

The Misuse of Power, Not Bad Representation: Why It Is Beside the Point that No One Elected Oxfam*

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“Who elected Oxfam?”

—The Economist¹

ON July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act, better known as the Dodd-Frank bill, was signed into law by President Obama. Section 1502 of the bill, the Conflict Minerals Provision, requires companies to show that the minerals used in their products did not originate in the Democratic Republic of Congo, or if they did originate in the DRC, that they did not contribute to the conflict there.² Support for Section 1502 was spearheaded by ENOUGH, a US-based international non-governmental organization (INGO), and Global Witness, a UK-based INGO. Together with the International Crisis Group’s John Prendergast, these two organizations wrote Section 1502.³ They also helped to shape the lineup of speakers at the Security

*For comments on the present and/or a previous version of this article, I thank Elizabeth Arkush, Lawrie Balfour, Colin Bird, Suzanne Dovi, Chad Flanders, Harrison Frye, Archon Fung, Pete Furia, Michael Kates, Colin Kiely, George Klosko, Jane Mansbridge, Charles Mathewes, Kirstie McClure, Jennifer Petersen, Allison Pugh, Andrew Rehfeld, Michael Saward, Jalane Schmidt, Melissa Schwartzberg, Molly Scudder, Denise Walsh, Ron Watson, Kit Wellman, Stephen White and audiences at the University of Virginia Political Theory Colloquium, Wellesley College, Washington University of St. Louis, Harvard University, the 2008 American Political Science Association Annual Meeting, the 2008 conference “Beyond Elections: The Democratic Legitimacy of New Forms of Representation” at Princeton University, and the 2012 Association for Political Theory Conference. Two anonymous referees for this journal provided exceptionally helpful feedback. Claire Timperley provided excellent comments and research assistance. All errors and omissions are of course my own. For a more extended discussion of the themes addressed in this article, see Chapter 5 of my book, *Between Samaritans and States: Political Ethics for Humanitarian INGOs*, forthcoming from Oxford University Press. This article is dedicated to Gertrude Kleinberg and to the memory of Iris Marion Young, both advocates committed to fighting misuses of power.

¹“Angry and effective,” *The Economist*, September 21, 2000, pp. 85–7.

²Full text available at: <<http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>>, pp. 838–43.

³“John Prendergast, The Enough Project, and Global Witness are directly responsible for this completely predictable havoc, as are the American legislators and industry personnel who took their testimony as gospel, let them write section 1502 of the legislation, and ignored dissenting voices in the debate over the minerals”; Laura Seay, “The DRC minerals mess,” August 4, 2011, <www.texasinafrica.blogspot.com> (accessed February 20, 2013). Because this issue is ongoing and contentious, much of the available information comes from blog posts and other unpublished sources.

and Exchange Commission's October 2011 "public roundtable" about rules for implementing the bill.⁴

Even before Dodd-Frank was passed, however, many US- and DRC-based academics and activists argued that Section 1502 would have disastrous consequences. They predicted that mining companies in the DRC, anticipating the difficulty and cost of abiding by the new rules, would shift their operations elsewhere, leaving tens of thousands of Congolese miners jobless, and making them, their families, and communities even more destitute than they had been previously.⁵ These academics and activists also argued that regulating the minerals trade would not accomplish the legislation's stated objective of reducing conflict in the DRC, because the minerals trade played only a very small role in driving the conflict there.⁶ These predicted outcomes seem to have largely come to pass.⁷

Consider another example of advocacy by an INGO. In March 2011, Oxfam and three Ghanaian non-governmental organizations (NGOs) together released a report that they had jointly commissioned, called "Achieving a Shared Goal: Free Universal Health Care in Ghana." The report asserted that "[t]he current health

⁴[M]embers of Congress like Jim McDermott and their staffs seem to have taken Enough's word at face value, going so far as to let the advocacy organization choose most of the witnesses at hearings on the Dodd-Frank measure, which meant that any dissenting voices—Congolese or American—went mostly unheard"; Laura Seay, "The Dodd-Frank catastrophe," August 8, 2011, <www.texasinafrica.blogspot.com> (accessed February 20, 2013). ENOUGH claims that it "wasn't involved with this event," but acknowledges that "several members of our team attended the hearing"; John Bagwell, "Hijacking the Congo conflict minerals narrative," May 22, 2012, <<http://www.raisehopeforcongo.org/blog/post/hijacking-congo-conflict-minerals-narrative>> (accessed February 20, 2013).

⁵Congolese civil society organizations estimated that 5–12 million people (miners and their dependents) have been significantly negatively affected by Section 1502; Laura Seay, "What's wrong with Dodd-Frank 1502? Conflict minerals, civilian livelihoods, and the unintended consequences of western advocacy," *Center for Global Development*, Working Paper 284, January 2012. See also: David Aronson, "How Congress devastated Congo," *New York Times*, August 7, 2011; Jason Stearn's response to Aronson, "Thoughts about conflict minerals," August 10, 2011, <<http://congosiasa.blogspot.com/2011/08/thoughts-about-conflict-minerals.html>> (accessed February 20, 2013); Mvemba Dizolele, "The costs and consequences of Dodd-Frank Section 1502: impacts on America and the Congo," May 10, 2012, <<http://dizolele.com/?p=958>> (accessed February 20, 2013); and "Conflict minerals in the Congo: let's be frank about Dodd-Frank," August 22, 2011, <http://www.huffingtonpost.com/mvemba-dizolele/conflict-minerals-congo-dodd-frank_b_933078.html> (accessed February 20, 2013).

⁶Séverine Autesserre, "Dangerous tales: dominant narratives on the Congo and their unintended consequences," *African Affairs*, 111 (2012), 202–22.

⁷See the sources cited above, especially Seay, "What's wrong with Dodd-Frank 1502?" The ENOUGH Project disagrees with this assessment. (Sasha Lezhnev, "What conflict minerals legislation is actually accomplishing in Congo," August 9, 2011, <http://www.huffingtonpost.com/sasha-lezhnev/what-conflict-minerals-le_b_922566.html> (accessed February 20, 2013)) However, a more recent ENOUGH report on the effects of Dodd-Frank paints an only somewhat positive picture: "From Congress to Congo," August 7, 2012, <http://www.enoughproject.org/files/ConflictMinerals_CongoFINAL.pdf> (accessed February 20, 2013). While it is impossible to adjudicate definitively among these positions, one reason to give more weight to those critical of Section 1502 is that, as Autesserre ("Dangerous tales") explains, ENOUGH and Global Witness had economic and institutional incentives to accept and perpetuate the idea that conflict minerals are a main driver of the DRC conflict.

system in Ghana is unfair and inefficient,” that Ghana’s National Health Insurance Authority (NHIA) had overstated by 44% the proportion of Ghanaians covered by Ghana’s National Health Insurance Scheme (NHIS), and that the scheme should be dismantled and replaced with free-at-point-of-service health care for all, funded primarily by tax revenues.⁸ The report also argued that contrary to claims made by the United Nations Development Programme and the World Health Organization, other countries should not adopt Ghana’s NHIS as a model.⁹

The “Shared Goal” report generated a “major controversy,” both within Ghana and in international development circles.¹⁰ The NHIA slammed the report, arguing that it was a sloppily researched effort by Oxfam to “tarnish a home grown African initiative.”¹¹ But the NHIA did eventually respond to the report’s criticisms by altering its methodology for calculating the number of people effectively covered by Ghana’s NHIS, leading to a much lower estimate.¹² At the international level, the World Bank issued its own report about Ghana’s health care system, partly in response to the “Shared Goal” report. In this report, the World Bank, like the NHIA, repeatedly referred to the “Shared Goal” report as “the Oxfam report,” and to its arguments as “Oxfam’s critique,” largely ignoring the Ghanaian NGOs that co-commissioned the report.¹³ How should we think about the advocacy by ENOUGH, Global Witness, and Oxfam in these cases?

Over the past few decades, there has been a dramatic increase in advocacy by INGOs working on issues related to inter-group violence, humanitarian disasters, poverty, and injustice.¹⁴ This increase in INGO advocacy has not gone unnoticed by democratic theorists. Many of these theorists have interpreted INGO advocacy as a paradigmatic example of “non-electoral representation.” Viewed through this interpretive lens: a) ENOUGH and Global Witness are non-elected representatives of Congolese miners and Oxfam is a non-elected representative of poor Ghanaians; and b) their advocacy efforts should be evaluated based on how well they meet normative criteria of good (democratic) representation, such as authorization, accountability, deliberativeness, and responsiveness to their “constituents’” preferences and interests.

⁸Alliance for Reproductive Health Rights et al., “Achieving a shared goal: access to free health care in Ghana,” 2011, <<http://oxf.am/Z2D>> (accessed November 06, 2012), pp. 7, 8 and 25. (The NHIA implied a coverage rate of 62%, but the report argued that it “could be as low as 18%.”)

⁹Alliance for Reproductive Health Rights et al., “Achieving a shared goal,” p. 8; George Schieber et al., “Health financing in Ghana at a crossroads,” *World Bank* (2012), p. ii.

¹⁰Schieber, “Health financing in Ghana at crossroads,” p. 8.

¹¹National Health Insurance Authority, “NHIA Position on OXFAM/ISODEC report on free universal health care in Ghana,” March 17, 2011, <<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=205271>> (accessed February 20, 2013).

¹²Schieber, “Health financing in Ghana at crossroads,” p. 8.

¹³*Ibid.*, pp. 8, 9, 66, 82, 108, 109.

¹⁴Roger Riddell, *Does Foreign Aid Really Work?* (Oxford: Oxford University Press, 2007), ch. 17. Unless otherwise stated, by “INGO” I mean INGOs working on these issues, in particular those headquartered in wealthy Western countries.

Yet, in sharp contrast to how democratic theorists characterize INGO advocacy, most INGO advocates themselves vehemently *deny* being representatives. They instead claim to be “partners” of the poor and marginalized groups they seek to assist, and of the domestic NGOs, community-based organizations (CBOs), and domestic governments with which they work. For example, Oxfam describes itself as working “in partnership” with the three Ghanaian NGOs with which it co-commissioned the “Shared Goal” report: ISODEC, Essential Services Platform of Ghana, and the Alliance for Reproductive Health Rights.¹⁵

What explains this divergence between how democratic theorists conceptualize INGO advocacy and how many INGO advocates describe themselves? Are democratic theorists guilty of wearing representation-colored glasses—that is, of seeing representation wherever they look, even if it is not really there? Or are INGOs’ claims to be partners rather than representatives merely a ploy to avoid being held to the demanding normative standard of “good representative”? In this article I show that both of these allegations are partially correct: humanitarian INGO advocacy often includes, but is rarely limited to, representation. Democratic theorists therefore overstate their case when they describe INGOs as (non-elected) representatives or as primarily makers of “representative claims.”¹⁶ Likewise, INGOs overstate their case when they deny engaging in representation at all. However, while representation and partnership are both prominent and seemingly promising descriptions, they are also poor starting places for conceptualizing INGO advocacy—or so I shall argue.

I assume that, to be legitimate, INGO advocacy must be consistent with norms of democracy, equality, and justice.¹⁷ Because these terms are so vague, this assumption is not very controversial—but nor does it tell us much. The more controversial—and relevant—question is: how should these norms be interpreted and specified for the context of INGO advocacy? We often think of good representation as promoting or instantiating democratic norms, and good partnership as promoting or instantiating equality.¹⁸ But the normative criteria associated with representation and partnership—i.e., familiar ideas about what it

¹⁵See discussion of the “Shared Goal” report on Oxfam’s website: <<http://www.oxfam.org/en/policy/achieving-shared-goal-ghana-healthcare>> (accessed June 6, 2013). There is a large critical literature about “partnership” in the field of international development. See, e.g., Alan Fowler, “Beyond partnership: getting real about NGO relationships in the aid system,” *IDS Bulletin*, 31 (2000), 1–13; Rita Abrahamsen, “The power of partnerships in global governance,” *Third World Quarterly*, 25 (2004), 1453–67 and the citations therein.

¹⁶Michael Saward, *The Representative Claim* (Oxford: Oxford University Press, 2010).

¹⁷I focus on these three norms because they are often invoked by INGOs themselves, and so can provide the basis for an immanent critique. But even when INGOs do not explicitly adopt them, these norms have some relevance to INGOs. For example, even INGOs that pursue humanitarian aims rather than political justice must act justly rather than unjustly.

¹⁸David Plotke, “Representation is democracy,” *Constellations*, 4 (1997), 19–34; Nadia Urbinati, “Representation as advocacy: a study of democratic deliberation,” *Political Theory*, 28 (2000), 758–86.

means to be a good representative and a good partner—do not provide adequate guidance for understanding what is required for INGO advocacy to be democratic and egalitarian. Nor do these criteria offer much guidance on what makes INGO advocacy just.

This article therefore asks: what conceptualization of INGO advocacy¹⁹ would most help INGOs and their interlocutors to a) understand the most important and distinctive political ethical predicaments that INGO advocates regularly face; and b) navigate those predicaments in ways that are consistent with democratic, egalitarian, and justice-based norms? I argue that while INGO advocates do sometimes engage in representation or act as partners, for the purposes of normative evaluation we should conceptualize INGO advocacy not as representation or partnership, but rather as *having and exercising quasi-governmental power*. Correspondingly, the main normative standard to which INGO advocates should be held is that they *avoid misusing their power*.

This argument has implications not only for the political ethics of INGO advocacy, but also for democratic theory more generally. It reveals tensions between representation and democracy that are very different from those identified by direct, participatory, and strong democrats. It offers a counterweight to the recent “representative turn” in democratic theory, by asking not only whether we *can* read particular activities as representation, but also whether we *should* do so: what is revealed and elided by the representation lens?²⁰ Finally, the argument presented here reminds us that how we conceptualize activities and relationships influences what we notice about them, and the normative demands we place on those who engage in them. The choices we make, and fail to make, about how to conceptualize activities and relationships is therefore a political issue.

The next two sections of this article explain the limitations of the representation and partnership lenses, respectively. In Section III, I present my proposed alternative: the power lens. I describe four ways in which INGO advocates tend to misuse their power and propose four corresponding normative principles for avoiding these misuses. Section IV concludes. I illustrate my arguments with reference to the two cases of INGO advocacy described above.²¹ Neither is an incontrovertible example of INGO advocacy gone wrong—or right. But Oxfam’s advocacy on Ghana’s NHIS appears to have been more consistent with democratic, egalitarian, and justice-based norms than ENOUGH and

¹⁹By “advocacy” I mean the activities that INGOs themselves describe as “advocacy” or “campaigning.” While describing these activities as advocacy is not neutral among possible normative criteria for evaluating them, the term has fewer normative criteria embedded in it than “representation” and “partnership” do.

²⁰Sofia Näsström, “Where is the representative turn going?” *European Journal of Political Theory*, 10 (2011), 501–10.

²¹I don’t claim that these cases are typical of INGO advocacy in general. In social scientific terms, my use of them is “hypothesis-generating.”

Global Witness's advocacy on Section 1502 of the Dodd-Frank bill. Thus, one burden of this article is to show that the power lens provides more precise and relevant concepts and criteria for explaining this judgment than do the representation and partnership lenses.

I. INGO ADVOCACY AS NON-ELECTORAL REPRESENTATION

Since the mid-1990s, democratic theorists have become increasingly interested in political representation in general, and “non-electoral” representation in particular. They regularly cite INGO advocacy as a paradigmatic example of non-electoral representation, and describe INGOs as representatives and as makers of representative claims.²² For example, the Stanford Encyclopedia of Philosophy's entry on “political representation” states that, “[g]iven the role that International Non-Governmental Organizations play in the international arena, the representatives of dispossessed groups are no longer located in the formal political arena of the nation-state.”²³ Likewise, Urbinati and Warren write that “advocacy” organizations and “international non-governmental organizations” “claim to represent constituencies within public discourse and within collective decision-making bodies.”²⁴

The theorists making these arguments are primarily interested in using INGO advocacy to shed light on (non-electoral) representation, not vice versa. But once INGO advocacy is conceptualized as non-electoral representation, the normative question that inevitably arises is: how—if at all—can this advocacy be democratically legitimate? Michael Saward responds to this question by examining “a set of cases of non-elective representative claims” and developing “evaluative criteria against which the democratic acceptability of unelected would-be representatives might be assessed.”²⁵ For Urbinati and Warren, “the challenges for democratic theory are to understand the nature of these

²²Some right- and left-leaning critics of INGOs, legal scholars, and scholar-practitioners also describe INGOs as non-elected representatives. See Paul Wapner, “Introductory essay: paradise lost? NGOs and global accountability,” *Chicago Journal of International Law*, 155 (2002), 155–60 and other articles in this issue; Erik Bluemel, “Overcoming NGO accountability concerns in international governance,” *Brooklyn Journal of International Law*, 31 (2005), 139–206; and Warren Nyamugasira, “NGOs and advocacy: how well are the poor represented?” *Development in Practice*, 8 (1998), 297–308.

²³Suzanne Dovi, “Political representation,” *Stanford Encyclopedia of Philosophy*, ed. Edward Zalta, <<http://plato.stanford.edu/entries/political-representation/>>.

²⁴Nadia Urbinati and Mark Warren, “The concept of representation in contemporary democratic theory,” *Annual Review of Political Science*, 11 (2008), 387–412. See also Michael Saward, “Authorisation and authenticity: representation and the unelected,” *Journal of Political Philosophy*, 17 (2009), 1–22; Joshua Busby, “Bono made Jesse Helms cry: Jubilee 2000, debt relief, and moral action in international politics,” *International Studies Quarterly*, 51 (2007), 247–75; and Laura Montanaro, “The democratic legitimacy of self-appointed representatives,” *Journal of Politics*, 74 (2012), 1094–107.

²⁵Saward, “Authorisation and authenticity.” Saward discusses many types of non-elected actors, including INGOs. See also Montanaro, “The democratic legitimacy of self-appointed representatives.”

[non-elected] representative claims and to assess which of them count as contributions to democracy and in what ways.”²⁶

These authors’ understandings of both the descriptive content of INGO advocacy and the normative questions that it raises therefore seem to be shaped largely by their prior conceptualization of INGO advocacy as representation and/or as the making of representative claims. But, as I mentioned above, advocacy INGOs themselves usually deny being representatives or engaging in representation. In a survey, “less than 10%—of the [I]NGOs examined claimed to be ‘speaking for’ the South or Southern NGOs . . .”²⁷ Jordan and Van Tuijl note that “many NGOs deny the concept of representation, pointing out that local communities, be they in the North or South, are able to adequately represent themselves.”²⁸ Likewise, a recent search of the websites of several major INGOs yielded virtually no references to the word “represent” or to its cognates.²⁹

What is going on here? I will argue that while democratic theorists are correct that INGOs sometimes engage in representation, there are three reasons why INGO advocacy should not be normatively evaluated primarily through a representation lens.

A. REPRESENTATION AS A SOURCE OF CONCEPTUAL DISAGREEMENT

For the allegation that an INGO has represented badly to have any critical force, there must be agreement that the INGO has in fact engaged in representation (or promised to do so, as I discuss below). For instance, the allegation that Global Witness is a bad representative of Congolese miners provides little critical leverage if representing is not what Global Witness is doing. This suggests the need for a clear criterion or criteria for determining when representation is taking place. Even the “representative claim” approach, which emphasizes that representation can take diverse forms, acknowledges that, for judgments of the democratic legitimacy of representation to be relevant, a representative claim must have been made.³⁰

We should not expect to find normative criteria for evaluating INGO advocacy that can be applied mechanistically, without judgment or disagreement. But we

²⁶Urbinati and Warren, “The concept of representation.” See also Terry MacDonald, *Global Stakeholder Democracy* (New York: Oxford University Press, 2008), p. 163.

²⁷Alan Hudson, “NGOs’ transitional advocacy networks: from ‘legitimacy’ to ‘political responsibility?’” *Global Networks*, 1 (2001), 331–52. I doubt that INGOs deny being representatives for legal reasons (e.g., to retain their 501c3 status), because they still make partisan political claims. Also, some INGOs, such as Oxfam America, have separate advocacy arms for precisely this reason.

²⁸Lisa Jordan and Peter van Tuijl, “Political responsibility in NGO advocacy,” *World Development*, 28 (2000), 2051–65.

²⁹A search for “represent,” “representation,” and “representative” on the web pages of 15 of the largest humanitarian and development INGOs in August 2012 revealed no instances of INGOs claiming to represent poor and marginalized people. Details of analysis on file with the author.

³⁰Saward, *The Representative Claim*, ch. 6.

should search out criteria that direct this disagreement in constructive ways, for example, toward the effects or meaning of the advocacy activity being evaluated, rather than the definition of abstract concepts. Yet, efforts to apply the “good representative” criterion to INGOs are likely to founder on implicit and explicit disagreement about what representation is. Indeed, the literature on representation suggests several possible criteria for determining when representation has occurred, all of which yield different judgments about whether or not many instances of INGO advocacy are cases of representation, and none of which is clearly superior to the others.

One such criterion is *self-identification*. According to this criterion, an actor engages in representation if and only if it claims to be doing so, and is a representative if and only if it claims to be one. Urbinati and Warren’s, and Montanaro’s discussions of “self-authorizing” representatives allude to this criterion.³¹ But while an INGO’s claims to engage in representation or be a representative are *sufficient* to justify holding it to a standard of being a good representative, making self-identification a *necessary* condition for representation lets INGOs off the hook too easily.³² As we have seen, many INGOs deny representing poor and marginalized groups. Accepting such denials at face value, as the self-identification criterion requires, means accepting that any INGO can say anything it wants to about the preferences or interests of any group, without being a bad representative of that group, so long as it denies representing that group.

While self-identification lets INGOs off the hook too easily, a second possible criterion for identifying when representation is occurring—*audience perception*—is too demanding. Rehfeld argues that representation occurs if and only if the audience to whom the putative representation is made thinks it occurred.³³ On this view, if readers of ENOUGH and Global Witness’s websites think that these organizations represent Congolese miners, then ENOUGH and Global Witness represent Congolese miners to these readers. (They might not represent the miners *well*, but they do represent them.) The audience perception criterion, therefore, has the opposite shortcoming as the self-identification criterion: it puts no weight at all on the self-description of the putative representative. Using this criterion to identify cases of representation by INGOs, therefore, puts all of the power in the audience’s hands, and denies INGOs any

³¹Urbinati and Warren, “The concept of representation”; Montanaro, “The democratic legitimacy of self-appointed representatives.”

³²This appears to be why Montanaro’s definition of “self-authorizing” representatives does not require that actors describe themselves as representing.

³³Andrew Rehfeld, “Towards a general theory of political representation,” *Journal of Politics*, 68 (2006), 1–21. What about the perceptions of the people who are (allegedly) being represented? Their belief that they are being (well-) represented is a necessary condition for *democratically legitimate* representation, but it is neither necessary nor sufficient for representation itself (unless they are coterminous with the audience).

role in determining how their activities are conceptualized, and, thus, over the normative standards used to evaluate them.³⁴

A third possible criterion for determining when representation is occurring—the *activity* criterion—asks whether the putative representative has made claims about the preferences, interests, or perspectives of some individual or group to a third party.³⁵ Because it focuses on activities rather than perceptions, this criterion offers a basis for contesting both an INGO’s assertion that it is not a representative, and an audience’s perception that that INGO is a representative. The main shortcoming of the activity criterion is that, even when an advocacy activity *can* be described as representation, this is often just one of several plausible descriptions of that activity. For example, Oxfam’s advocacy about Ghana’s health care system could be described as representation. But it could also be described as a set of empirical assertions, participation in public debate, or an effort to “press decision-makers to change policies and practices that reinforce poverty and injustice.”³⁶ Given all of these possible descriptions, how do we know that the representation-description is the one from which we should derive normative standards for evaluating the activity in question? Often, we don’t. In such cases, the activity criterion, like the other two criteria discussed above, fails to provide a basis for determining whether a given instance of INGO advocacy ought to be evaluated against a normative standard of “good representation.”

B. INGO ADVOCACY INCLUDES ACTIVITIES OTHER THAN REPRESENTATION

A second reason why we should not conceptualize INGO advocacy as representation for the purposes of normative evaluation is that, regardless of what criterion/a we use to identify instances of representation, INGO advocacy includes both representing and other activities. If we evaluate INGO advocates based only on how well they represent, we overlook these other activities. This omission should be of tremendous concern to democratic theorists, who have reason to care about the democratic and anti-democratic potential of *all* aspects of INGO advocacy, not only representation.

Cases of INGO advocacy often involve one or more of three activities that are not (best described as) representation:

³⁴An INGO’s protestation that it does not represent poor and marginalized groups might well lead some audiences to view that INGO as an especially good representative of those groups, precisely because of its humility in claiming not to speak for others.

³⁵Saward, “Authorisation and authority,” esp. p. 305. Montanaro, in “The democratic legitimacy of self-appointed representatives,” p. 1096, describes this activity as “aim[ing] to provide political presence for a constituency to an audience.”

³⁶Oxfam International’s website at: <<http://www.oxfam.org/en/grow/about/what>> (accessed August 20, 2012).

- 1) Assisting other actors, such as domestic governments, NGOs, and social movements, to better represent poor and marginalized groups (e.g., by providing them with information or connecting them with high-level officials). Oxfam describes this as “supporting organizational and institutional capacity strengthening.”³⁷
- 2) Pressuring elected officials to better represent their poor and marginalized constituents.³⁸ For example, the “Shared Goal” report argues that the current Ghanaian government “came to power in Ghana on a promise to deliver a truly universal health insurance scheme” that “still remain[s] unfulfilled.”³⁹ This category of advocacy activities also includes efforts to “improve the workings of the mechanisms and agencies that regulate and frame the behavior of political representatives.”⁴⁰
- 3) Altering the participants in, or the content of, public debate. While representation can do this (e.g., by “calling forth” a constituency), the participants in and content of a debate can also be altered in other ways.⁴¹ For example, Doctors Without Borders’ “Starved for Attention” campaign attempted to alter the debate about malnutrition and food aid by arguing that US food aid was not nutritionally balanced.⁴² This category of advocacy activity also includes “helping to bring together different actors to work on common problems,” “generating and sharing knowledge,” “promoting innovation and alternative solutions that may be brought to scale,”⁴³ and engaging in witnessing or *témoignage*.

To summarize, INGO advocacy includes a wide range of activities, including but not limited to representation, in different and fluid combinations. We therefore

³⁷Oxfam International, “Working together: Oxfam’s partnership principles,” <<http://www.oxfam.org/en/about/what/partnership-principles>> (accessed November 6, 2012). See also Jordan and Van Tuijl, “Political responsibility in NGO advocacy.”

³⁸An INGO that pressures elected representatives on behalf of a group can also be described as representing that group. But when an INGO pressures an elected representative to do something for which that representative has already been democratically authorized (e.g., Oxfam holding elected Ghanaian officials to their campaign promises), the criteria for democratic legitimacy suggested by the representation-description are less relevant than they are when an INGO pressures elected representatives to do something for which these representatives have not already been democratically authorized (e.g., Global Witness and ENOUGH pressing US Congresspersons to include Section 1502 in the Dodd-Frank bill).

³⁹Alliance for Reproductive Health Rights et al., “Achieving a shared goal,” p. 8.

⁴⁰Enrique Peruzzotti, “Civil society, representation and accountability: restating current debates on the representativeness and accountability of civic association,” *NGO Accountability: Politics, Principles and Innovations*, eds. Lisa Jordan and Peter van Tuijl (London: Earthscan, 2007), pp. 43–60, at p. 47. In contrast, Montanaro, “The democratic legitimacy of self-appointed representatives,” at p. 1097, cites Oxfam’s claim that it “seek[s] to influence the powerful to ensure that poor people can . . . have a say in decisions that affect them” as evidence that Oxfam is a self-identified representative.

⁴¹Cf. Montanaro, “The democratic legitimacy of self-appointed representatives”; Saward, *The Representative Claim*.

⁴²Starved for Attention, “Malnutrition,” <<http://www.starvedforattention.org/about-malnutrition.php>> (accessed October 1, 2012).

⁴³Oxfam International, “Working together.”

need normative criteria for evaluating INGO advocacy that are relevant to as wide a range of INGO advocacy activities as possible, including but not limited to representation (however defined).

C. INGO ADVOCATES ARE SOMETIMES MEDIOCRE AND SECOND-BEST REPRESENTATIVES

I have argued that we should not conceptualize INGO advocacy as representation because: a) the concept of representation fosters unproductive disagreement about what representation is; and b) whatever criteria are used to identify instances of representation, INGO advocacy includes activities other than representation. But what about situations in which INGO advocates clearly *are* engaged in representation (e.g., cases in which their activities are consistent with all extant criteria for determining when representation is occurring)? One might think that, in such cases, INGOs ought to be normatively evaluated based on how well they represent. I disagree.

Compared to domestic democratic governments, NGOs, CBOs, and social movements, humanitarian INGOs are often, though not always, mediocre representatives in absolute terms and “second-best” representatives in relative terms. This is so for at least three reasons. First, unlike democratic domestic governments and some NGOs, INGOs do not operate under the threat of formal or informal sanction by the people most directly affected by their advocacy. As Michael Edwards writes:

What if the [I]NGOs who protested so loudly in Seattle turn out to be wrong in their assumptions about the future benefits that flow from different trading strategies—who pays the price? Not the [I]NGOs themselves, but farmers in the Third World who have never heard of Christian Aid or Save the Children, but who will suffer the consequences for generations.⁴⁴

Second, unlike some domestic NGOs and CBOs, INGO advocates that engage in representation often lack a nuanced understanding of the political, social, economic, or religious dimensions of the issues they address.⁴⁵ Finally, many INGOs are headquartered in Northern countries and their high-level managers and decision-makers are mostly white people from those countries. When these INGOs represent people living in Southern countries, they can sometimes reproduce, at a symbolic level, and despite the sincere good intentions of the

⁴⁴Michael Edwards, *NGO Rights and Responsibilities: A New Deal for Global Governance* (London: Foreign Policy Centre, 2000). Also, see Clifford Bob, “NGO representation and accountability: a skeptical view,” *NGOs, International Security and Global Governance*, Johns Hopkins University, October 9, 2007, <<http://ssrn.com/abstract=1023021>>. In “Political responsibility in NGO advocacy,” Jordan and van Tuijl describe local NGOs in India having the capacity to influence international activists by threatening to cut them off from important information, but such cases are rare.

⁴⁵Jordan and van Tuijl, “Political responsibility in NGO advocacy.”

individuals involved, patterns of domination and usurpation by colonial and imperial powers.⁴⁶

Of course, INGO advocates have many strengths as representatives: they often have sources of funding that domestic NGOs lack, and connections, experience, expertise and technical capacities that social movements do not have. They can also be less corrupt than domestic NGOs and governments. However, the three shortcomings just mentioned—lack of accountability to those most affected, limited understanding of the situation “on the ground,” and lack of descriptive representation—are, if not constitutive of INGOs, then at least extremely difficult for INGOs to ameliorate. So, even though INGOs are sometimes better representatives than domestic governments, NGOs, or social movements in the short term, the latter actors’ features, relationships and capacities mean that they have the potential to be first-best representatives *vis-à-vis* INGOs in the medium to long term.⁴⁷

Because INGO advocates are often mediocre and second-best representatives, what is required for them to act consistently with democratic norms differs from what is required for a better-than-mediocre and first-best representative to act consistently with these norms. While for a first-best representative the best way to be democratic is often to represent as well as possible, for INGOs, being democratic often means *not* representing as well as possible themselves, but rather stepping back, making way for, pressuring, and/or supporting other, potentially superior representatives, such as domestic governments, NGOs, or social movements.⁴⁸ Characterizing an INGO as a representative or as engaged in representation is, therefore, problematic because it suggests that that INGO should strive to represent as well as possible.

One might think that INGO advocates should represent as well as possible when they are the best representatives currently available, and step back when they are second-best. But the key point about INGOs is that, because the question of whether they should engage in representation is always contingent on what other (first-best) actors are able and willing to do, they must *always maintain an orientation toward the activity of representing* that is different from the orientation of first-best representatives. While first-best representatives can throw

⁴⁶More generally, insofar as INGOs are poor “descriptive” representatives of poor and marginalized groups, they cannot provide the epistemic, psychological, symbolic, and other benefits that such representation provides; Jane Mansbridge, “Should blacks represent blacks and women represent women? A contingent ‘yes,’” *Journal of Politics*, 61 (1999), 628–57. See also Linda Alcoff, “The problem of speaking for others,” *Cultural Critique*, 20 (1991–1992), 5–32. This division of advocacy groups between “Northern” and “Southern” is an oversimplification. For example, Justice Africa is based in London, but is “run by, for and with Africans and African communities; guided by the Pan-African slogan: ‘*Nothing for me without me*’” (italics in original); see <<http://www.justiceafrica.org/about-us/>> (accessed October 31, 2012). The inequalities here can be material as well as symbolic, as the jobs, prestige, and expertise associated with advocacy flow to advocates from already wealthy countries.

⁴⁷Jordan and van Tuijl, in “Political responsibility in NGO advocacy.”

⁴⁸Suzanne Dovi, “In praise of exclusion,” *Journal of Politics*, 71 (2009), 1172–86.

themselves into representing as well as possible, INGOs must constantly ask themselves whether, how, and to what extent they should step back and support or pressure other representatives.⁴⁹

II. INGO ADVOCACY AS PARTNERSHIP

The previous section described three limitations of the representation lens. Of these, the partnership lens avoids the first two: it does not invite unhelpful conceptual disagreement about the meaning of terms, and it is relevant to a wide range of advocacy activities. But like the representation lens, the partnership lens does not provide an adequate basis for elucidating the political and ethical implications of INGOs being second-best and mediocre representatives—or the political and ethical implications of them being second-best at aspects of INGO advocacy other than representation.⁵⁰ This is so in different ways for two distinct conceptions of partnership.

What I will call the “complementarity” conception of partnership reflects the everyday meaning of the word “partner.” On this conception, being a good partner means treating one’s partner(s) as equal(s), working with them on equal terms, and participating in a division of labor in which partners might perform different roles, but have equal standing. The complementarity conception can be found in Oxfam International’s “Partnership Principles”:

Oxfam believes it is only through the collective effort of many actors (civil society, state, private sector and others) that this goal [of reducing poverty and injustice] can be achieved. Each of these actors has a role to play in accordance with its responsibility, legitimacy, its capacities and strengths . . . These relationships are not about side-lining . . . others; *they seek instead to foster complementarity and to harness the added value each may bring.*⁵¹

While initially appealing, this conception of partnership is inadequate because it does not acknowledge Oxfam’s status as a sometimes second-best actor. To see this, consider a passage from Oxfam Canada’s Partnership Policy, which invokes what I will call the “redundancy” conception of partnership:

⁴⁹Stepping back and supporting first-best actors might seem unnecessary for humanitarian INGOs, such as Doctors Without Borders, that speak out against gross violations of human rights that they witness directly. But it is still appropriate for INGOs that do this sort of work to consult widely and carefully with those affected, regarding the possible effects of speaking out. For an example of what happens when INGOs do not do this, see Claire Magone, Michael Newman and Fabrice Weissman, *Humanitarian Negotiations Revealed: The MSF Experience* (New York: Columbia University Press, 2011), pp. 45–6.

⁵⁰The representation lens does not acknowledge this either because it does not acknowledge that there *are* aspects of INGO advocacy other than representation.

⁵¹Oxfam International, “Working together” (my italics). This passage is also in Oxfam Canada, “Partnership policy,” February 25, 2011, <<http://www.oxfam.ca/who-we-are/partnership-policy>> (both accessed November 06, 2012). See also Jordan and van Tuijl’s discussion of “cooperative” advocacy in “Political responsibility in NGO advocacy.”

Whatever can be done with sufficient quality, effectiveness and efficiency by local organizations must be done by them . . . Every effort will be made to live up to the aspiration embodied in OI Program Standard 6 which states that “effective partnering is a fundamental strategy through which *Oxfam seeks to become redundant*.”⁵²

Unlike the complementarity conception, the redundancy conception of partnership acknowledges Oxfam’s status as a sometimes second-best actor—with regard to not only representation, but also a wide range of other activities (“whatever can be done . . . by local organizations must be done by them”). The redundancy conception, therefore, offers a picture of Oxfam’s role that differs sharply from the picture offered by the complementarity conception: rather than complement local organizations indefinitely, Oxfam should continually support other actors and reduce its own involvement, until it eventually becomes redundant. The redundancy conception therefore acknowledges the long-term comparative advantage of some other actors over INGO advocates, in terms of accountability, local knowledge, and mirror representation. It also acknowledges that the differing strengths and capacities of INGOs and domestic NGOs are sometimes not happy coincidences to be exploited (e.g., “harnessing the added value each may bring”), but rather effects of injustices that should be overcome.⁵³

Yet, while the complementarity conception relies on the ordinary language meaning of “partnership,” and so, (despite its other flaws) has a rich set of associations attached to it that can contribute to practical judgment about what good partnership requires in a given case, the redundancy conception redefines partnership so dramatically that, in applying it, we have little more than the definition itself to go on. In blunt terms, the redundancy conception is normatively attractive, but it is not really partnership.

The partnership lens also has an additional shortcoming that the representation lens does not have: partnership pertains primarily to interactions between actors; it says little about the structural inequalities that condition these interactions. Yet, such inequalities are widespread in INGOs’ relationships with NGOs, largely because NGOs rely on INGOs for funds. The effects of these inequalities can be mitigated in various ways. However, so long as NGOs depend on INGOs for funds, it is difficult for the relationships between them to be fully consistent with egalitarian norms, even if employees treat each other as equal partners in their everyday interactions.⁵⁴

⁵²Oxfam Canada, “Partnership policy” (my italics). All but the last sentence of this passage can also be found in Oxfam International’s Partnership Policy. The fact that the last sentence refers to an OI document suggests that OI also recognizes the attractiveness of the redundancy conception.

⁵³For example, an INGO’s inability to decipher an article in a local Indian newspaper and a local Indian NGO’s inability to decipher a highly technical World Bank report are in a sense symmetrical, but they are also the result of historic and ongoing inequalities. Cf. Jordan and van Tuijl, “Political responsibility in NGO advocacy.”

⁵⁴Cf. *ibid.*, describing an advocacy campaign that was successful in part because the NGOs did not receive funding from their INGO partners. But see Tigenoah’s assessment of Oxfam in Ghana below.

III. INGO ADVOCACY AS THE EXERCISE OF QUASI-GOVERNMENTAL POWER

Recall that our aim is to find a way of conceptualizing INGO advocacy that will yield helpful normative criteria for evaluating it—criteria that are keyed to the political and ethical predicaments that INGO advocates regularly face, and that shed light on how they might navigate these predicaments in ways that are consistent with democratic, egalitarian and justice-based norms. The shortcomings of the representation and partnership lenses suggest that such a conceptualization should ideally: 1) not be based on concepts such as representation, that are likely to generate endless unhelpful dispute; 2) apply to a wide range of INGO advocacy activities, including but not only representation (however defined); 3) address the political and ethical implications of INGOs being often second-best and mediocre representatives (and second-best and mediocre at other advocacy activities); and 4) attend to structural inequalities, not only interactions between actors. It should also preferably reflect ordinary usage of terms, such that prior discussion and examples can be brought to bear.

I think we can go a considerable way toward meeting these desiderata by conceptualizing INGO advocacy not as representation or partnership, but rather as *holding and exercising quasi-governmental power*.⁵⁵ “Governance” is, of course, a very broad term. By “governmental power” I here mean the power to shape the policies and practices of coercive institutions, either directly or by influencing public opinion. INGOs’ governmental power is “quasi” because INGOs shape coercive policies and practices more than entirely non-governmental actors (such as individual Good Samaritans), but less than at least some full-fledged governmental actors (such as well-functioning democratic states).

If we conceive of INGO advocacy as holding and exercising quasi-governmental power, then the normative standard to which INGO advocates should be held is that they avoid excessively accumulating and misusing this power. This “power lens” helps us see that the unintended negative effects of INGO advocacy (such as those associated with Section 1502 of Dodd-Frank) are usually manifestations of ongoing and persistent—but not entirely unchangeable—power inequalities. That is, they are more systemic than random, one-off mishaps, but they are not so deeply entrenched that it is impossible for INGOs to escape or alter them.

In the rest of this section I argue that compared to the representation and partnership lenses, the power lens provides a more nuanced and penetrating account of how INGO advocacy enacts, supports, and undermines democratic,

⁵⁵This conceptualization does not deny that INGOs sometimes do, and sometimes should, act as representatives and partners; it only states that, for the purposes of normative evaluation, we should view them under the more general rubric of quasi-governmental power.

egalitarian, and justice-based norms. I focus on four ways in which INGO advocates tend to misuse their power, and propose four corresponding normative principles for avoiding these misuses, presented in roughly decreasing order of importance.⁵⁶

A. MISUSE OF POWER #1: SIGNIFICANTLY UNDERMINING THE BASIC INTERESTS OF POOR AND MARGINALIZED PEOPLE

The most obvious way in which INGO advocates misuse their power is by undermining the interests of poor and marginalized people. Correspondingly, the most obvious specification of the normative requirement that INGOs avoid misusing their power is that they should not undermine the interests of poor and marginalized people. Of course, most policies and practices of coercive institutions—including policies and practices advocated by INGOs—benefit some poor people and undermine the interests of others. As Riddell notes, “in most cases [of advocacy], some poor people will tend to benefit, either relatively or absolutely, from the consequences of changes in the external policy regime, and some will tend to be adversely affected.”⁵⁷ For this reason, requiring that INGOs avoid advocating for any policy that might make any poor or marginalized person even a little bit worse-off would likely exclude advocacy that is on the whole beneficial. So, by the *basic interests principle* I will mean that: a) INGO advocates should not *significantly* undermine the *basic* interests of any poor or marginalized individual; and b) the anticipated net benefits of the policies for which INGOs advocate, and their advocacy itself, should outweigh the anticipated net negative effects of the policies for which they advocate and their advocacy itself for poor and marginalized groups.

The basic interests principle has several advantages: unlike the representation lens, it does not invite unhelpful conceptual disagreement, nor does it apply to only a narrow subset of INGOs’ advocacy activities.⁵⁸ The main shortcoming of the basic interests principle is that it can be difficult to judge whether a particular instance of INGO advocacy has, in fact, significantly undermined the basic interests of poor and marginalized people. For example, the available evidence suggests that ENOUGH and Global Witness’s advocacy on Section 1502 of Dodd-Frank violated the basic interests principle. Yet, this assessment is contested; it might well turn out to be incorrect as events unfold and/or as new information becomes available.

⁵⁶These principles also indicate that other actors and institutions can be evaluated based on how well they constrain INGOs from misusing their power. Moreover, INGOs can be evaluated based on the degree to which they support external constraints on their own power.

⁵⁷Riddell, *Does Foreign Aid Really Work?*, pp. 300–1.

⁵⁸While it might generate discussion of the *content* of people’s basic interests, it is unlikely to lead to extended debate about of what an “interest” is.

One seemingly promising way to get around this problem is to treat due diligence as a proxy for compliance with the basic interests principle. That is, even if it is difficult to tell whether an INGO has actually undermined the basic interests of poor and marginalized people, we can ask whether it took reasonable precautions to avoid doing so. However, determining what counts as due diligence by INGO advocates can also be difficult. For example, Global Witness has posted or linked to several reports about the situation in the DRC on its website, including a report summarizing a survey of the residents of seven mining communities.⁵⁹ If Global Witness did violate the basic interests principle, then either its seemingly extensive research did not amount to due diligence, or due diligence is a poor proxy for complying with the basic interests principle in this case.⁶⁰

A final difficulty with the basic interests principle is that INGOs and (some members of) a poor or marginalized group can disagree about what (some members of) that group's interests are. Such disagreements can sometimes be resolved through discussion.⁶¹ When discussion fails, democratic norms suggest that INGOs have not only a moral permission, but also a moral obligation, to shift their efforts and attention to groups with whom they have more of a shared vision (especially when the relevance of democratic norms are themselves the subject of the disagreement).⁶²

B. MISUSE OF POWER #2: DISPLACING POOR AND MARGINALIZED GROUPS AND THEIR (MORE) LEGITIMATE REPRESENTATIVES

Now, suppose that ENOUGH and Global Witness turn out to be correct about Section 1502. We would then have to conclude that the policies that these INGOs supported, in fact, did not significantly undermine the basic interests of poor and marginalized people. But it would not necessarily follow from this that ENOUGH and Global Witness did not misuse their power. This is because, as I noted above, ENOUGH and Global Witness wrote the text of Section 1502 and shaped the lineup of speakers at the SEC hearings about the bill. Regardless of

⁵⁹Global Witness, "Artisanal mining communities in eastern DRC: seven baseline studies in the Kivus," August 22, 2012, <<http://www.globalwitness.org/library/artisanal-mining-communities-eastern-drc-seven-baseline-studies-kivus>> (accessed October 1, 2012).

⁶⁰Due diligence is also a poor proxy for not undermining basic interests when actors have an incentive to undertake a particular course of action, regardless of the consequences. Seay, "What's wrong with Dodd-Frank 1502?" and Autesserre, "Dangerous tales," argue that this was the case with ENOUGH and Global Witness.

⁶¹Of course, "agreements" achieved under conditions of extreme inequality or duress are highly suspect.

⁶²While paternalism can sometimes be justified in severe public health emergencies (e.g., when medical experts and the local population disagree about how a disease spreads), it is generally not justified in the context of advocacy. The situation is more complicated when an especially oppressed minority within a group for which an INGO wants to advocate wants the INGO to be involved, but the majority within the group does not.

whether the policies that they supported significantly undermined the basic interests of vulnerable people, this constituted a different sort of misuse of power, a misuse on democratic procedural grounds.

The problem that this second type of misuse of power captures is difficult to see using the representation lens. The representation lens tells us that by helping to write Section 1502, and by shaping the lineup of speakers about the bill, ENOUGH and Global Witness represented mining communities poorly. They were not authorized by, nor accountable to these communities, nor did they accurately convey community members' wishes or interests to US officials. But ENOUGH and Global Witness might dispute this allegation, by saying: "We never claimed to represent the Congolese mining communities. We were simply offering our expert opinion on US legislation." For the reasons elucidated in Section I above, this statement is difficult to refute from within the representation framework.

Now consider another way of spelling out the intuition that there is something wrong with ENOUGH and Global Witness's actions. By writing Section 1502 and shaping the lineup of speakers at the SEC roundtable, ENOUGH and Global Witness helped to *displace* other actors—including those who, if given the chance, would likely have done a better job than ENOUGH and Global Witness of representing the Congolese miners who were going to be significantly affected by the bill. In short, the representation lens only enables us to say that ENOUGH and Global Witness failed to fulfill the positive requirements of the role of representative—a role that they claimed not to occupy. In contrast, the power lens enables us to say that ENOUGH and Global Witness failed to fulfill a negative duty: to avoid blocking (more) democratically legitimate representation by others.

This latter argument is not only more difficult to counter with the "but that's not what we (said we) were doing" response; it also offers a more perspicacious description of the problem. The problem is not that ENOUGH and Global Witness's statements and actions amounted to bad representation. Rather, it is that these INGOs—together with legislators and industry representatives—helped to silence *other* voices that could have contested their version of events.⁶³ Had these other voices been heard, ENOUGH and Global Witnesses' own statements and actions would likely have been less damaging.

This "displacement" of (more) legitimate representatives, or of actors who are better than INGOs at other aspects of advocacy, can have at least three kinds of negative effects. First, it can lead to policies that undermine the basic interests of vulnerable people (i.e., it can collapse into violations of the basic interests principle). This appears to have happened in the case of ENOUGH and Global Witness. As Seay writes:

⁶³Seay, "What's Wrong with Dodd-Frank 1502?" and Seay, "The Dodd-Frank catastrophe."

Many of the problems with Section 1502 and its unintended consequences were anticipated by Congolese civil society leaders and scholars and could have been avoided had their perspectives been integrated in the advocacy process [of US-based organizations] before strategies were released and advocacy activities had already been determined.⁶⁴

Second, displacement can make it more difficult for actors that are potentially more legitimate representatives than INGOs, such as domestic NGOs based in poor countries, to hone their skills. For example, the Congolese civil society leader Eric Kajemba stated that: “[t]here are NGOs here in the East [of the DRC]—BEST, Pole Institute, there are many organizations working on this. I agree, we have problems, but some are trying to do good work.”⁶⁵ By helping to displace Congolese NGOs from participating in debates about Section 1502, ENOUGH and Global Witness not only deprived US lawmakers of these NGOs’ expertise; they also made it more difficult for these NGOs to gain the experience and connections that might have helped them overcome the “problems” to which Kajemba refers.

Third, displacement can prevent the involvement of actors whose involvement is intrinsically valuable. As Markell argues with reference to what he calls “usurpation,” a crucial question is: “whatever it is that’s happening, and however it’s being controlled, to what extent is it happening *through you*, through your activity?”⁶⁶ For example, as I noted above, both Ghana’s NHIA and the World Bank consistently referred to the “Shared Goal” report as “the Oxfam report,” and to its arguments as “Oxfam’s critique.” This focus on Oxfam might have reduced the extent to which the things that were “happening” in Ghanaian civil society, such as vigorous debate about Ghana’s NHIS, were happening through the Ghanaian NGOs.⁶⁷

Unlike usurpation, which on Markell’s account appears to be largely intentional and direct, displacement is often unintentional and indirect.⁶⁸ Oxfam did not intentionally push its Ghanaian “partners” aside. Insofar as the Ghanaian NGOs were displaced, this was due to the indirect and joint effects—some

⁶⁴Seay, “What’s wrong with Dodd-Frank 1502?”

⁶⁵Interview with Eric Kajemba (translated from French), <<http://congosiasa.blogspot.co.nz/2011/08/interview-with-eric-kajemba-on-conflict.html>> (accessed September 30, 2012).

⁶⁶Patchen Markell, “The insufficiency of non-domination,” *Political Theory*, 36 (2008), 9–36.

⁶⁷The story here is complicated. Oxfam’s participation created more public discussion of the “Shared Goal” report (both within Ghana and internationally) than there would have been if Oxfam hadn’t been involved; the Ghanaian NGOs participated in those discussions (Shang-Quartey, personal communication). However, much of the public narrative around the report, especially outside of Ghana, focused on Oxfam’s role in it, rather than on the issues of concern to the Ghanaian NGOs. See Amanda Glassman, “Really Oxfam? Really?” March 14, 2011, <<http://blogs.cgdev.org/globalhealth/2011/03/really-oxfam-really.php>> (accessed February 20, 2013). But see also substantive responses (in comments section) by Apoya and Shang-Quartey. Duncan Green reports that “The [Ghanaian NGO] partners were actually pretty hacked off at this being described as an ‘Oxfam report’, and rightly so”; Duncan Green, “Really CDC, really?” March 25, 2011, <<http://www.oxfamblogs.org/fp2p/?p=4868>> (accessed February 20, 2013).

⁶⁸Patchen Markell, “The insufficiency of non-domination.”

intended, some not—of Oxfam, Ghana’s NHIA, the World Bank, and other entities. Historical conditions also played a role: the history of British colonialism in Ghana provided a rhetorical opening for the NHIA to attack the “Shared Goal” report as neo-colonial by attributing it to Oxfam.⁶⁹ In short, displacement encompasses both activities directly undertaken by a small number of identifiable actors, such as Global Witness and ENOUGH writing Section 1502 of Dodd-Frank and helping to shape the lineup of speakers about the bill, and the indirect and joint effects of many different actors interacting under conditions of inequality, such as the possible displacement of the Ghanaian NGOs from a more prominent role in the debates prompted by the “Shared Goal” report.

Given these negative effects of displacement, I propose a *minimize displacement principle*: INGOs should minimize the extent to which they displace vulnerable groups and their (more) legitimate representatives and advocates, taking into consideration other ethical constraints. This principle requires INGO advocates to address two questions: how much should they undertake an advocacy activity themselves versus how much should they step back; and insofar as they do step back, what form(s) should that stepping back take (e.g., active support of a first-best actor, leaving the scene, or something else)? The minimize displacement principle does not provide specific answers to these questions, but it crystallizes them in a way that the representation and partnership lenses do not. The minimize displacement principle can also be applied to a wide range of advocacy activities (not only representation); it addresses issues of structural inequality, and it attends to the implications of INGOs being mediocre and second-best actors. While admittedly complicated, it does not appear to invite unhelpful disagreement about abstract concepts. Unlike the redundancy conception of partnership, it does not contravene ordinary language and it identifies a harm that INGOs should avoid (i.e., displacement).

C. MISUSE OF POWER #3: CULTIVATING AND RETAINING THE CAPACITY FOR ARBITRARY INTERFERENCE

What if ENOUGH and Global Witness had been asked by Congressional staffers to help write Section 1502 and shape the lineup of speakers at the hearings about the bill, but declined to do so, citing other commitments? One might think that under these circumstances, ENOUGH and Global Witness would not have misused their power. Indeed, they would not have significantly undermined the basic interests of poor and marginalized persons or displaced anyone. But, by not questioning the legitimacy of the request, they would have retained and

⁶⁹The NHIA stated that it “hereby serves notice to Oxfam that its parochial agenda cannot succeed in an era that ‘divide and rule’ has been banished into the annals of history never to be resurrected again in an independent nation such as Ghana.” (NHIA, “NHIA position on OXFAM/ISODEC report on universal health care in Ghana”).

reinforced their *capacity to arbitrarily interfere* with vulnerable groups. In so doing, they would have misused their power in a third way, albeit one that is milder and more passive than the two misuses of power just described.

By “capacity to arbitrarily interfere,” I mean the capacity (i.e., the power) to take actions that significantly affect others, without being pressured to ensure that those actions track the interests and preferences of those significantly affected (“track” here means “take into account” not “act consistently with”).⁷⁰ Even if ENOUGH and Global Witness had declined to help write Section 1502, they still would have had the capacity to interfere arbitrarily with the Congolese mining communities and with domestic NGOs based in the DRC. This capacity appears to have had real effects: as Congolese civil society leader Eric Kajemba stated, “we are not very happy with Global Witness or ENOUGH, but we feel they are very influential, and we are ready to work with them. On the other hand, we are *also* afraid of our government and what they are doing.”⁷¹ On one plausible reading of this statement, Kajemba is suggesting that the Congolese NGOs were afraid of ENOUGH and Global Witness, presumably because they are “very influential.” That is, it was these organizations’ *capacities* to act, not only what they actually did, that constrained the Congolese NGOs.

The capacity to arbitrarily interfere is objectionable on egalitarian grounds because, when A has the capacity to interfere arbitrarily with B, B has an incentive to “toady” and “fawn” to A, in order to stay on A’s good side.⁷² In his well-known elucidation of this idea, Philip Pettit focuses on cases in which the threatened interference is an intentional or quasi-intentional effort to make other people’s lives worse.⁷³ In contrast, when INGOs interfere arbitrarily with poor and marginalized groups or domestic NGOs, they usually do not intend to make anyone’s lives worse. But INGOs’ capacity to interfere arbitrarily with these groups still gives those groups a reason to “work with” INGOs, in Kajemba’s terms. Thus, a third normative principle for evaluating INGO advocacy is that INGOs—and other actors—should *minimize INGOs’ capacity to arbitrarily interfere with vulnerable groups and those groups’ (more) legitimate representatives*, again taking into consideration other ethical commitments. This principle does not invite conceptual disagreement, can be applied to a wide range of advocacy activities, and addresses structural inequalities.

Can INGOs really be held morally responsible for having the *capacity* to interfere arbitrarily with vulnerable groups and their (more) legitimate

⁷⁰Philip Pettit, *Republicanism* (Oxford: Oxford University Press, 1997).

⁷¹Interview with Eric Kajemba, <<http://congosiasa.blogspot.co.nz/2011/08/interview-with-eric-kajemba-on-conflict.html>> (accessed February 20, 2013), my italics.

⁷²Pettit, *Republicanism*, p. 5.

⁷³*Ibid.*, pp. 52–4, 272. Pettit seems to think that he must limit his focus to intentional or quasi-intentional interference because non-volitional events such as natural disasters do not respond to toadying or fawning in the way that a slave-owner or abusive husband might. But this excludes the category of unintentional harm by volitional actors. Cf. Sharon Krause, “Beyond non-domination: agency, inequality and the meaning of freedom,” *Philosophy and Social Criticism*, 37 (2013), 1–22.

representatives, as opposed to actually interfering with them? I think that they can be, insofar as they intentionally or knowingly cultivate and/or retain this capacity. For example, while US politicians and industry leaders bear some responsibility for ENOUGH and Global Witness's capacity to help write Section 1502 of the Dodd-Frank bill and influence the lineup of speakers at the SEC hearings about the bill, it appears that ENOUGH and Global Witness also sought to develop their capacity to do these things. Either way, attending to advocates' capacity for arbitrary interference requires expanding our focus beyond advocates themselves, to also include other actors and the contexts in which advocates operate.

For example, in contrast to ENOUGH and Global Witness, Oxfam does not seem to have had the capacity to interfere arbitrarily with the Ghanaian people or Ghanaian NGOs. This appears to be in large part because Ghana is a stable and inclusive democracy with a vibrant civil society.⁷⁴ The "Shared Goal" report was, therefore, actively debated and criticized, not taken as marching orders by Ghanaian NGOs, the Ghanaian people, or the Ghanaian government (quite the contrary!). In other words, there were strong democratic institutional constraints on Oxfam's capacity to influence domestic public policy in Ghana. Whereas the representation lens prompts us to look for accountability mechanisms that do or could constrain Oxfam, the misuse of power lens casts a much wider net. It enables us to see that other actors—including Ghanaian government officials and Ghanaian NGOs—contested, diluted, contextualized, and qualified Oxfam's claims in ways that constrained Oxfam's power and rendered the effects of its advocacy more consistent with democratic norms, even in the absence of formal (or informal) accountability mechanisms. No one elected Oxfam, but Oxfam was constrained in other ways.

D. MISUSE OF POWER #4: "LOW BALLING"

Oxfam has thus far fared well in our analysis: while it might have contributed unintentionally to the displacement of Ghanaian NGOs, it seems not to have violated the basic interests principle. It also had limited capacity to interfere arbitrarily with poor Ghanaians or Ghanaian NGOs. But what should we make of the circumstances surrounding the commissioning and release of the "Shared Goal" report? The agreement between Oxfam and the Ghanaian NGOs was that Oxfam would assist with funding, but that all four organizations would co-author the report together, on equal terms.⁷⁵

The literature on INGO-NGO "partnerships" suggests that in this type of arrangement, the INGO (in this case, Oxfam) has more power. (As the saying goes, "he who pays the piper calls the tune.") While a Ghanaian consultant wrote

⁷⁴The US is also a democracy with a vibrant civil society, but Congolese people and activists were largely excluded from discussions of Section 1502.

⁷⁵Shang-Quartey, personal communication and email correspondence, May 14, 2013.

the report, the partnership literature predicts that Oxfam would have had more say than the Ghanaian NGOs in determining—if not the content of the report—then its scope and the questions it addressed.⁷⁶ An official from Oxfam-Ghana stated that this was *not* the case. She argued that “[the report] was handled equally.” “Round table discussions were held with various stakeholders in health, trades unions, civil society etc. Ideas were shared, discussed and interrogated at various stages of the research process. As a result, the report was “fairly [*sic*] ghananian.”⁷⁷ An official from a Ghanaian NGO agreed with the Oxfam official’s assessment in some respects, but also noted the difficulty for both the Ghanaian NGOs and Oxfam in retaining their identities as individual organizations while working together. This official thought that the correct model for Oxfam was to “lead from behind.”⁷⁸

Without trying to definitively characterize the relationship between Oxfam and the Ghanaian NGOs, I want to investigate the implications of one possibility: that while the Ghanaian NGOs viewed their arrangement with Oxfam as the best available option under the circumstances, they would not have accepted it under better conditions (e.g., had they been able to fully fund the report on their own).

Suppose, then, that the Ghanaian NGOs accepted Oxfam’s offer, but that this offer was the most appealing of the Ghanaian NGOs’ options in part due to structural and/or historic injustices (such as the history of British colonialism in Ghana). Philosophers call offers such as this “mutually advantageous exploitative” (MAE) offers. An MAE offer is one in which “A gets B to agree to a mutually advantageous transaction to which B would not have agreed under better or perhaps more just background conditions . . .”⁷⁹ Because MAE offers stand at some remove from other forms of exploitation, I will here call them “lowball” offers.⁸⁰ Lowball offers present a seeming paradox. On the one hand, these offers are structurally very similar to price gouging, and it is widely accepted that price gouging—e.g., charging \$100 for a \$15 shovel after a snowstorm—is unethical, because it involves reaping a windfall profit at the expense of someone who is especially vulnerable through no fault of her own. But on the other hand, someone who accepts a lowball offer is presumably better off than she would have been without the offer. Assuming that Oxfam is under no obligation to make the Ghanaian NGOs any offer at all, how could it be unethical for it to make them an offer that, if accepted, would make the Ghanaian NGOs better off than they would have been without the offer?⁸¹

⁷⁶See footnote 17 above. This literature also suggests that the power dynamic between INGOs and NGOs might have influenced what NGO officials were willing to say to me.

⁷⁷Clara Tigenoah, email correspondence, April 3, 2013.

⁷⁸Interviewee, personal communication.

⁷⁹Alan Wertheimer, “Exploitation,” *Stanford Encyclopedia of Philosophy*, ed. Edward Zalta, <<http://plato.stanford.edu/entries/exploitation/>>.

⁸⁰I thank Suzanne Dovi for suggesting this term.

⁸¹I thank Michael Kates for helpful discussion of this issue.

I think the answer to this question is that, by entering into what philosophers call a “special relationship” with the Ghanaian NGOs (by making them an offer), Oxfam takes on a responsibility to treat the Ghanaian NGOs in a particular way.⁸² This is why Oxfam does not have a duty to make an offer to the Ghanaian NGOs, but if it does make them an offer, it should not try to extract the best deal possible if doing so requires taking advantage of historic and ongoing injustices in ways that makes things worse for the Ghanaian NGOs than they could otherwise reasonably be.⁸³ To do so would be a misuse of power on Oxfam’s part. The representation and partnership lenses offer little traction on this issue.

While lowball offers are misuses of power, they are not necessarily unjustified, all things considered. Lowball offers can sometimes be in the best interest of poor and marginalized people—for example when domestic NGOs are corrupt or inefficient, or lack the capacity or motivation to deal with broader issues (such as health care policies in other countries). I therefore propose that INGOs should adopt a principle of *wariness about making lowball offers*.⁸⁴ The main strength of this principle is that it addresses issues of structural inequality.

E. THE EXERCISE OF POWER LENS

The four principles just described together meet the four desiderata discussed above (see Figure 1 below). As such, they provide a plausible and attractive specification of what it means for INGO advocates to avoid misusing their power, and so to act consistently with democratic, egalitarian and justice-based norms.

Although it is framed as a negative duty, the requirement that INGO advocates avoid misusing their power is still very demanding; complying with the four principles outlined above would require many INGOs to significantly alter their existing practices. But recall that these principles are meant to function as possible specifications of the misuse of power lens; they should not be construed as hard-and-fast rules for normatively evaluating INGO advocacy. This is, first, because these principles are not exhaustive: INGOs almost certainly misuse their power in ways other than those discussed here. There are also other standards relevant to normative evaluation of INGO advocacy that do not involve the misuse of power, most notably whether INGOs are effective at achieving their (justified) objectives.⁸⁵

⁸²Cf. Karen Stohr, “Kantian beneficence and the problem of obligatory aid,” *Journal of Moral Philosophy*, 8 (2011), 45–67.

⁸³An example of a non-lowball offer in this context would be one that gave the Ghanaian NGOs a say in the report proportional to their expertise or the size of the group they represented, not their capacity to pay.

⁸⁴Of course, the best way to reduce lowball offers is to reduce the circumstances of inequality that make them more likely to be offered and accepted.

⁸⁵The four principles discussed here are derived from an analysis of only two cases. I hope that other scholars, INGOs, activists and critics—including people on whose behalf INGOs have advocated—will engage with other cases in a similar fashion. This could result in a collectively-

		Desiderata			
		Does not invite unhelpful conceptual disagreement	Relevant to a wide range of INGO advocacy activities	Accounts for INGOs being second-best and mediocre representatives	Addresses structural inequality
Principles derived from the power lens	Do not undermine basic interests	X	X		
	Minimize displacement	X	X	X	X
	Minimize capacity for arbitrary interference	X	X		X
	Be wary of lowball offers		X		X

Figure 1. Desiderata met by each of the four principles suggested by the power lens

In addition, while I have presented these principles in what I take to be roughly descending order of importance, this is not a lexical ordering: severe displacement might be more objectionable than a modest violation of the basic interests principle, for example. Likewise, acting consistently with these principles has costs, and the principles say nothing about how these costs should be traded off against compliance with the principles. In particular, INGOs can sometimes face conflicts between not misusing their own power, and preventing misuses or abuses of power by other actors. For example, if Ghana’s NHIS really is much less effective than Ghana’s NHIA claims, and if other countries really are on the verge of adopting versions of this scheme, then perhaps some displacement of Ghanaian NGOs is a reasonable price to pay to ensure that the truth about Ghana’s NHIS emerges. The power lens helps to clarify what is at stake in these trade-offs, even though it does not yield all-things-considered judgments about which trade-offs INGOs should accept.

Finally, while there are, no doubt, situations in which INGOs are justified in misusing their own power in order to prevent gross abuses of power by others, the case of Section 1502 reveals the danger of this highly consequentialist logic. Global Witness and ENOUGH might argue that they slightly misused their own power over Congolese NGOs in order to prevent far greater abuses of the Congolese people by armed groups. But in so doing, Global Witness and ENOUGH helped to silence the activists and scholars who were arguing that reducing the trade in conflict minerals would, in fact, have little effect on the violence in the DRC.

authored, empirically-based, morally-nuanced account of the various ways in which INGO advocates tend to misuse their power and the political and ethical implications of them doing so. This account could be helpful for avoiding normatively objectionable INGO advocacy in the future.

IV. CONCLUSION

In this article, I have asked what conceptualization of INGO advocacy would most help INGOs and their interlocutors to understand the ethical predicaments that INGO advocates regularly face, and to navigate those predicaments in ways that are consistent with democratic, egalitarian, and justice-based norms. I argued that for INGO advocates, being democratic sometimes does not mean representing as well as possible, and being egalitarian is not merely a matter of acting as an excellent partner. Rather, given the kinds of actors that INGOs are and the contexts in which they operate—given, especially, that they are often second-best and mediocre representatives—consistency with these norms is more precisely and relevantly cashed out in terms of not misusing power. Although there are many intersections among democratic, egalitarian, and justice-based norms, such that it is difficult to talk about them in isolation from each other, the foregoing analysis suggests that for INGO advocates, being just means, at a minimum, not undermining the basic interests of poor and marginalized people and being wary of making lowball offers that exploit historic or ongoing injustices. Being democratic means minimizing the extent to which INGO advocates displace poor and marginalized groups, and those groups' (more) legitimate representatives, from contexts in which coercive policies likely to significantly affect those groups are being shaped. Being democratic, for INGO advocates, also means minimizing the extent to which they cultivate and retain the capacity to interfere arbitrarily with these groups. Finally, being egalitarian for INGOs means minimizing their capacity for arbitrary interference and being wary of making lowball offers.⁸⁶

This, then, is why it is beside the point that no one elected Oxfam: the normative challenges posed by INGO advocacy are far more diverse—but also addressable in a wider variety of ways—than *The Economist's* rhetorical question “Who Elected Oxfam?” suggests. This question implies that bad representation is the problem and elections, or other forms of accountability, are the solution. But as we have seen, Global Witness and ENOUGH did not only represent badly; they also undermined the basic interests of poor and marginalized people and cultivated and exercised the capacity to interfere arbitrarily with Congolese NGOs. Oxfam (possibly) and Global Witness and ENOUGH (almost certainly) displaced poor and marginalized people and/or their (more) legitimate representatives. Oxfam might have made a lowball offer to Ghanaian NGOs that took advantage of historic injustice. These issues go far beyond bad representation. Yet, possible strategies for addressing them go far beyond elections.

⁸⁶I suspect that some of these arguments can be extended to types of actors other than INGOs, but I leave this for another occasion.

When one has a hammer, everything can look like a nail. Likewise, when one studies representation, everything can look like representation. I have argued that democratic theorists, especially theorists of representation, need to take off our representation-colored glasses and look anew at advocacy through the lens of power, and not only representation. In so doing we will not only see important aspects of INGO advocacy that are not representation; we will also see representation itself in a new light.