

Rethinking Participation in Global Governance: Voice and Influence After Stakeholder Reforms in Global Finance and Health. Edited by Joost Pauwelyn, Martino Maggetti, Tim Büthe, and Ayelet Berman. Oxford, UK: Oxford University Press, 2022. Pp. xv, 518. Index. doi:10.1017/ajil.2023.60

Who is entitled to contribute to rulemaking at the international or transnational levels? Scholars sometimes unpack this question normatively, developing theoretical models for representative international rulemaking,¹ advocating for procedural mechanisms to enhance legitimacy,² or critiquing the underrepresentation of particular groups. *Rethinking Participation in Global Governance: Voice and Influence After Stakeholder Reforms in Global Finance and Health* instead takes an empirical tack, confronting the important and understudied—but methodologically confounding—question of how *effectively* to improve the representativeness of global governance. It does so by trying to assess whether recent reforms aimed at increasing participation have actually succeeded in doing so.

The volume's carefully constructed qualitative studies offer a wealth of insights but few systematic or easily generalizable answers, demonstrating just how difficult it is to get at this effectiveness question. Nevertheless, the book has much to offer, describing models and techniques to expand participation, offering examples of how various actors in the Global South were able to make use of them, then embedding this description in the push and pull of a scholarly conversation over the efficacy and normative desirability of these reforms. The editors mine the book's case studies for synthetic insights, subject those insights to a dialogic process of

reflection and critique, and supplement that core dialogue with theoretical reflections that round out the volume's coverage. It is an ambitious and innovative project developed by an editorial team consisting of Joost Pauwelyn of the Graduate Institute of International and Development Studies in Geneva, Martino Maggetti of the University of Lausanne, Tim Büthe of the Technical University of Munich, and Ayelet Berman of the National University of Singapore.

The volume's title frames the project as a "rethinking" of participation in global governance, which might tend to suggest a critical or controversial thesis about the value of such participation, but this is not the intent. The editors embrace the value of increased participation as a normative foundation and focus instead on an evaluation of facts on the ground, organized around a very specific question: what are the *consequences* of reforms that have aimed to "address the marginalization and exclusion of [certain] stakeholders" (p. 19)? That is, have reforms meant to better include previously marginalized stakeholders, especially those in the Global South, "in fact increased their voice or influence in global governance" (*id.*)?

In addressing empirical questions about the effectiveness of participatory reforms, the book performs a major service. The trend toward "opening up" of international organizations, which Jonas Tallberg and coauthors heralded a decade ago,³ continues apace. Interest in this topic among various institutions of global governance and scholars continues to grow. The Organisation for Economic Cooperation and Development has recently produced several publications studying the institutional design of participation reforms,⁴ and has commissioned further work in this vein. Scholars in law, political science, and democratic theory are working on how to overcome democratic failures at the

¹ E.g., Samantha Besson, *Democratic Representation Within International Organizations: From International Good Governance to International Good Government*, 19 INT'L ORG. L. REV. 489 (2022).

² E.g., Richard B. Stewart, *Remedying Disregard in Global Regulatory Governance: Accountability, Participation, and Responsiveness*, 108 AJIL 211 (2014).

³ JONAS TALLBERG, THOMAS SOMMERER, THERESA SQUATRITO & CHRISTER JÖNSSON, *THE OPENING UP OF INTERNATIONAL ORGANIZATIONS: TRANSNATIONAL ACCESS IN GLOBAL GOVERNANCE* (2013).

⁴ E.g., ORGANISATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, *COMPENDIUM OF INTERNATIONAL ORGANISATIONS' PRACTICES: WORKING TOWARDS MORE EFFECTIVE INTERNATIONAL INSTRUMENTS* (2021).

international level and make international institutions more representative.⁵ Newly emerging global governance projects at the United Nations have been charged with “strengthen[ing] the inclusiveness” of their cooperative processes.⁶ All this to say: participation in international organizations and other instruments of global governance is a hot topic. It is also an area in keen need of the kind of empirical evidence that can provide content to abstractions and lead to a more productive sort of “mid-range” theorizing.⁷

Indeed, any reader interested in participation in global governance might benefit from the deeper understanding of participation possibilities the book presents. Reforms are mapped across institutions and forms: we learn about expansion of membership bases, voting reforms, rearrangements of organizational structures to include new actors on boards, changes in consultation and disclosure practices, new observer statuses and commenting opportunities, outreach bodies, earmarked funding to improve inclusiveness, expert consultations, and national consultation processes (e.g., pp. 110, 269). In an area where the existing literature is long on theory and short on facts, cataloging and describing these categories of participation opportunities is tremendously helpful. This work will offer grounding for theoretical conversations, rendering them more useful, and is likely to seed cross-institutional borrowing by other international organizations and global governance bodies.

Of course, addressing the facts presented the book’s designers with many questions of scope and methodology. While the authors made conscious and thoughtful choices at every turn, the result reveals how challenging it is to develop an empirically grounded sense of the effectiveness of reforms in a qualitative study involving many

moving parts. I will return to this point after a brief overview of the book and its contributions.

This is a structured edited volume, where most chapters have been written to the specifications of the book’s research design. It focuses on institutions of global finance and health. It takes an expansive approach to defining relevant institutions, considering both traditional intergovernmental organizations (such as the International Monetary Fund (IMF), World Bank, and World Health Organization) and other transnational, multi-stakeholder, and private global governance bodies (e.g., the Financial Stability Board, the Codex Alimentarius Commission, and the Global Fund to Fight AIDS, Tuberculosis and Malaria). It considers participatory reforms at these various institutions over the last two decades or so. It seeks to understand whether these reforms have resulted in an increase in the actual *participation* of certain actors, and, separately, if those reforms increased the *influence* of those actors.

Specifically, the book is organized around a series of case studies that consider how actors from a number of countries in the Global South interacted with these reforms. Each case study examines an emerging power (Brazil, India, or China), along with a second non-BRIC companion. The authors describe this methodology as “(Coarsened Exact) Matched-Country-Pair[ing]” (p. 71), and the point is to broaden the case studies to make their results more generally applicable beyond the BRICs. So, for example, in the case study on *Brazil and Argentina in Global Health Finance*, Henrique Choer Moraes and Facundo Perez Aznar review the development of the G20, reforms at the IMF, the creation of the Financial Stability Board, and the expansion of membership at the Financial Action Task Force, evaluating what opportunities each of these developments presented for Argentina and Brazil and how those actors took advantage of them.

The book’s organization works in service of its research design, unfolding in two main parts, one addressing global finance governance, the other health. Each part details the main reforms across the relevant global governance institutions, offers

⁵ See, e.g., Besson, *supra* note 1.

⁶ See, e.g., GA Res. 77/244 on “Promotion of Inclusive and Effective Tax Cooperation at the United Nations” (Jan. 9, 2023).

⁷ Gregory Shaffer & Tom Ginsburg, *The Empirical Turn in International Legal Scholarship*, 106 AJIL 1 (2012).

three case studies prepared by author teams with relevant regional and substantive expertise, and follows this with an editor's synthesis of the findings. Each part then concludes with a few supplemental essays, as well as one of the most innovative features of this volume: brief responses to the case studies, prepared by outside experts. (These responses, especially those by Chris Brummer on global financial institutions, and by Gian Luca Burci and Suerie Moon, both writing on global health governance, create a rich critical dialogue with the case studies that contextualizes and probes their findings.) While the case studies lie at the heart of the book, the editors also provide an ample literature review at the front end and a synthesis of conclusions at the back.

The case studies are notionally focused on the participation of both governmental and non-governmental actors in the Global South, but in fact they tend to focus only on governmental actors. The book thus seeks balance by including a final set of chapters that offer theoretical reflections on non-state actor engagement. These detour somewhat from the empirical ambitions of the book, but offer meaningful contributions to the larger conversation about stakeholder reforms. Of particular note is Ayelet Berman and Eyal Benvenisti's tripartite model (the "stakeholder participation triangle"), which seeks to explain how global governance institutions might structure their approach to non-state actor participation, identifying status, function, and efficiency considerations (p. 437) and Kal Raustiala's contribution arguing that governments view more inclusive governance as valuable to them, reflecting a symbiotic relationship between public and private power.

In many respects—but not all—the book's key findings do not disrupt expectations. But confirming expectations is itself useful in an area where empirical knowledge is scarce. In the editors' estimation, the answer to the book's principal question is a qualified yes: reforms have increased the participation of participants from the Global South. "[P]reviously marginalized or excluded stakeholders have increased their actual engagement in global governance. And in many

cases, these increases in stakeholder voice can quite clearly be attributed to the stakeholder reforms" (p. 491). Of course, the editors found significant variation in engagement between the larger and smaller economies in the study, between global finance and health, and between governmental and non-state participants.

In global health, the overall finding is that "global health bodies have increased participation opportunities toward developing countries," but that large and small developing countries have received varied treatment in this regard, and "a gap between formal opportunities and actual participation often persists" (p. 392). Stakeholders do not always have the resources to prioritize or take hold of the opportunities presented to them. In global finance, "[the] reforms concerning the participation of stakeholders were, overall, of moderate but non-negligible intensity" (p. 210). They, too, were uneven with respect to larger developing countries and smaller ones, and they offered more access to countries than to non-state actors.

The book does not offer a concrete answer as to whether this increased participation also increased the *influence* of these previously marginalized actors, and this is for the predictable reason that a conclusive answer "implies a causal claim, for which the counterfactual is difficult to establish" (p. 504). Indeed, contributors focus throughout the book on the question of participation. However, the book concludes that the case studies offer "circumstantial [but] numerous" instances where reforms did "allow[] previously excluded stakeholders to influence outcomes" (*id.*). In collecting these instances, the editors found some support for the hypothesis that stakeholders are more influential over a global governance process when they can offer technical or political expertise. That is, the willingness of global governance bodies to "allow long-marginalized stakeholders to influence rules and decisions, appears to be to a large extent instrumental rather than driven by deeply internalized changes in the norms of democratic governance" (p. 508). In short, international organizations seek input in order to improve their knowledge.

The implications here are quite important. In finding support for a hypothesis that international organizations view participation instrumentally, the volume strikes another blow to the idea of a “participatory revolution”⁸ or “global people-power,” advanced by former UN Secretary General Kofi Annan and others.⁹ These thinkers sought to increase the democratic legitimacy of international organizations by increasing participation by diverse stakeholders.¹⁰ The finding that organizations in the volume’s case studies do not tend to embrace outside input out of a sense of duty to receive the views of an imagined global public but rather because that input carries technological or political utility shows just how hollow the promise of democratic representation through stakeholder participation remains. On a brighter note, this finding also suggests a practical takeaway for those who seek to increase their participation in global governance processes: rather than clamoring for access on “democratic accountability” or “inclusiveness” grounds, would-be participants might productively focus their pitch to organizations on the forms of expertise they can offer.

Now we know: some reforms aimed at increasing the participation of previously marginalized stakeholders can accomplish that agenda. In some circumstances, the participation of some actors from the Global South has increased after reforms aimed at that agenda. These reforms have tended to include larger economies more than smaller ones, and it is hard to tell whether that participation resulted in measurably more influence.

⁸ See Kal Raustiala, *The “Participatory Revolution” in International Environmental Law*, 21 HARV. ENVTL. L. REV. 537 (1997).

⁹ UN Secretary-General Press Release, Partnership with Civil Society Necessity in Addressing Global Agenda, Says Secretary-General in Wellington, New Zealand Remarks, UN Press Release SG/SM/7318 (Feb. 29, 2000) (remarks by Secretary-General Kofi Annan), at <http://www.un.org/press/en/2000/20000229.sgs7318.doc.html>.

¹⁰ See Melissa J. Durkee, *International Lobbying Law*, 127 YALE L.J. 1742 (2018) (characterizing this view as “strong legitimacy optimism”).

The challenge is: how much do we know? The difficulty the book does not resolve is systematizing the facts it has unearthed. This is not a difficulty for all purposes. There is much here that does not require systematizing. A reader interested in theoretical background on participation reforms can find a robust literature review in chapter two; a reader seeking rich description of participatory reforms in global finance or health can learn a great deal from the case studies and their framing in each of the main parts; and a reader interested in mid-range theorizing about why and how to increase participation from the perspective of states and global governance institutions can jump right to the book’s final part for some compelling proposals (theoretical proposals are also found in some brief chapters scattered throughout the case studies).

But what about readers looking for a blueprint as to *what kind* of participation reforms are likely to be more effective? Or which reforms might be best for what purpose, in what context, and so forth? The book’s research design aims at generalizability. The reason for using country pairs—China with Vietnam, Brazil with Argentina, and India with its two matches—is to find generalizable results. For such a careful and thoughtful research design (explained in a brilliantly accessible fashion in chapter two by Tim Büthe and Cindy Cheng), what is surprising is how elusive those results prove to be.

Systematizing results is difficult for a number of reasons, including the breadth of the phenomena studied. The case studies include both formal and informal international institutions, which have very different political landscapes and formal constraints (for example, Christopher Brummer points out that while international organizations are constrained by their charters, for other organizations like the G20, upgrading their governance and even membership can be as easy as updating the entity’s webpage (p. 213)). Reforms falling within the ambit of the volume are also diverse, as Gian Luca Burci notes. These can encompass tweaks of an existing institution, or creation of entirely new ones. Another comparability difficulty arises because the volume involves solicited contributions

from a diverse group of authors. This diversity offers value, in that authors contribute regional and subject-matter expertise, but it also introduces variation, such as variation in the scope of the national case studies and the institutions addressed. Even the meaning of “participation” varies throughout the case studies, with some authors focusing on participation by various actors in global governance institutions, and others focusing on how governments participated in the regime the global governance institution established. (For a good articulation of this point see Burci (p. 397).)

Moreover, each subject area (finance, health) exists within its own distinctive ecosystem, as international organizations tend to do. The bodies in each area solve different kinds of problems, and have their own origin stories, stakeholder preferences, and balances of power. In the case of global finance, the case studies in this book unfold against a very distinct set of facts: “the 2007–2008 financial crisis provided a crucial window of opportunity for reform . . . it is plausible to hold that without the crisis we would have witnessed a much lower reform intensity”; those reforms sought to infuse legitimacy into a failing system, particularly as viewed by the Global South. (Maggetti and Olga Kovarizina, p. 211)) Reforms developed in this context will inevitably have unique, non-replicable qualities and effects. The reforms are “the product of the particular moment in history when they took place” and participants benefitted “for reasons that are particular to each of their individual circumstances,” as Moraes and Aznar conclude (p. 148).

A reader coming to the volume in search of concrete policy proposals, blueprints, or other products of systematized results may therefore be disappointed. I would like to propose that this itself is a contribution. The case studies “illuminate a more qualitatively complex regulatory ecosystem than scholars have traditionally recognized” (Brummer, p. 217). This is where the volume best upsets expectations. It describes and illustrates the vast heterogeneity in the contemporary project of global governance. Casting a wide net in terms of bodies and reforms produced a volume that shows *just how many* institutions,

participatory mechanisms, actors, and forms of activity are at play in the development of the rules, policies, and practices that shape life in the globalized twenty-first century. That itself is revealing. The contemporary practices of global governance resist systemization because they are not the products of a masterplan but rather develop “in fits and starts, driven by particular episodes of leadership and entrepreneurialism rather than inexorable historical forces” (Moon, p. 401).

This book was many years in the making. In some ways, its framing of its project reflects the comparative optimism of 2015, its date of initial conception, a time when scholars were more prone to imagining the inexorability of a move toward inclusiveness in global governance than they are now. In the intervening years, diminishing international cooperation and reduced reliance on international organizations have darkened this perspective. At the same time, new conversations have gained steam. A new emphasis on the “most affected” stakeholders in a particular decision-making process¹¹ may be edging out a more categorical emphasis on the participation of the Global South. Indeed, this frame may better capture stakeholder communities that evade geographic boundaries and the organizational boundaries of states and civil society. Another emerging thread in the literature is a more nuanced attention to corporate participants. Multi-stakeholderism may mask privatization. A more inclusive process offers more avenues for capture.¹² At the same time, corporate actors have been welcomed as indispensable partners for public governance agendas throughout the United Nations system and in other corners of global governance.¹³ And, of course,

¹¹ Jochen von Bernstorff, *New Responses to the Legitimacy Crisis of International Institutions: The Role of “Civil Society” and the Rise of the Principle of Participation of “The Most Affected” in International Institutional Law*, 32 EUR. J. INT. L. 125 (2021).

¹² Melissa J. Durkee, *Astroturf Activism*, 69 STAN. L. REV. 201 (2017); see also Durkee, *supra* note 10.

¹³ Georg Kell, *Relations with the Private Sector*, in THE OXFORD HANDBOOK OF INTERNATIONAL ORGANIZATIONS (Jacob Katz Cogan, Ian Hurd & Ian Johnstone eds., 2017).

domestic politics in many states have shifted away from democracy and toward authoritarianism. All of these trends will undoubtedly infuse further conversations about participation in global governance as scholars take up the questions this volume invites.

In the end, this is a nuanced volume that offers modest but important knowledge gains, doing so with an exemplary scholarly integrity and reflectiveness that other projects might aspire to emulate. This is a wonderfully dialogic project that oscillates between primary studies, editorial evaluation of the studies, outside critique, and supplemental essays to backfill blind spots. It interacts with its own limitations and reviews itself as it goes, illustrating a reflexive process the subject organizations themselves might productively employ. It is rich with useful reflection and seeds for future research. And the book's careful attention to the institutions and processes of global governance carries an implicit vote of confidence about the importance of these institutions. This is especially the case as the book focuses on financial institutions battered by an economic crisis and health institutions discredited by a pandemic. The book stands as an invitation to continue to invest in these institution and other mechanisms of global governance: to study, reform, and refine them; enhance their representativeness; and resist their privatization. It will surely seed further normative and empirical work aimed at facilitating these aims.

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The Everyday Makers of International Law: From Great Halls to Back Rooms. By Tommaso Soave. Cambridge, UK: Cambridge University Press, 2022, Pp. xix, 342. Index.
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Tommaso Soave's book, *The Everyday Makers of International Law*, sets itself an important goal: to expose the community responsible for the

production of international judicial decisions; to foreground the background, as he says (p. xi). Soave, assistant professor at the Department of Legal Studies at the Central European University, argues that the host of actors other than judges that partake in the work leading up to a judicial decision—counsel, legal bureaucrats, academics and others—play such a decisive role in generating that decision that upon investigation one eventually comes to realize that “[a]stonishingly, international judges . . . play a relatively minor role” in their own jurisprudence (*id.*).

International lawyers, per Soave, regard judicial decisions as holy scriptures and are reluctant to investigate their processes of production lest their sanctity vanish upon inspection (pp. 4, 14). For this reason, arguably, only the decision itself (the output) ends up attracting serious consideration, never the input (p. 13). Soave characterizes this situation as reflecting “a conspiracy of silence” (pp. 139, 150) among not only the international judicial community but also academics and commentators who “carefully avoid questioning the inner working of international courts, fret to ask uncomfortable questions, and tend to take official discourse at face value” (p. 138). Soave likens the scholarly reluctance to explore the judicial process to the three wise monkeys, choosing not to speak, hear, and see international judicial bureaucrats (p. 140). One possible explanation for this situation, he says, is that academics researching the international legal system have a stake in it: investment treaty scholars often serve as either counsel or adjudicators, and European law scholars work for institutions strategically committed to the European Union's expansion. “The contiguity between the bench and the academe poses an ‘obstacle for independent and clear positioning,’” he concludes (pp. 151–52). But—and this is the book's central argument—input is everything. Arguments raised by litigating attorneys, preparatory memos drafted for judges by their assistants, and conversations over coffee or beer among judicial bureaucrats significantly affect the outcomes of particular judicial decisions.

Soave's account is focused on the intricate relationship between international judges and