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Global Governance and Human Rights

Renewing Global Governance:
demanding rights and justice in the global South

JEAN GRUGEL & ANDERS UHLIN

ABSTRACT Global inequality is increasing. Global inequalities are an expression of global social injustices and ‘pathologies of power’. Global governance has been posited as a way forward. However, global governance will not deliver justice unless it embraces a more radical vision of what justice means and permits the voices of the marginalised to be heard in spaces of decision making. We identify two important approaches to building more just forms of global governance: the civil society approach, which is useful when it draws attention to the agency of those at the margins of global circuits of power; and the rights-based approach, which can provide opportunities for justice claims by marginalised groups.

In his seminal analysis of contemporary human rights, Farmer argues that rights violations are a symptom of ‘pathologies of power that are linked intimately to the social conditions that so often determine who will suffer abuse and who will be sheltered from harm’. Farmer’s argument goes beyond the usual debate on ‘liberal’ versus ‘substantive’ rights to an exploration of how unequal access to all categories of human rights reflects broader patterns of social injustice. Traditionally both Marxist and mainstream scholarship took the view that injustice of this sort could be combated through citizenship, collective action and incorporation into the industrial workforce; moreover rights were generally regarded as being won from—or conceded by—nation states. Contemporary injustices, however, reflect global ‘pathologies of power’ and are rooted in transnational processes and the operation of global, rather than national, capitalism. How are rights to be advanced and claimed in this context?
The relevance of this question has been magnified by deepening concerns over the scale and depth of global exclusion and human rights deprivation and their consequences or, put differently, with the way contemporary forms of global capital accumulation generate and intensify extreme forms of exploitation, violence, abuse, insecurity and humiliation. While much of this multi-dimensional vulnerability originates in, or is sustained by, the operation of labour markets and transnational capitalism, the lived experiences of vulnerability are made manifest in aspects of people’s lives that are not always directly connected to production or labour processes. The consequence, from an academic perspective, is the emergence of sets of literatures, each of which explores distinct aspects of exploitation and vulnerability through different theoretical lenses. Standing, for example, links the growth of global vulnerability to crumbling labour market security in the face of flexibilisation. He talks of the emergence of a global ‘precariat’, made up of people working without access to welfare or decent remuneration, in conditions of rising insecurity. The size of the precariat has increased, according to Standing, in the wake of the 2008 financial crisis. Phillips, meanwhile, speaks of the rise of ‘unfree labour’ as a result of the expansion of work at the bottom of the global production process. These debates take a vitally important macro-level perspective in which the operation of the global political economy as a whole is the starting point and key level of analysis. But they can sometimes fail to connect sufficiently with the rich sociological and anthropological tradition that examines how vulnerability is both lived out and challenged as a daily experience, or the mobilisation of ordinary people who demand rights in sometimes very difficult circumstances. There is, as a consequence, the danger of a disconnect between critical analysis of global capitalism, on the one hand, and bottom-up studies of organisation by and for ‘ordinary people’, some of whom, moreover, are vulnerable in ways that go beyond their position in labour markets and production processes. There is no doubt that making connections across disciplinary and methodological divides here would provide a more coherent and multifaceted understanding of the exploitation/vulnerability nexus; and that task is certainly underway. Indeed, Farmer’s pioneering approach to human rights represents an important synthesis in this respect. Bracking, meanwhile, shows how adverse incorporation into global labour markets acts as the primary mechanism in the reproduction of chronic poverty. We seek to make our own contribution here by exploring how the study of both ‘global justice’, a term we borrow from political theory, and global governance, more usually studied from within International Relations, can benefit from a close analysis of how justice is claimed in practice, by and for specific communities. We have been inspired to do so in response to Fraser’s persuasive argument for a rethinking of the ‘scales of justice’. She calls for a new philosophy of ‘transnational justice’, focusing on claims for economic and cultural justice (redistribution and recognition) as well as for political change or representation. How we ultimately fill the abstract concept of ‘transnational justice’ with meaning, we suggest, should reflect and address
the concrete, multifaceted experiences of ‘injustice’ and emerge through
dialogue with movements that challenge it on the ground.

We begin this article with a brief discussion of global justice and injustice.
We locate the study of injustice within the operation of the global political
economy and we seek to operationalise the rather nebulous category of those
who experience global injustice within a modified version of the term the
‘transnational precariat’. We then make the connection between global
justice, as an aspiration and a social demand, and non-mainstream or
alternative approaches to global governance. We focus in particular on the
importance of explicitly scaling up both civil society/social movement studies
and the rights-based approach, both of which emphasise voice, resistance and
organisation from below, and we sketch out some different pathways to how
justice is being claimed in the global South by and on behalf of marginalised
groups. These demands, we argue, should inform both the principles and the
practices of global governance.

**The political economy of global injustice**

Justice ‘is concerned with the relations between the conditions of different
classes of people and the causes of inequality between them’.10 Debates about
justice and moral obligation have traditionally been encased within
sovereignty. The idea that we can conceive of justice operating at the global
level is, therefore, a relatively new one for political theory and ‘the concepts
and theories of justice are at an early stage of formation’.11 For Nagel, ‘it is
not even clear what the main questions are, let alone the answers’.12 Wolff
proposes that these problems mean that justice should, in fact, be understood
as a series of layered responsibilities, suggesting ultimately that we have fewer
obligations to those outside our sovereign state than to those within it.13 The
difficulty here is that this implies that our responsibilities to each other are
limited by space and nationality, even when injustice is the product of
transnational relationships. On the one hand, this has given rise to the idea of
cosmopolitan justice or the creation of global institutions with the remit of
promoting global fairness—although cosmopolitan governance suffers from
different problems, including the fact that it is largely an elite-led process. On
the other, it has focused attention not on the meaning of global justice, but
on the need to explore in more detail the processes and relationships that are
manifestations of global injustice. Thus Young identifies the concrete
experiences of injustice in sweatshops in the global South to the transnational
social structures that sustain global production networks. This is, she argues,
a form of ‘structural injustice’, the result of ‘social processes [that] put large
categories of persons under a systematic threat of domination or deprivation
of their means to develop and exercise their capacities at the same time as
these processes enable others to dominate’.14 It is, she goes on to say, ‘a kind
of moral wrong’ characterised by the fact that the responsibility for the
wrong is not necessarily clear or visible; we can identify the individual
‘victim’ but not the individual ‘perpetrator’.15 This focus on injustice, rather
than justice, marks a seismic shift in thinking, not least because it rescues us
from the tangle of sovereignty or debates about degrees of obligation we have to distant others. It also locates the relationship between (in)justice and the global political economy at centre stage. If injustice is ultimately a product of an excessive concentration of political, cultural and economic power and resources, then it becomes ‘addressable’ and the responsibility to do so legitimately becomes a collective responsibility, not simply that of a ‘perpetrator’ who cannot, in any case, be easily named or called to account.

Global injustice, then, is inherently and intimately embedded in the global political economy and it is the product of extreme inequality. We make our contribution to the study of global injustice here by exploring the frameworks that allow us to see injustice for what it is, contest and challenge it, and make arguments for a fairer global order. In taking this task forward, we need a term to describe the vast numbers of the world’s people who experience injustice in various ways. Here we have opted to avoid the term ‘vulnerable’, which is often used to describe poor communities in the global South and elsewhere. A focus on vulnerability presupposes the question of vulnerability to what. The answer is quite straightforward when the term is used in the literature on hazards and disasters, which is where, in fact, it has had most traction. But the answer can be given in a less satisfactory manner when vulnerability is experienced in a more diffuse and all-encompassing fashion or when it is the result of multiple, overlapping forms of expression and discrimination, the product of the visible and not-so-visible relationships that, taken together in daily life, actually sustain and reproduce global injustice and global inequity. Vulnerable people, in other words, are simultaneously vulnerable in many different ways; the essence of their vulnerability lies precisely in the fact that their exposure to risk, violence and humiliation is often constant and multifaceted. It is, in short, a structural condition and a contingent and contextual experience, at the same time. The fact of vulnerability, moreover, can sometimes be equated with victimhood or the absence of meaningful agency, a view we reject and a trap we consciously want to avoid.

The idea of a transnational ‘precariat’ (a blend of the adjective precarious and the noun proletariat), on the other hand, captures how global social structures actively produce social injustice, and draws on class analysis as a way of capturing agency. It emphasises the fact that marginalisation is configured and reproduced in the context of changing global social relations and patterns of global production. Standing links precarity with the changes associated with neoliberal economic globalisation and the sharp decline in the status and benefits associated with paid work that has occurred since around the 1990s. Similarly, the International Labour Organization (ILO) attributes precarious labour across both the formal and informal sector to the changing modes of global production that allow employers to shift risks and responsibilities onto the workforce. Precarious employment is defined by the ILO as ‘uncertainty as to the duration of employment, multiple possible employers or a disguised or ambiguous employment relationship, a lack of access to social protection and benefits usually associated with employment, low pay, and substantial legal and practical obstacles to joining a trade union..."
and bargaining collectively. Precarious workers not only have limited labour rights; they also have few opportunities to challenge the exploitation they experience through collective action. Because of this, access to only unstable and poorly paid forms of employment multiplies marginalisation in other arenas of social life, including health care, education, housing and family life.

Thus far discussion of the precariat has mainly been limited to the transformation of labour within the global North. The precariat which Standing, perhaps controversially, sees as a ‘class-in-the-making’, has been used most widely to describe the consequences of the workplace transformation in the North that took place as a result of ‘the successful politics of wage repression after 1980’, as Harvey pithily puts it. This fact, in itself, does not preclude the concept ‘travelling’ to the South or being used in a way that captures the insecurities—and solidarities—that are generated across and within groups, whether in the North or South, who find themselves with the fewest resources within the global political economy. But, if we wish to use the term to describe those who experience global injustice in this wider sense, we need a more comprehensive recognition of the fact that marginalisation (whether in the North or South) reflects more than simply labour market displacement. We agree here with Harvey, who has extended the term to encompass not only those who have been dispossessed by the global market but also those people deprived of ‘access to the means of life, of their history, culture and forms of sociability’, a majority of whom originate in the global South. The grand economic processes that are currently reshaping all global social structures have a differential impact in the global South, with the result that the scale and depth of precarity is quite different. It is well known that more than 1.4 billion people in the South live on less than US$1.25 a day and ill-paid, temporary work are standard forms of employment in many sectors of the economy in the South. It is perhaps less acknowledged, however, that there are more people in poverty than ever in middle income countries—one in five of the world’s poor—where, despite growth, inequality is normalised and even associated with progress, in part as a result of the neoliberal revolution.

The reproduction of extreme inequality amid prosperity in this way certainly challenges mainstream models of development, which are based economically on assumptions about trickle-down and the benign character of markets. But there are other, equally pertinent lessons here too. It has generally been assumed that justice claims and the acquisition of human rights and socioeconomic rights would follow the gradual democratisation of the sovereign states in the global South. Traditional sociological approaches associated rights with nation building, and assumed that social, economic and cultural entitlements would follow from political enfranchisement. In fact, both sovereignty and democratisation have been disappointments in so far as socioeconomic rights are concerned for reasons that range from the legacies of colonialism, weak states, elite refusal to share political power and external imposition to the difficulty everywhere of challenging prejudices based on gender, age, ethnicity and (dis)ability. Class analysis, in short, must
be allied to discussions of non-economic hierarchies and the way historic patterns of inequality have been entrenched and institutionalised in the global South, more even perhaps than in the global North, if we are to explain injustices. Gender scholars in particular have shown how social and cultural disadvantage is deeply implicated with economic injustice, a point illustrated empirically in Van der Wal’s account of tea production in Kenya and Indonesia, which draws attention to the way in which women workers’ marginalisation is intensified by prevalent, gender-based practices of sexual harassment.

To sum up, conventional use of the transnational ‘precariat’ over-emphasises labour market marginalisation at the expense of the broader forms of injustice that have their roots in social and cultural oppression. These intersect and are reinforced by inequalities that have their origins directly in the operation of the global labour market. Put differently, it is important to acknowledge the ways in which different manifestations of injustice overlap, and to adopt a plural approach to injustice that is able to acknowledge multiple forms of oppression. Fraser’s recent work has been pioneering in this regard. She argues that injustice ‘arises from the intersection’ of cumulative forms of discrimination and exploitation across economic—understood more broadly than simply the workplace—political and cultural terrains. This intersectional approach reflects the multi-dimensional experience of what Farmer calls ‘powerlessness’. Injustice falls most heavily on individuals and groups who not only struggle to access decent work but also find themselves subject to discrimination based on cultural prejudice, age, gender, ethnicity, (dis)ability, etc. Injustices of these sorts are neither transitory nor a secondary consideration. They are, in fact, actively institutionalised through the intersections between the ‘rules’ of the global market that enforce liberalisation, conservative and misogynistic social values and practices, racialised fears of the ‘other’ and global discourses of (in)security. It should go without saying, therefore, that they are not resolved either by economic growth or by merely strengthening the traditional vehicles for expressing demands from below, the labour unions.

The goal of those seeking global justice must be made visible, and the different ways that struggles against global social injustice shape up must be explored. The papers that follow address the justice demands of two groups who are, as Fraser puts it, apparently ‘not even in the game’, migrant labourers (Piper and Rother) and people living with HIV/AIDS (Jönsson and Jönsson). Migrant labourers are among the most vulnerable workers within the global economy. As pointed out by Piper and Rother, the majority of migrants are temporary contract workers who are typically even more exploited and discriminated against than non-migrant workers. As argued by Jönsson and Jönsson, AIDS is a disease of poverty, mainly affecting marginalised people. People living with HIV/AIDS, in contrast to those with most other infectious diseases, have suffered a number of human rights abuses, including stigmatisation, discrimination and persecution. Both migrant labourers and the HIV-positive poor in the global South, we argue, should be seen as part of the transnational precariat (although the
marginalisation experienced by many people living with HIV/AIDS might not be directly related to global capitalism; both experience multifaceted forms of discrimination and exploitation; and both are in urgent need of global justice.

Towards a global governance for justice

The scale of injustice may be global but, as we noted above, the tools that address injustices most effectively have historically been national. In practice this means that injustice in much of the global South, even if it has its origins in global processes, has been exacerbated by the failures and biases of local states. The injustice experienced by HIV-positive people and migrant labourers, the groups we deal with here—and by other groups not discussed in this collection such as some child workers, refugees and asylum seekers, victims of conflict, people with severe physical or mental disabilities and some ethnic groups—is intensified by the absence of effective national systems of welfare and equitable tax systems, weak, unrepresentative or unaccountable governance systems and the fact that the judicial tools that can combat discrimination are generally absent or not accessible to the poor. For this reason the idea that some of the most severe manifestations of injustice might be remedied by global governance has become increasingly prevalent. Such views represent a step away from the Westphalian mindset of sovereignty and they have, perhaps not surprisingly, found a receptive audience among global liberal elites. It has been posited that the more fluid global order that now exists generates opportunities for individuals and professional groups ('epistemic communities') to use their expertise and become ‘global norm entrepreneurs’, promoting reform from above. The question is whether this liberal vision of global governance can deliver justice in any meaningful way for communities and individuals at the very bottom of the global hierarchy?

Seeking a definitive answer here is not easy. In the first place, the extent to which governance is truly ‘global’, as this liberal argument suggests, actually depends very much on ‘what’ is being governed. Global governance is not of one piece and the governance of the economy is much more institutionalised than anything in the area of labour, health and human rights. The global governance of migration, to take just one example, is piecemeal and incoherent. Second, the pathways to advancing justice through global governance are not at all clear. Social movements, NGOs and other civil society actors are often credited with the potential to contribute to a more just global governance or global governance from below. It is certainly the case that justice claims targeting international institutions and other global governance arrangements have often emanated from within civil society. However, given the elitist and global North bias of much of what is often called ‘global civil society’, this does not necessarily mean either the emergence of a genuinely inclusive system of global governance or even the emergence of a model of global governance sensitive to the realities of injustice across the global South. Civil society has its own inherent inequalities and there is often a tension between resourceful civil society
organisations (CSOs) and the marginalised people they claim to represent. A more specific path, usually deployed by NGOs and transnational advocacy movements, is the rights-based approach. Human rights advocacy holds the promise of linking mainstream liberal global governance with ‘global governance from below’, since CSOs and major international organisations now tend to share a discursive commitment to human rights. In the two papers that follow, Jönsson and Jönsson and Piper and Rother analyse in some detail how different civil society groups seek to advance justice through a rights-based approach to global governance.

In search of analytical tools for this research agenda, we identify two theoretical approaches—closely related to the pathways to advancing justice we mention above—which in different ways challenge mainstream, elitist, state- and market-centred theories of global governance. First, theories of (transnational) civil society and social movements highlight the role of these actors in advancing justice claims in global governance and provide analytical tools for understanding their activities and interaction with states and international institutions. Second, theories of human rights and rights-based approaches enhance our understanding of the role rights can play in global governance and the possibilities and limitations of rights-based advocacy.

Civil society and the agency of the marginalised

Civil society movements and theorists of civil society have been making arguments about the importance of seeking justice at the global level for many years. The path-breaking work by Keck and Sikkink generated a sub-field of research on the detail of how progressive civil society movements seek to promote change that has led to a much better understanding of how activist networks operate across borders. But, while there is broad recognition that civil society movements have made an important contribution to demanding justice, the idea that ‘global civil society’ is straightforwardly an agent of positive transformation has also been criticised for being elitist and unrepresentative, having an excessively liberal ontology, and failing to pay due heed to the persistence of state power. It has been pointed out that so-called global civil society actors often lack accountability and internal democracy, and are selective about the injustices that make it onto the agenda. All such critiques are important; but there are three forms of criticism of particular importance here.

First, we note the tendency in arguments about the importance of global civil society to disregard the ‘local’ and the specificities of place and geography. This can lead to a disregard for local voices, especially if they do not fit with Western liberal ideas. It can also hide the very particular ways progressive ideas with global resonance, such as children’s or women’s rights, translate in particular settings. Second, there is the question of voice: who speaks for those deprived of justice? Can or should NGOs speak on behalf of the marginalised and where does their authority to do so stem from? Finally, there is a question of implementation: how is change to be effected and what
is the appropriate level at which mobilisation for justice should take place? In short, we must beware of the idea that there is a simple, one-size-fits-all relationship between civil society and global justice, one modal path to how civil society movements promote or understand justice, and we must avoid an unreflective view that civil society movements are always somehow ‘right’ in the way they seek to challenge marginalisation and promote justice.

Most transnational activist networks tend to be dominated by relatively resourceful, well educated middle class activists predominantly from the global North, whereas grassroots movements are typically described as having a narrow focus on local issues. However, some movements of local, poor and marginalised groups have been able to scale up and transnationalise. Examples of self-organising grassroots movements which have managed to gain some say in a global governance context include Women in the Informal Economy Globalizing and Organizing (WIEGO) and Slum/Shack Dwellers International (SDI). Self-organising grassroots communities sometimes question the right of non-grassroots NGOs to speak on their behalf. This is particularly so in cases where advocacy NGOs have grown up without proper mechanisms for representation and accountability. Tensions between grassroots movements and larger advocacy NGOs that tend to be dominated by Northern activists are as much organisational as identity-based; grassroots movements are not inherently either more radical or more pragmatic, although there are cases in which some grassroots movements and the advocacy NGOs claiming to speak on their behalf take completely opposite positions, as for instance in the case of human trafficking. Overall, it is important not to romanticise grassroots groups as some kind of ‘pure’ manifestation of voice or resistance against injustices. Local communities and grassroots organisations have their own internal power relations and inequalities. Moreover, even as we recognise the potential for agency and organisation by some extremely marginalised communities, we should acknowledge that their capacity for mobilisation and action varies between groups and over time. For some groups, external assistance is the only realistic option.

A potentially useful analytical tool in the civil society and social movement literature is the ‘political opportunities’ approach. This concept, which has been applied extensively in social movement studies, and increasingly in transnational activism studies too, offers a way to analyse the relationship between social movements and the formal political sphere. Political opportunities (or opportunity structures) that condition social movement activities include the degree of openness of the institutionalised political system, the presence of elite allies and the extent to which the state is prepared to use repression against oppositional movements. This concept has been extended to a transnational context and applied to civil society actors in general. Political opportunity structures can be understood as formal and informal institutional features that determine how open an international organisation is to civil society actors. International and regional governance networks, informal arrangements and the increasing judicialisation of global politics can also generate political opportunities for
activism. So too can the proliferation of global human rights conventions. Grugel and Peruzzotti for example, show how the ratification of the Convention on the Rights of the Child (CRC) strengthened rights-based domestic activists in Latin America.

Political opportunities to a large extent determine the types of advocacy strategy civil society actors can adopt. However, civil society activists are also involved in trying to reshape and expand political opportunities in order to influence global governance more effectively. The articles which follow highlight the complex relationship between agency and structure in civil society engagement with global governance arrangements. They illustrate Tarrow’s argument that the relationship between political opportunities and social movements is a dynamic process, as social movements actively create new opportunities and constraints both for themselves and their supporters and for their opponents. Following this way of reasoning, Piper and Rother analyse how migrant labour activists make use of and expand ‘communicative opportunities’, while Jönnson and Jönnson examine the intersection of national and international political opportunities for HIV/AIDS-related activism in South Africa and Cambodia.

To sum up, although we would strongly warn against taking the overly romantic view of civil society and social movement activism that can sometimes still be found in parts of the literature, there are useful analytical tools in this literature for examining the way demands for, and contributions to, alternative forms of global governance seek to advance justice claims. In particular, the concept of political opportunities provides a lens for understanding the complex and changing relationship between elitist global governance arrangements, on the one hand, and civil society organisations and grassroots movements, on the other.

The rights-based approach to global governance

Contemporary transnational civil society activism has tended to focus on human rights in the broad sense rather than simply defending or promoting a conventional concept of rights based on inalienable individual entitlements. Traditional human rights NGOs (like Amnesty International) have broadened their mandate to include economic, social and cultural rights and new movements and NGOs have started to link human needs issues to economic, social and cultural rights standards, eg regarding essential medicines, the right to water, and women’s reproductive health rights. This ‘rights-based approach to development’ is now widely adopted by development, environment and labour groups. The ‘new rights advocacy’ is characterised by ‘advocacy on social, economic or development policy, at local, national, or international levels, which makes explicit reference to internationally recognized human rights standards’.

Advocacy of this sort includes framing policy debates in terms of human rights, measuring the performance of international institutions and governments against specific human rights standards, the litigation of human rights claims before judicial and quasi-judicial bodies, and human rights education.
The human rights approach to development and poverty has also been taken up by international institutions, most notably the United Nations Development Programme (UNDP). This makes human rights a potential bridge between elitist or liberal approaches and bottom up or civil society approaches to global governance. However, the human rights discourse adopted by the UN can be described as a ‘thinned out’ version that focuses on implementation and materialisation of rights, and down-plays politics. Inevitably commitment to only a ‘thin’ version of human rights has serious limitations on the extent to which rights act as a vehicle for transformation. This is clear if we look at progress towards rights for disabled people in the global South. Although disability rights are now part of global governance of development and are codified in the United Nations Convention on the Rights of People with Disabilities (UNCRPD), adopted in 2006, and in policies of the World Bank and ILO, the conditions for disabled people in the global South have not significantly altered. As Meekosha and Soldatic show, the voices of disabled people from the South have often been silenced in the global advocacy campaign for disability rights. They use this fact to argue that the human rights framings that are replacing the language of emancipatory struggle do not necessarily bring with them a genuine redistribution of power, either within or between countries.

Others have defended the significance of human rights charters as part of the architecture of global governance ‘from below’. The extent to which the codification of human rights is simply a ‘costless signal’, or alternatively the opportunity to put human rights on the agenda in a more meaningful way, has been the subject of deep debate in International Law and International Relations. The richness of this debate is only now beginning to spill over to the study of the global South, where global civil society movements have, by and large, either simply assumed the new focus on human rights to be overwhelmingly positive or, alternatively, adopted a critical line based on a view that human rights reflect an imposition of Western values and are therefore of limited value in addressing injustice in the South. Grugel and Peruzzotti agree that, by themselves, global human rights charters achieve very little. Their worth, they argue, depends on whether they can set in motion a ‘new politics of compliance’ and inspire mobilisation for change. They point, in other words, to the importance of politics in explaining whether, how and why some kinds of human rights discourses are able to promote change in some settings and, by implication, others are not. Grugel and Piper show how rights-based global governance has created opportunities to challenge aspects of the historic marginalisation experienced both by poor children in the global South and by labour migrants. But they also sound a note of caution, arguing that the impact of human rights discourses has been felt most strongly in the civil society sector—and that states can often escape having to take action, even in the face of mobilisation from below, despite their legal responsibilities. Drawing on the example of the global governance of migration, they also show how conversations about rights take place in global institutions set up to govern international migration but these conversations rarely include either migrants themselves or the organisations...
that directly represent them. This more nuanced approach draws attention to agency and contingency and recognises that the chances of using rights charters effectively depends on the group claiming rights, on place and on issue-area. It chimes well with the multi-scalar approach to justice advocated by Fraser, and with the emphasis on accountable and legitimate civil society organisations that genuinely reach into and reflect the demands of local groups on the ground in accounts of change.

In sum, the rights-based approach holds the potential to link ‘bottom-up’ initiatives with elitist global governance. Despite its limitations, human rights advocacy and global human rights instruments can, under certain circumstances, provide opportunities for justice claims by, and on behalf of, vulnerable and marginalised groups in the global South.

Conclusion

Marginalised people do not figure prominently in mainstream accounts of global governance, especially not as political agents. The agency of socio-economically deprived and otherwise vulnerable and marginalised people has not only been neglected in conventional liberal theorising of global governance, it is also largely absent from the (transnational) civil society literature. Yet, contrary to common prejudices that poor people tend to be politically passive, there are many examples of the political agency of the poor. In this article we have called for the study of global governance to explore more fully the demands for rights and justice that emanate from the global South. Situating our analysis broadly in a critical international political economy (IPE) framework, we have been influenced by debates about global injustice rather than by more abstract notions of justice and we have sought to provide a complement to macro-level discussions of how inequality is generated by and within the global political economy through our focus on how equality and rights are framed and claimed.

Global injustice is embedded in political, economic, social and cultural processes that have a global dynamic and we have argued that it is difficult to trace and allocate responsibility in any simple fashion. Logically, challenging global injustice therefore requires better resourced, more robust, more democratic and more committed forms of global governance, able to channel, assess and respond to demands from below. We do not have a blueprint of what a global governance for justice would look like. Elite institutions first need to listen, reform and redistribute power before the shape of governance can be decided. But we have made an argument that, for meaningful change to occur, the process, substance, remit and composition of global governance as it currently exists must dramatically and radically shift away from the privileged and the powerful. Two vital areas for reform are needed: 1) including previously marginalised communities in genuine global debate and decision making; and 2) funding, designing and implementing policies that challenge unregulated profit-seeking and promote equality. The first dimension thus refers to the input and the second dimension to the output side. The civil society approach—as outlined in this article—has arguably
mainly sought to address the input problem, attempting to broaden participation in global policy making to those beyond conventional economic and political elites. Civil society actors are certainly playing a more significant role in global governance today than they were one or two decades ago. There are in fact few contemporary global governance arrangements that do not feature some kind of civil society involvement. This trend towards civil society access to global governance institutions, however, does not necessarily imply more justice in global governance. As noted above, those civil society actors most active in global governance are typically not representative of the most marginalised groups globally. Moreover, civil society engagement with global governance institutions seldom takes the form of participation in decision making. Rather, it tends to be limited to more tokenistic consultations.63 Nevertheless, as shown in the articles to follow, justice claims for global representation by such marginalised groups as people from the global South living with HIV/AIDS and migrant workers have met some modest success, something that might indicate steps towards global governance for justice.

As demonstrated by Piper and Rother, migrant labour organisations have been able to make use of discursive opportunities and opportunities for actual encounter with global policy makers in the ILO negotiations in connection with the new Convention on Decent Work for Domestic Workers and through the ‘Civil Society Days’ of the Global Forum on Migration and Development (GFMD). While such ‘communicative action’ can be seen as an aspect of non-hierarchical, ‘soft’ governance, giving some previously marginalised groups a voice in global policy making, there are still severe limitations seen from the perspective of calls for a global governance for justice. Labour activism centred on the GFMD has offered some space to promote the rights-based approach to migration, but there has not been any more substantial policy influence. By contrast, the ILO provides an avenue for more direct input from civil society by giving workers (represented by labour unions) a possibility to participate in decision making alongside representatives of governments and employers’ organisations. This formalised, legalistic framework, however, privileges the large, well established trade unions, in which the interests of the most marginalised migrant workers tend to be poorly represented. Nevertheless, Piper and Rother consider the new ILO convention on decent work to be a substantial outcome of civil society activism.

Within the issue area of global health, Jönsson and Jönsson argue that HIV/AIDS activists have been able to make use of global political opportunity structures granting access to important governance institutions, mainly within the UN system, but also in public–private partnerships like the Global Fund to Fight AIDS, Tuberculosis and Malaria. They refer to the civil society campaign for improving access to HIV/AIDS drugs as a case of civil society activism resulting in policy change. Hence, the two articles provide examples of how marginalised groups, through civil society organisations, have been able to gain some inclusion and influence in global governance.

Concerning the output side of global governance for justice, the rights-based approach has to some extent contributed to redirecting parts of global governance to at least seeing that there are major structural issues of
inequality and injustice that should be addressed. In the case of migrant labour the rights-based approach to migration has been promoted as a third discourse challenging the dominant discourses of the global governance of migration, which focus on migration management and the migration–development nexus. Similarly a rights-based understanding of HIV/AIDS has been a major theme in activist discourses in this field and gained some recognition in major global governance arrangements such as the World Health Organization’s (WHO) Global Program on AIDS (GPA) and the Joint United Nations Program on HIV/AIDS (UNAIDS). While the rights-based approach has its severe limitations, it can still be considered to play an important role in global governance for justice. The case studies of migrant labour and HIV/AIDS provide examples of that. But much more work needs to be done institutionally, financially and, above all, with regard to exercising thorough and effective oversight of state actions on this output side. In our view this should be the focus of the next stage of global governance research.

Notes

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11 Ibid, p 113.
12 Ibid.
15 Ibid, p 114.
We are indebted to Nicola Phillips for a useful discussion on this point.

Farmer, *Pathologies of Power*.  
Standing, *The Precariat*.  
Marshall, *Class, Citizenship and Social Development*.  
Farmer, *Pathologies of Power*.  
Fraser, ‘Injustice at intersecting scales’, p 365.  
Keck & Sikkink, *Activists Beyond Borders*.  
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