tilly argues for the primacy of "contentious
politics" – the "collective making of claims among constituted political actors," over
leaders' "democratic intentions." Charles Tilly, *Contention and Democracy in Europe,
1650–2000* (New York: Cambridge University Press, 2004), pp. 9, 15. State leaders may
opt to increase officially and institutionally the accountability of their governments for
many reasons. For a summary of these, see Andreas Schedler, "Restraining the State: Con-
flicts and Agents of Accountability," in Andreas Schedler, Larry Diamond, and Mark F.
Plattner, eds., *The Self-Restraining State: Power and Accountability in New Democracies*
(Boulder: Lynne Rienner, 1999), pp. 333–50.

[4] Recent scholarship emphasizes the relevance of transnational forces in domestic democrati-
zation processes. See Jon C. Pevehouse, *Democracy from Above: Regional Organizations*

in what ways do transnational forces promote or hinder accountability in democratic and not-so-democratic states? Transnational forces may not be decisive in struggles against nondemocratic government, but neither are they insignificant. They deserve consideration when we study the conditions under which movement toward accountability takes place.

A more familiar way to conceptualize the impact of transnational forces on accountability is in terms of "globalization." As a concept, globalization is typically disaggregated into three (interrelated) categories: economic, cultural, and political. The first two refer to the technologically facilitated, cross-border spread of goods and money, on the one hand, and ideas and identities, on the other, and are the subjects of a vast literature.[5] Although globalization is often discussed as if it were limited to economics and culture, this book adopts the perspective that globalization is multidimensional, cutting across the many realms of human interaction, including political life.[6]

Globalization's political aspect has received less attention than its economic and cultural counterparts, but it is no less important. As a transborder or "supraterritorial" phenomenon,[7] globalization has had dramatic effects on national politics. In the past few decades, the conventional areas of concern for national government – politics, economics, civic organizing, military activity, and judicial decision making – have all become "supraterritorial," or, put differently, have undergone "deterritorialization."[8] This is the essence of globalization's political aspect: the impact of transnational forces on national-level political processes and decision making. The transnational forces under discussion in this book – including the United Nations,

[5] *and Democratization* (Cambridge, UK: Cambridge University Press, 2005); Hans Peter Schmitz, "Domestic and Transnational Perspectives on Democratization," *International Studies Review* 6 (2004), pp. 403–26; Tilly, *Contention and Democracy*, p. 237.

[5] Some scholars denote the diversity of global processes as a plural: globalizations. See John A. Guidry, Michael D. Kennedy, and Mayer N. Zald, eds., *Globalizations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor: University of Michigan Press, 2000). On economic globalization and popular resistance to it, see Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000); James H. Mittelman, *The Globalization Syndrome: Transformation and Resistance* (Princeton: Princeton University Press, 2000); Joseph E. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton, 2002). For a history and analysis of globalization in multiple areas (economics, the environment, military action, culture, politics, and migration), especially as advanced capitalist states and societies are affected, see David Held, Anthony McGrew, David Goldblatt, and Jonathan Perraton, *Global Transformations: Politics, Economics and Culture* (Stanford: Stanford University Press, 1999).

[6] Held et al., *Global Transformations*, p. 12.

[7] Jan Aart Scholte, *Globalization: A Critical Introduction* (New York: Palgrave, 2000), p. 3.

[8] Ibid., p. 16.

the IMF and the World Bank, multinational corporations, private military companies, the European Court of Human Rights, and transborder civic groups – all fall under the rubric of supraterritorial organizations.[9]

In addition to their economic and cultural effects, the impact of such organizations has been profoundly political. Although in the chapters that follow I address transnational forces in the areas of economics and culture as well as those with a more explicitly political profile, I do so with an eye toward investigating their influence on accountability. Within this book, then, my main interest is in globalization as an expressly political phenomenon, encompassing a broad array of transnational forces and institutions that create opportunities for and obstacles to accountable governance, both within states and within the transnational entities themselves.

ALTERED STATES

Perhaps most affected by globalization in the last twenty-five years is the notion of state accountability. Hence the book's title, *Altered States*. Some transnational forces, such as private military companies, privatize state functions, taking them out of the public sphere and making it harder to maintain an accountability relationship between the public and those exercising military power on behalf of the government. Others, like transnational courts and international financial institutions (such as the IMF and the World Bank), render decision making transnational instead of leaving it within the purview of a state's own citizens, leading to a situation that one could label "accountability once removed." State leaders – depending on the relative power of their state in the global system – have in some cases become more responsive to multinational corporations or other transnational entities than to their putative domestic constituents. Popular awareness of accountability has also grown in the last several decades as communications technology blossomed. Not long ago, if some gross injustice impinged upon the lives of people living hundreds or thousands of miles distant, chances were that knowledge of those events would creep

[9] Ibid., p. 53. Although Scholte does not include PMCs in his analysis, they may fairly be considered as a subset of multinational corporations (MNCs), although they raise different accountability issues. Scholte also categorizes regional organizations like the ECHR as supraterritorial; the ECHR promotes "global" (supraterritorial) norms on human rights, reinforcing its transborder nature. See ibid., p. 147. Although the UN could be regarded as an intergovernmental, rather than transnational, organization, Bruce Cronin persuasively argues that it is both. See Bruce Cronin, "The Two Faces of the United Nations: The Tension Between Intergovernmentalism and Transnationalism," *Global Governance*, 8 (2002), pp. 53–71.

only slowly – if at all – beyond the zone of oppression into the consciousness of the wider world. But states no longer have private lives. When governments commit acts of violence against individuals or groups, it quickly becomes public knowledge. Transnational institutions also step in to try and put a stop to abuses of various kinds and, like states, are themselves targeted when their actions appear to violate people's rights.

Altered states, then, refers to two separate but linked processes. First, in our ever more transnationally governed world, the relationship of states to accountability has changed. Not only are national governments supposed to be accountable to their populations, but they are increasingly also subject to accountability claims by transnational social movements, where noncitizens act (ostensibly) on behalf of, or in coalition with, the affected population. States are also expected to demonstrate their responsiveness to transnational governance institutions, to exhibit accountability "upward." Governments are under increasing pressure to respond to transnational economic institutions in particular, altering economic policies in the direction of greater trade openness, for instance. Member states are also accountable to regional judicial institutions such as the European Court of Human Rights and are expected to change their policies and laws in accordance with international instruments of human rights law. Second, the world's population – or growing segments of it – is living in an "altered state" of consciousness facilitated by the rapid development of communications technology. Connected by the Internet and by satellite technology that enables video of a massacre to be uploaded instantly from a witness's cell phone to the eyes of the world, people live in a relatively novel state of awareness about the actions of governments and transnational institutions and are more able to make a collective response to injustices far from home.[10] The altered state of the world's citizens, along with the norms that globalization spreads regarding human rights and social justice, generates resistance to unaccountable behavior by transnational institutions and states alike.

GLOBALIZATION AND ACCOUNTABILITY

Whereas economic, political, and military interconnectedness have a long history, one of the novelties of present-day globalization is that it is taking place in a world that embraces at least a rhetorical commitment to democracy at the state level. The tenets of democracy, however,

[10] Such use of technology is addressed in Brian Martin, *Justice Ignited: The Dynamics of Backfire* (Lanham, MD: Rowman & Littlefield, 2006).

are "only rarely extended to cover aspects of multilateral regulation and global governance."[11] As one group of globalization scholars writes, "It is readily understood that the quality of democracy depends on rendering political decision-making accountable to citizens in a delimited political community."[12] The boundaries of that political community may change once decision making transcends the state level (as occurs when regional and transnational institutions exercise power within states), raising questions about how and whether to hold transnational institutions accountable to the people whose lives they affect.[13]

Defining Accountability

Accountability is a central aspect of political democracy.[14] Philippe Schmitter and Terry Lynn Karl define "modern political democracy" as "a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their representatives."[15] In consolidated, functioning democratic states, a series of accountability relationships restrains government behavior. But how, precisely, does accountability work to preserve democracy? At base, an accountability relationship is a power relationship.[16] As it is traditionally understood, accountability in a democratic context has two aspects. First, public officials are obliged to provide information about their actions, and to explain and justify publicly the decisions on which their actions are based. This is known as "answerability." The second component of accountability is "enforcement," where "powerholders who have violated their public duties" are subject to sanctions such as impeachment or elections ending their term in office.[17]

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[11] Held et al., p. 431.

[12] Ibid., p. 446.

[13] Ibid., pp. 446–7.

[14] Anne-Marie Goetz and Rob Jenkins, *Reinventing Accountability: Making Democracy Work for Human Development* (New York: Palgrave Macmillan, 2005), p. 11, ft. 7, citing Robert S. Barker, "Government Accountability and Its Limits," *Issues of Democracy*, Vol. 5, No. 2 (2000); Susan Rose-Ackerman, *From Elections to Democracy: Building Accountable Government in Hungary and Poland* (New York: Cambridge University Press, 2005), p. 1.

[15] Philippe Schmitter and Terry Lynn Karl, "What Democracy Is…and Is Not," *Journal of Democracy*, Vol. 2, No. 3 (Summer 1991), p. 76.

[16] A clear and thorough explication of accountability is provided in Goetz and Jenkins, pp. 8–14.

[17] Andreas Schedler, "Conceptualizing Accountability," in Schedler, Diamond, and Plattner, eds., p. 14.

More precisely, democracy involves "vertical" and "horizontal" forms of accountability. Vertical accountability refers to the process wherein the voting public is informed by its government leaders about decisions, and decides whether those leaders' justification of their actions is sufficient to warrant their continued presence in office or not.[18] For a vertical accountability system to work, the active participation of civil society is required. This should ensure adequate pressure on rulers to engage in the information and justification processes, and motivate voters to act according to their preferences, given the rulers' actions.[19]

Vertical accountability, then, relies on certain conditions, such as the widespread right to free speech and assembly as well as freedom of information. It also requires that the basic electoral elements of democracy be in place, such as the right to vote, run for office, and join political parties and other political groups (not controlled by the state) whose right to exist is generally protected by law. Robert Dahl's criteria for a modern political democracy – what he calls "polyarchy" – constitutes a set of prerequisites for vertical accountability, and provides a more concrete understanding of democracy as a form of rule where political rights (participation in elections) are made real by the guarantee of civil liberties (freedoms of speech, publication, and association).[20] Among states there is, of course, a range of compliance with Dahl's criteria. "Democratic" states, as I use the term in this book, are those that abide by Dahl's conditions. By contrast, states that hold regular elections but do not guarantee civil liberties enable unaccountable government in the guise of democratic rule.[21] Likewise, as used in this book, an "accountable" government is understood to be a

[18] Larry Diamond and Leonardo Morlino, "The Quality of Democracy: An Overview," *Journal of Democracy*, Vol. 15, No. 4 (October 2004), p. 25.

[19] Ibid., p. 25. Loss of office is not the only sign that accountability is functioning; those who keep the public informed are less likely to suffer legitimacy problems and suffer electoral sanctions. See Philippe Schmitter, "The Ambiguous Virtues of Accountability," *Journal of Democracy*, Vol. 15, No. 4 (October 2004), p. 49.

[20] I draw here on M. Steven Fish's discussion of democracy as a concept. M. Steven Fish, *Democracy Derailed in Russia* (New York: Cambridge University Press, 2005), p. 16. For a pithy summary and analysis of "democracy" as it has been used by political scientists, see ibid., pp. 15–20. For the six criteria by which "polyarchy" can be identified, see Robert A. Dahl, *Dilemmas of Pluralist Democracy* (New Haven: Yale University Press, 1982), p. 11, as cited in Fish.

[21] My endorsement of "democracy" as a desirable position toward which states are sometimes pushed by both domestic and transnational pressures should not be interpreted as a particular fondness for liberal democracy (as opposed to another political system that might rely less heavily on economic influence or involve more direct popular decision making). Still less should it be seen as suggestive of a belief that the West, or the United States in particular, has achieved an ideal state of "democracy" in its political system.

democratic government, but may exhibit limitations in its accountability to a variety of groups even though their political rights and civil liberties are not circumscribed by law.

The instruments of vertical accountability, such as citizen organizing, media pressure, and elections, are insufficient as constraints on rulers' abuse of power.[22] Mechanisms of "horizontal accountability" – whereby government institutions check each other's power – also play a critical role in democratic governance. These include electoral commissions and human rights commissions, as well as the historical division of power between judiciaries, legislatures, and executives.[23] Neither vertical nor horizontal accountability, however, constitutes a strong means of control over politicians. Term limits on elected officials undermine the use of vertical accountability's enforcement mechanism; politicians in their last term in office can no longer be subjected to electoral sanction.[24] Some forms of horizontal accountability are similarly weak. Executives asked by legislators to justify their decisions may resist divulging the evidentiary basis for their decisions or may simply lie. The power of a free press in such an instance, should, in time, help to reestablish the horizontal accountability relationship. Motivated and informed by media reports of executive wrongdoing, citizens can pressure the legislature to hold the executive branch accountable. Vertical and horizontal accountability mechanisms are thus interdependent.[25]

Accountability is often discussed in terms of "principals" and "agents," where the latter act on behalf of the former. In the context of democratic government, the "agents" are elected officials, such as a president or legislator, and the "principals" are voters. Technically, it is only when both the principals and the agents acknowledge their relationship that accountability can be said to exist. The advent of transnational governance institutions

[22] Larry Diamond, Marc F. Plattner, and Andreas Schedler, "Introduction," in Schedler, Diamond, and Plattner, eds., p. 3. The term "horizontal accountability" originates with Guillermo O'Donnell. See Guillermo O'Donnell, "Horizontal Accountability in New Democracies," in Schedler, Diamond, and Plattner, eds., pp. 29–51.

[23] Ibid.

[24] James D. Fearon, "Electoral Accountability and the Control of Politicians: Selecting Good Types Versus Sanctioning Poor Performance," in Adam Przeworski, Susan C. Stokes, and Bernard Manin, eds., *Democracy, Accountability, and Representation* (Cambridge, UK: Cambridge University Press, 1999), p. 82. Term limits may provide other benefits, such as preventing individuals' accumulation of undue political power.

[25] Although it does not consider accountability in a transnational context, Przeworski, Stokes, and Manin, eds., *Democracy, Accountability, and Representation,* provides a variety of thoughtful treatments of the complex relationship between accountability and democracy.