



# Where we are now with the global governance of TNCS

A VISUAL PRESENTATION

Part one of three

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# SERIES OF THREE VISUAL PRESENTATIONS – PART 1

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These three presentations aim to inform social movements and activists about

- how the multilateral system could (and should) control transnational corporations (presentation 1)
- what is wrong with the emerging multistakeholderism (presentation 2)
- how global governance can be framed beyond globalization dominated by TNCs (presentation 3)

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*Author, Multistakeholder Governance and Democracy: A Global Challenge, Routledge (2018);  
Author, Multistakeholder Governance, Wikipedia, entry is in five languages (2019), Author,  
*Readers' Guide: Global Redesign Initiative of the World Economic Forum*, UMass-Boston on-line publication (2012)*

[more](#)

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Harris Gleckman

# Three forces are capable of governing globalization and TNCs

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## I. Governments

- By regulating TNCs domestically
- By regulating what TNCs do in other countries
- By judicial actions sanctioning what TNCs do in other countries
- By providing targeted incentives to alter international behavior
- By cancelling or abrogating bilateral and WTO investment treaties and agreements that limit national public safety actions

## II. Social Forces

- By investigating and exposing TNC wrongdoing
- By international consumer boycotts and strikes and shareholder advocacy
- By obstructing the expansion of TNC activities by local organizing
- By undermining the TNC profit narrative and the acceptability of their harmful activities

## III. Multilateral actions

- By concerted intergovernmental actions
- By effective secretariat actions

**Multilateral actions are the subject of the first visual presentation**

# Governing Globalization and TNCs

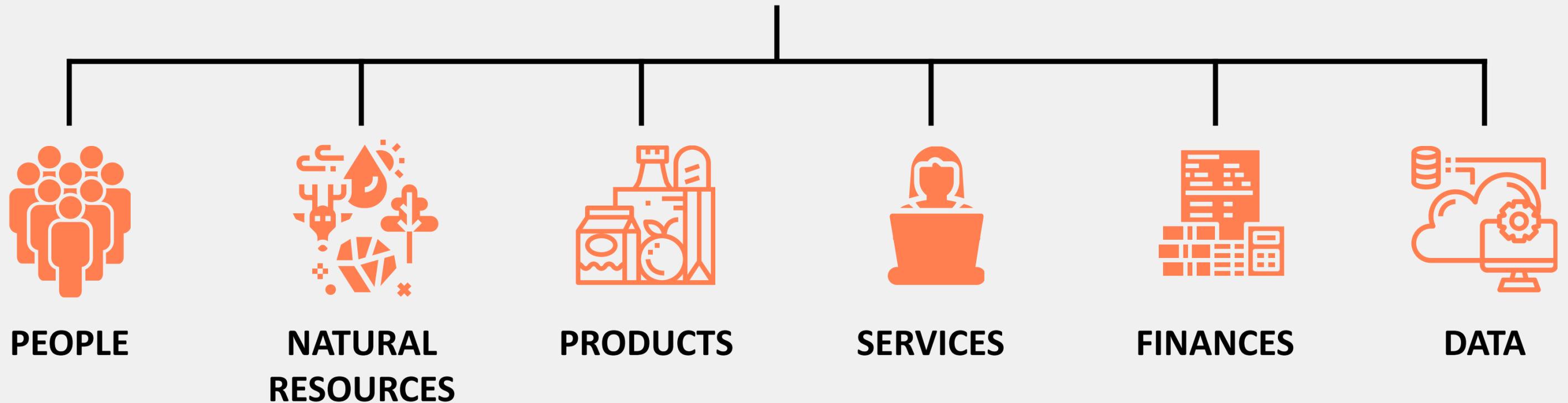
## Outline:

- working definitions
- some history
- governance tools available to  
multilateralism

**Multilateralism**

# Multilateralism and the Governance of Globalization and TNCs

Means governing TNCs' movement between countries of



And governing the pre-conditions and the consequences of all these activities

Corporate registration systems, labor standards, and conflict of interest rules are examples of domestic pre-conditions that can be used to control the national impacts of globalization

Environmental impact assessments and minimum wage requirements are examples of domestic arrangements to control the consequences of globalization

# TO BE CLEAR

## Multilateralism means

- United Nations
- UN system organizations and programs
- The World Bank group
- The International Monetary Fund
- World Trade Organization
- Bank for International Settlements (BIS) and its related supervisory organizations
- Regional development banks and
- Regional intergovernmental bodies

at the intergovernmental level and at the secretariat level

Multilateralism includes advice to States, development support, peacekeeping, interventions in armed conflicts, and humanitarian relief. The overlapping ovals in the following slides represent the part of multilateralism involved in the global governance of TNCs

# TO BE CLEAR

## TNCs means

- Individual global businesses,
- the businesses in their supply, distribution, and research chains, and
- their sources of finance

as well as

- their international commerce and industrial associations,
- corporate foundations, and
- international business alliances

Alternate names for TNCs include MNCs (multinational corporations), MNEs (multinational enterprises), and international business

## TO BE CLEAR

This presentation is not on how TNCs could (and do) control countries, peoples and the environment \*.

**It is on how the multilateral system could (and should) control the activities of TNCs.**

\*Bilateral investment treaties with provisions for investment dispute arbitration panels, International Monetary Fund conditionalities, and WTO agreements on the ownership of ideas and rules on service industries are examples, just on the economic side, of how TNCs are able to control countries, peoples, and environment

# What did global governance of TNCs look like from the end of WWII to the mid-1970s?

## Governing Globalization

TNCs largely made the rules for their activities on the global market \*

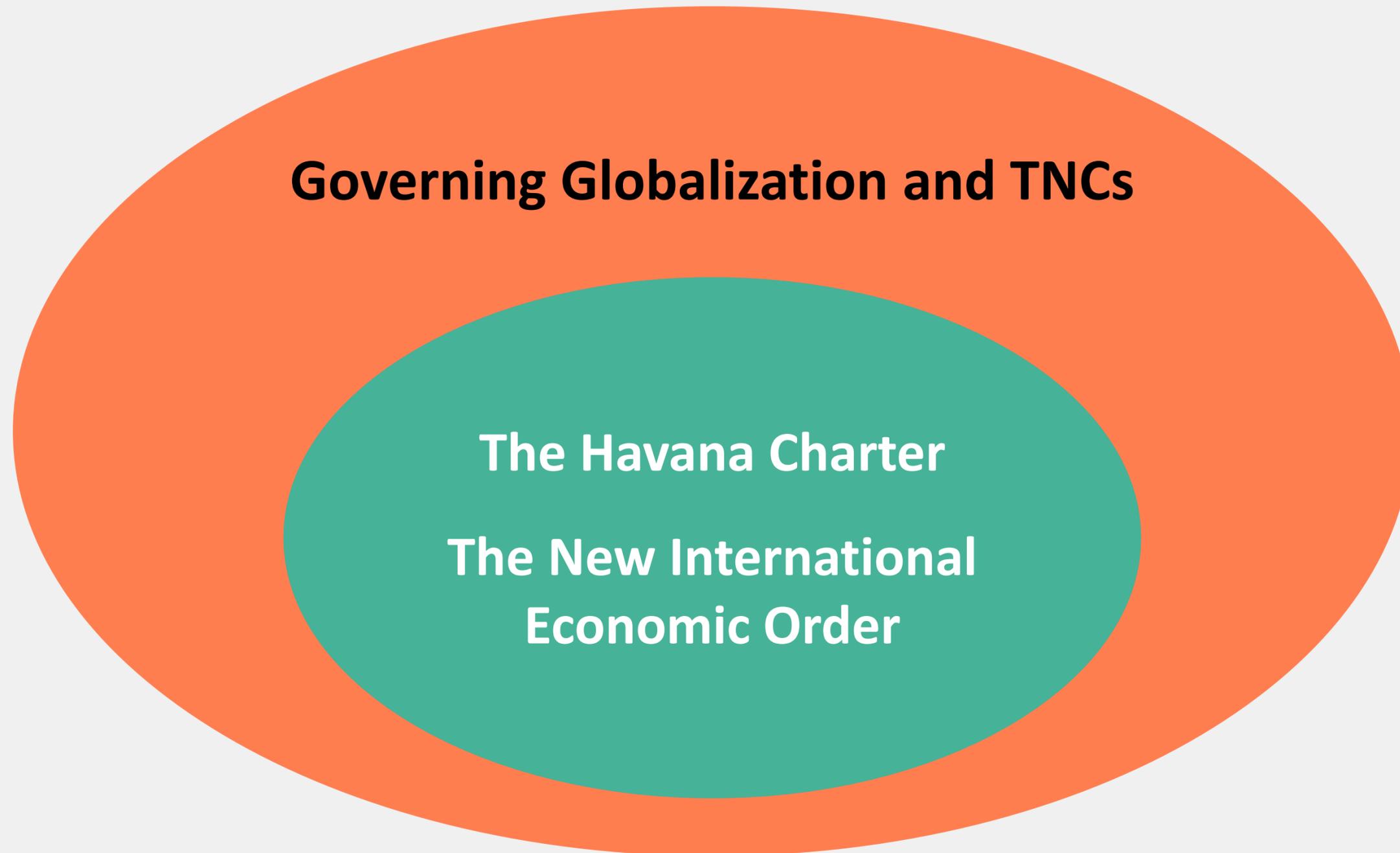
and they largely ignored the multilateral system

**Multilateralism**  
intervened on the margins\*

\*And major home country governments were quite supportive of this, in part as it furthered their post WWII global plans and in part because TNCs had successfully captured key decision-making of processes in their home country

\*There are exceptions:  
rules for specific products (i.e. WHO and breast milk substitutes agreements) and specific processes (i.e. UNEP and ozone-depleting industries)

# Two major multilateral efforts tried to set rules in this period but failed to gain momentum



Article I (c) “to further the enjoyment by all countries, on equal terms, of access to markets, products and productive facilities which are needed for their economic prosperity and development” – The Havana Charter for an International Trade Organization, Nov 1947

Para 4 “The New International Economic Order should be founded on the full respect for the following principles... (g) Regulation and supervision of the activities of TNCs by taking measures in the interest of the national economies of the countries where such TNCs operate on the basis of the full sovereignty of those countries” – Declaration on the Establishment of a New International Economic Order. UN resolution A/RES/S-

# Then began a 20-year battle over rules for TNCs

## NEGOTIATION

## ISSUES



### UN Code of Conduct on TNCs

- a) Background: prompted by ITTs role in the overthrow of the President Allende and the Chilean Government (1973)
- b) Scope: all aspects of TNC activities with an emphasis on economic impacts
- c) Legal status: could have been mandatory or voluntary; in the latter years of the negotiation, the prevailing view by all delegations was that the agreement would be a voluntary General Assembly resolution



### Tripartite Declaration of Principles on Multinational Enterprises and Social Policy

- a) Background: similar to background to the UN Code of Conduct; first version adopted in 1977
- b) Scope: labor and working conditions
- c) Legal status : voluntary with regular reporting and review cycles



### OECD Guidelines for Multinational Enterprises

- a) Background: designed to counter the potential UN Code of Conduct
- b) Scope: all aspects of TNC activities with an emphasis on economic aspects
- c) Legal status: entirely voluntary

UN Sub-commission on the Promotion and Protection of Human Rights

### Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights

- a) Background: designed to bring TNCs under an obligatory human rights framework
- b) Scope: application of human rights principles to the activities of TNCs
- c) Legal status: rejected by the Human Rights Commission; subsequently 'replaced' by the voluntary Guiding Principles on Business and Human Rights

# Governing Globalization and TNCs

Sometimes the boundary moved to the left around the founding of UNCTAD (1964), the New International Economic Order (1974), and Centre on Transnational Corporations (1975)

**Multilateralism**

# Governing Globalization and TNCs

Sometimes the boundary moved to the right as  
in the Reagan / Thatcher deregulation period  
(1980s) and around the Washington Consensus

**Multilateralism**

# Governing Globalization and TNCs

Sometimes one sector was more engaged in governing TNCs than other sectors and made significant contributions to the rules for globalization

UN Human Rights Council (UNHRC)

**Human Rights**



**UNCTAD**

**Trade**



**United Nations  
Climate Change**

**Climate**



**SUSTAINABLE  
DEVELOPMENT GOALS**

**SDGs**



**International  
Labour  
Organization**

**Labor**



**World Health  
Organization**

**Health**



**UN environment  
programme**

**Environment**

## Examples of the important but limited actions to govern globalization taken by multilateral organizations



**UNCTAD**

Guidelines on restricted business practices



ECOSOC Commission  
on Transnational  
Corporations

Accounting rules



UNITED NATIONS  
GENERAL ASSEMBLY

Directory of banned or restricted products in  
international trade



**World Health  
Organization**

Essential Drugs Program



International  
Labour  
Organization

Industrial sector standards



Committee  
Against Apartheid

List of foreign investors in  
Apartheid South Africa

## Examples of the social movements organizing around the UN system



Environmental movements



Food and Agriculture Organization  
of the United Nations

Rural social and agricultural  
movements



UNITED NATIONS  
GENERAL ASSEMBLY

International consumer  
movements



World Health  
Organization

Infant formula and tobacco  
campaigns



International  
Labour  
Organization

International trade union  
secretariats



International  
Telegraph Union

Citizen-based internet  
communities

# Governing Globalization and TNCs

Overall, the alignment stayed like this  
and globalization remained firmly  
in the hands of TNCs

Sometimes this process was called  
**“self-regulation”**

other times it was called  
**“market-driven”**

**Multilateralism**  
intervened on the  
margins\*

\*Even developing country governments were under restraints by IMF conditionalities on loans, by the global debt market, and by a desire to seek development with international investments.

# Multilateralism has five key governance tools

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**Hard law**



**Soft law**



**Standard setting**



**Problem defining research**



**Money**

# Multilateral tools available to govern globalization

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## Hard law

- Treaties
- Conventions
- Trade and investment agreements
- Security Council sanctions on businesses

## Soft law

- Policy making by intergovernmental bodies
- Setting normative principles by international organizations and intergovernmental bodies
- Guidance documents from international secretariats
- Customary law

## Problem-defining research

- By providing a well-documented rationale for international and national action
- By providing a platform for government representatives to share specialized knowledge and governance arrangements with colleagues from other countries

## Standard setting

- Product safety standards developed by the World Health Organization, International Labour Organization, the Food and Agricultural Organization, the European Economic Commission, and other intergovernmental bodies
- Business supervisory standards developed by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, and the Financial Stability Board
- Product trade and patent protection rules from the World Trade Organization, the International Organization for Standards, and World Intellectual Property Organization

## Money

- Funding organizations or governments which are addressing particular challenges posed by TNCs
- Funding international projects, conferences, and studies that advance the governance of TNC in a particular sector

# Complementary tools that are used to govern globalization

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## National level global governmental tools

- Domestic laws and regulations that set de facto global standards
- Extra-territorial legal regimes

## Regional level (e.g. European Union) global governmental tools

- Regional laws and regulations that set de facto global standards
- Extra-territorial legal regimes

## Non-governmental tools

- Boycotts
- Wars of liberation
- Strikes
- Citizen advocacy and media campaigns
- Professional associations setting rules and practices

**The role however of each of  
these international governance tools  
has changed significantly in recent years**

# Governing Globalization with **hard law**



## Multilateralism

**Government-led efforts, both by developed and developing countries, to develop hard law restricting TNC practices has dramatically slowed down\***

The 'replacement' for hard law is volunteerism

Hard law bodies have been losing their "teeth". Even the WTO has been left without a functioning dispute settlement body

Without new hard law, TNCs and their multistakeholder friends are able to avoid any formal statement about their obligations, liabilities, responsibilities as global decision-makers

\*Yes, exceptions exist here : tobacco, landmines, biodiversity

# Governing Globalization with **soft law**



## Multilateralism

# Soft law is being transformed

Fewer formal intergovernmental policy positions are being adopted. Many of those that are presume that they will be implemented by TNCs and multistakeholder groups

TNC-supported multistakeholder bodies (e.g. World Economic Forum) and public-private partnerships (e.g. Gavi, the vaccine initiative) are developing global policy directions that previously would have been undertaken by multilateral bodies

**Governing Globalization  
by setting product and  
process standards**



**Non-state actors, not intergovernmental  
bodies nor states, are taking the lead in  
setting global product and technology  
standards**

## Multilateralism

Some forty multistakeholder standards initiatives, all of which involve one or more TNCs, provide market-based standards with focus on improved environmental, social, and health performance.

Global TNC-supported multistakeholder bodies are developing 'standards' for a range of newer technologies from the internet to nano-technologies to genetic engineering, explicitly marginalizing Governments from the process

# Governing Globalization by problem-defining research



## Multilateralism

**Multilaterally sponsored research on global matters is being cut back**

Cutting edge research is being edged out by limited UN funding and by the perceived need in the UN system not to antagonize TNCs which might become UN system donors

Cutting edge multilateral research is being edged out by the campaign to discredit science

The 'replacement' for good research are belief assertions

# Governing Globalization via multilateral allocation of monies



Corporate-led bodies are replacing States as the key new sources of funding for global activities

## Multilateralism

TNCs and financing-based multistakeholder bodies (e.g. Gates Foundation) are displacing governments in providing resources for large projects in the South

Multilateral secretariats are increasingly dependent on resources from TNCs and multistakeholder bodies to do their assigned functions

# Summary I

## Macro Tools for Governing Globalization and TNCs

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- **Governments can regulate** TNCs domestically, regulate what they do in other countries, and use state power to weaken harmful TNC activities
- **Social forces can effectively regulate** TNCs by organizing and supporting international boycotts and strikes, by challenging the corporate narrative, and by a range of other civil society interventions
- **Multilateral organizations can regulate** TNCs by legally binding conventions, by intergovernmental policy declarations and by actions of their secretariats

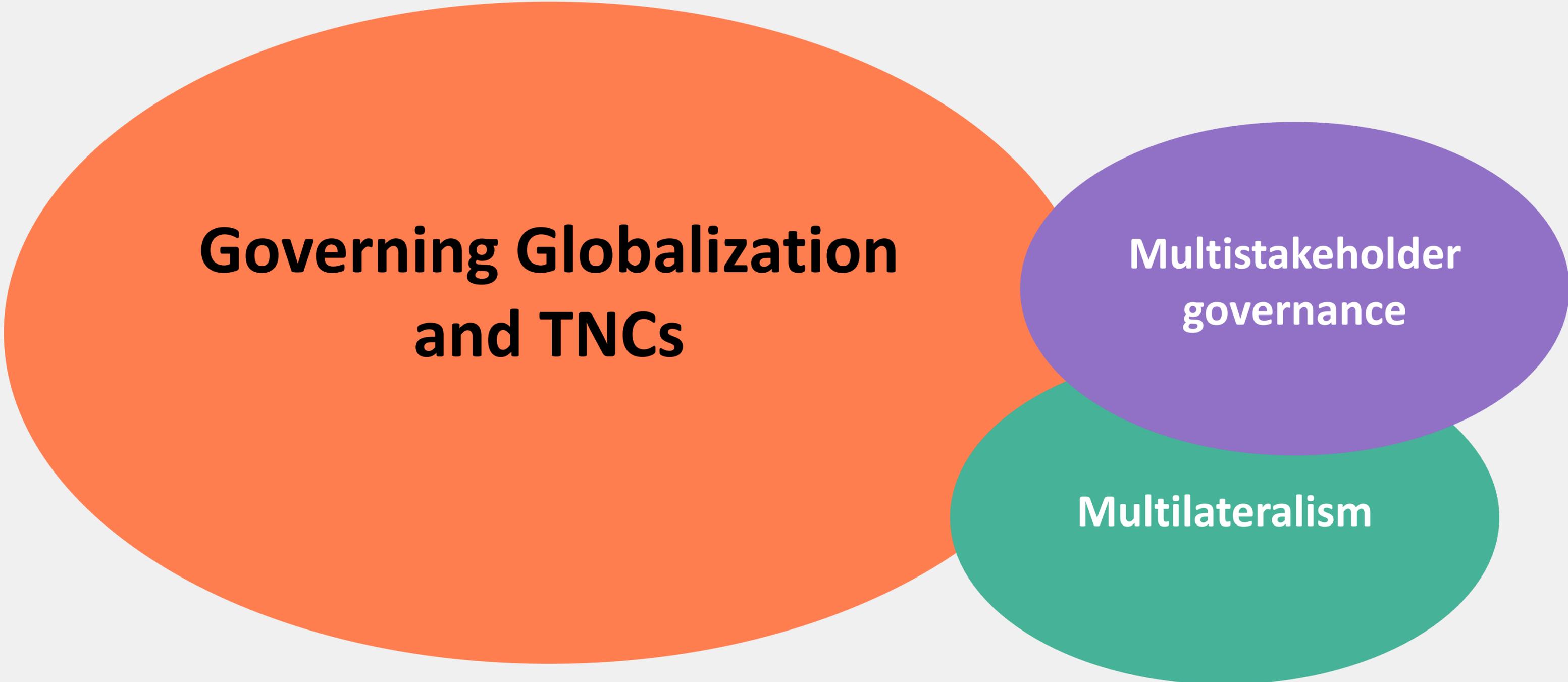
## Summary II

### Multilateral tools impacted by corporate capture

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- Some key governance functions are moving out of the hands of intergovernmental organizations
- Some tools for governing globalization are being marginalized
- The rule of law, responsibilities, obligations, and liabilities is being replaced by voluntary undertakings
- Indirect TNC pressure on global governance is being replaced by direct TNC engagement in global governance

# The governing arc is moving again



**Governing Globalization  
and TNCs**

**Multistakeholder  
governance**

**Multilateralism**

# **Governing Globalization**

The evolution of multistakeholder governance is changing the dynamic of global governance

**SEE PART TWO**

It is possible to have a governance framework that is fundamentally equitable

**SEE PART THREE**