Special Section Article

Producing Global Governance in the Global Factory: Markets, Politics, and Regulation

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Abstract
Coen and Pegram challenge us to integrate global governance theorising in ways that are pragmatic, policy-oriented and interdisciplinary. One of the most prominent arenas for pursuing this challenge is through a focus on governing transnational production through voluntary and regulatory approaches. This focus directs attention to the structure and relationships within global value chains which influence the problems, actors, and mechanisms of global governance. Future research needs to explore how multiple governance initiatives within an industry interact, how issue boundaries evolve and change, the local implementation of global rules, and the relationships that shape governance outcomes.

In their introductory paper for this symposium, 'Towards a Third Generation of Global Governance Scholarship', Coen and Pegram argue that global governance scholarship must move towards a new approach – one that ties together its disparate strands and provides guidance for global public policy. They argue for 'accelerating a systematic convergence' of the diverse approaches that have evolved to explore global governance, incorporating ideas and concepts from an array of disciplines. Theirs is an attempt to characterise a broad view of governance scholarship that stretches beyond the field of international relations and the study of intergovernmental organisations, and seeks to stimulate exploration of the principles, tools, and theories of an integrated framework. They argue that such a framework could support more effective policy responses to global problems. Thus they challenge global governance scholars to consider a set of key questions, beginning with one of the most important – how does our conception of global governance shape our analysis?

In this contribution, I start by taking a viewpoint based upon a political economy perspective that responds to the call for an interdisciplinary and practical approach. My focus is on transnational business regulation, a field which Coen and Pegram identify as part of the emerging 'third generation' of global governance research. The analysis of transnational business regulation has many of the features that Coen and Pegram emphasise – it is problem-oriented, pragmatic, and draws on multiple disciplines for analytical power. It also highlights how a particular conception of global governance – in this case, one tied to industry structure and interests – shapes the analysis in particular ways.

By shifting the focus from the question of 'who governs the globe?' (Avant et al., 2010) to 'how do we govern transnational business?' a political economy perspective draws attention to the interaction of markets with political authority in what Mayer and Phillips (2017) call a 'global value chain world'. This is admittedly a narrower focus than Coen and Pegram call for, but it demonstrates how a particular conception of global governance influences analysis. We are led to examine certain types of problems, actors, governance mechanisms and challenges for research and theorising. In the following sections, I discuss how features of modern global production shape problem definition, and how market structure and relationships influence the design of governance. I then point to areas for future research, and conclude by discussing implications for global public policy.

Problems of production and the demand for global governance

Contemporary scholarship on global governance points to a 'governance gap' between programmatic aspiration and actual policy results, and has sought to explain why governance institutions have failed to fulfil their promise in responding to this apparent vacuum. The persistence of a governance gap stems fundamentally from the scale of transnational problems which frequently outstrip the reach of national and international institutions. As Thomas Weiss (2013, p. 2) puts it, '[t]he essence of the problem of global governance is that the evolution of intergovernmental institutions ... lags well behind the emergence of collective problems with trans-border, especially global, dimensions'. The emphasis on gaps, however, obscures how the absence of governance can be a deliberate choice. Governance is always contested, and powerful actors and compelling ideas may prevent the creation of rules, standards, and institutions even in the face of need (Strange, 1996). This insight becomes particularly acute when we look at the demand for transnational business regulation.

The disjuncture between the global scale of production and national regulation is viewed by many as a critical governance gap. This has been a common complaint for

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decades now, and many observers consider it the driving force behind the rise in industry self-regulation and corporate social responsibility. (Cafaggi, 2011; Mayer and Gereffi, 2010; Scherer and Palazzo, 2010; Tsutsui and Lim, 2015; Vogel, 2008) Production has become global in two main ways: through the expansion of transnational corporations, and through the creation of transnational supply chains. While there is variation across commercial sectors, these two globalising processes go hand in hand. Transnational corporations integrate production within one organisation spread across multiple countries, while global value chains disperse it across different firms connected via contractual relationships.[1] Taken together, this corporate expansion and disaggregation constitutes the 'global factory' in which production is 'unbundled' and fragmented across multiple jurisdictions (Baldwin, 2013; Buckley and Strange, 2015).

Different interest groups look at this global factory and identify different types of problems that need governing. Firms operating in global markets often look at the variety of rules and standards in each national market as barriers to commerce, imposing unnecessary costs or posing a competitive disadvantage. As a result, those who are disadvantaged advocate for global rules and standards which will reduce what they view as bumps in the road. According to a former CEO of IBM, '[s]tate borders define less and less the boundaries of corporate thinking or practice' (Palmisano, 2006, p. 129). For example, as different countries passed new rules in recent years requiring corporate disclosure of payments to foreign governments, major oil companies lobbied for international harmonisation of these regulations (Geman, 2014). Alternatively, some firms push back against these demands for global governance to preserve national rules from which they benefit, and when successful, they exacerbate what others perceive to be a 'gap' in governance (Grossman and Helpman, 2004). Even when there is general agreement within an industry on the need for global rules, major players will compete to define the character and content of them (Büthe and Mattli, 2011). Firms vary in what they identify as the main problem associated with the global factory depending on their size, competitiveness, brand, and position in global supply chains.

Civil society actors and policy makers who care about global social and environmental norms have mobilised against weak governance, which they see in the lack of effective regulation of the private sector. Variation in national regulations raises profound concerns about the values embedded in the global production system, as developing countries compete for a place in the global supply chain and as powerful companies shape contractual relationships around the world. In response, we have witnessed over the past two decades increased activism at local and transnational levels to apply pressure to raise national standards, negotiate new global rules and/or push corporations to adopt higher standards voluntarily. These groups condemn corporations for their complicity in violations in weakly governed countries, or call them out for obscuring the location and conditions of production through complex and layered global value chains. Famously, when activists targeted Nike in the 1990s, demanding it enforce better labour practices in its factories, the company initially argued that these were independent suppliers which it did not own and for which it had no responsibility (Shaw, 1999; Toftoy, 1998).[2] Such transnational campaigns against corporations have proliferated across industries, from pharmaceuticals to mining, and encompass multiple issues, from working conditions to human rights (Bartley and Child, 2010; Soule, 2009). It is increasingly difficult today for a corporation to claim it has no responsibility for behavior and outcomes within its global value chain.

In both cases – through demands from industry or civil society – the dynamics of interaction between markets and authority are translated into an expanding array of transnational regulatory initiatives (Auld, 2014; Bartley, 2007; Büthe and Mattli, 2011; Green, 2014). In the last few decades, this has transformed governance itself by increasing both the number of actors with authority to govern and the mechanisms they use to institutionalise their aims.

Global governance: actors and mechanisms

As many scholars have noted, one of the most significant elements of modern global governance is the increasing prominence of private authority, that is, industry actors establishing their own standards and standard-setting systems, being delegated governance functions by international organisations and agreements, or participating in multi-actor initiatives (Büthe 2010; Green, 2014; Haufler, 2001).[3] Recognition of private participation in standard-setting opens governance studies in general to the wide variety of actors who participate in governance, the features that give them authority to do so, and the relationships among different governors (Avant et al. 2010; Mattli and Woods, 2009). The phenomenon of increasing private authority has been documented and analysed by scholars across a range of disciplines: Baron (2001) in the management literature, Cutler (2001) and Meidinger (2006) in law, Kitzmueller and Shimshack (2012) in economics, Tsutsui and Lim (2015) and Bartley (2010) in sociology, and Auld (2014), Büthe and Mattli (2011), Cashore et al. (2004), Green (2014) and Marx et al. (2012a) in political science, among many others.

The structure and relationships of modern global production shape the design of transnational business regulation, and of private regulation in particular. Two of the most important characteristics are the degree of industry concentration, and the extent and character of global value chains. Attention to the impact of industry concentration on politics and power is nothing new, but it is a critical element for understanding the dynamics of how business gets regulated globally (or not). When an industry is concentrated, dominated by one or a handful of corporations, we expect transnational business regulation in that sector to reflect their interests. When major firms adopt particular practices, we expect smaller players – often their suppliers – to adopt them too. For example, the creation of the Kimberley Process to regulate trade in diamonds from conflict zones depended on the consent of the dominant corporation, DeBeers (Haufler, 2010). The dynamics of competition among major firms within an industry critically shape the prospects for cooperation in arenas in which governance can be viewed as a 'club good' (Prakash and Potoski, 2010). Industry influence operates both transnationally and within the domestic politics of key countries to shape the creation of both public and private regulation, at home and across borders.

The question of how the extent and character of global value chains shape transnational business regulation has garnered more attention recently (Fransen and Burgoon 2017, MacDonald 2014). Lower barriers to trade and financial transactions, combined with innovations in information and communications technology, have facilitated the expansion of relational contracting across borders. These contractual relationships among producers and buyers obscure accountability by 'distancing' us from the local conditions of production and distribution, separating consumers from the production process by multiple layers of suppliers within a global chain (Princen et al., 2001). For instance, we often know little about where our food comes from or how it is made, which makes it difficult to monitor conditions on farms and in food processing facilities (Clapp, 2016). But these contractual relationships among suppliers and buyers also can be leveraged as a means of governance. When a major brand such as IBM establishes a set of standards, technical or social, its numerous global suppliers are constrained to adopt them. Power within these inter-firm relationships can be used over weaker participants to drive standards either up or down (Dietz, 2017; Gereffi and Lee, 2016). Firms act as 'inspectors' along the supply chain to monitor compliance with regulatory standards (Heritier et al., 2009).

The character of global value chains varies across sectors and constantly changes as the market evolves (Elms and Low, 2013). This influences variations in governance across sectors and across time. Gereffi and Mayer explain the design of governance by looking at variation in the power of buyers versus producers within a global value chain (Gereffi et al., 2005; Mayer and Gereffi, 2010). MacDonald (2014) argues that the degree to which production can be disaggregated has politicised global value chains, and argues that new forms of governance reflect this politicisation of transnational exchange. Transnational regulatory initiatives utilise relationships among firms as leverage to establish and enforce new standards. For example, when major corporate buyers such as Adidas or Nestlé commit to the voluntary standards of the Fair Labor Association, they push those standards out to all their suppliers. The Forest Stewardship Council (FSC), which establishes and enforces standards for sustainable forestry, depends in part on the leverage of major buyers such as Home Depot over forest products suppliers. These contractual relationships present themselves as operating in the private sphere, but can be used for more 'public' purposes such as raising labour standards or reducing pollution; indeed, as Cutler and Dietz (2017) argue, these relationships are embedded within a larger public and constitutional framework.

The focus on global value chains also highlights the particular mechanisms that have come to dominate transnational business regulation. They typically revolve around 'information politics', requiring corporate reporting, certification, auditing, due diligence, and chain-of-custody arrangements. They are part of what Gupta refers to as the 'transparency turn' in which revealing information about behaviour is intended to govern that behaviour by creating incentives to uphold standards (Gupta, 2010). At a minimum, most major firms today report on their 'codes of conduct' – the practices and norms that they claim to uphold. More elaborate mechanisms are integral to the creation of complex institutions that regulate business globally. Certification systems often require self-assessment, specific kinds of reporting, the reform of management systems, and auditing by third parties (see Marx and Wouters, this special issue). Some also require more elaborate 'chain-of-custody' arrangements to assure the final buyer that products which pass through many hands maintain the original standards. For example, the Kimberley Process Certification Scheme includes both certification that rough diamonds are conflict-free, and a chain-of-custody arrangement to assure integrity throughout the processing and distribution stages (Haufler, 2009; Westerwinter, 2016).[4]

Due to the length and complexity of inter-firm relationships,[5] regulatory initiatives increasingly require firms to adhere to standards of 'due diligence' to ensure full traceability from field and factory to the final buyer, and all firms must ensure the integrity of their business partners (Overdevest and Zeitlin, 2014). In an example of how governance itself gets governed, the OECD created the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, which lays out best practices for due diligence that other regulatory initiatives should adopt (OECD, 2011). After the publication of the Panama Papers, activists and policy makers are now seeking further due diligence rules regarding 'beneficial ownership' (i.e. transparency on who really owns a firm) (Fenwick and Vermuelen, 2016); Westenberg and Pedersen, 2016). Reporting, certification, auditing, due diligence and chain-of-custody arrangements all are efforts to hold firms within complex networks of business relationships accountable. How these mechanisms are implemented, by whom, and when varies across industry sectors and issue-areas, for both private and public forms of regulation (Auld, 2014; Green, 2014; Mattli and Woods, 2009).

The state is not absent from these discussions of transnational business regulation, but the exact relationship between state influence, governance and the 'public' is at the heart of much analysis (Bartley, 2014; Best and Gheciu, 2014; Drezner, 2007). It was the adoption of neoliberal policies by states that facilitated the growth of global value chains, and promoted the outsourcing of governance to non-state actors (Mayer and Phillips, 2017). Government policy today often co-opts supply chain governance mechanisms by adopting disclosure and reporting requirements without mandating particular outcomes (Gupta, 2008), or by reinforcing private schemes through public procurement policies (D'Hollander and Marx, 2014). The state itself backstops private standard-setting by the perceived risk that it will step in if private systems fail – private regulation operates under the 'shadow of the state' (Abbott and Snidal, 2009), or as Verbruggen puts it, the state is the 'regulatory gorilla in the closet' (Verbruggen, 2013).

Agenda for future research and policy

Despite the emergence of a vigorous research agenda on transnational business governance, there are areas in need of further exploration. One of the most important questions concerns the interaction among different governance initiatives, public and private, across industry sectors and issue-areas. Global governance schemes have proliferated over time, to the point where questions are raised about how they fit together and what happens when distinct governance institutions collide. 'Regime complexity', an initial effort to explore these dynamics, focused primarily on intergovernmental organisations (Alter and Meunier, 2009). Eberlein and his colleagues (2014) built on that to provide a framework for analysis of transnational business governance interactions. Recently, Abbott et al. (2016) drew on the organisation studies literature to apply the concept of 'organisational ecology' to explain the creation, rise and decline of organisations. We need to collect data and compare evidence across a wide range of policy domains and industry sectors to assess the utility of these different approaches.

These interactions among governance schemes raise the question of how issues get defined and change over time, pointing to one of the boundary questions that Coen and Pegram raise. Some of the interactions among transnational business governance initiatives are directly competitive, as different actors propose competing standards to govern the same sector and issue-area. For instance, the creation of the Forest Stewardship Council through a multi-stakeholder process led to an industry initiative, the Sustainable Forestry Initiative, with less strict standards (Overdevest and Zeitlin, 2014). In other cases, however, the interaction comes when issue-areas merge, either through evolution of the issues or through deliberate strategic reach by interested actors. For instance, the initial definition of the issue of 'conflict minerals' focused, naturally, on conflict. Over time, participants and observers connected it to other areas, including natural resource management, anti-corruption, transparency and human rights. (Haufler 2012) What started out as a fairly straightforward connection between trade in commodities and conflict has become part of a broader set of issues. This evolution in issue boundaries makes it difficult to assess and evaluate regulatory initiatives, since the goals of governance do not remain static.

Looking at global governance through the lens of global value chains highlights the question of how global standards actually operate on the ground – in other words, how implementation politics works. A number of scholars provide us with rich information on how the global and local interact in a particular locality, for instance Martin (2011), Kauffman (2016), Bartley (2010), and Bulkeley and Betsill (2013). It would be useful to bring together a wide variety of cases across issues and sectors to explore local implementation under different political regimes, levels of development, and position in global value chains. Much of this work reveals how standards created in the developed world but promoted to developing countries display a North-South divide that demands deeper exploration (Marx et al., 2012b). Too rarely do we get analyses by scholars from the Global South, which is a failing of the global governance literature in general.

We should explore the variety of ways in which corporations are embedded in complex relationships beyond market exchange (Heidenreich, 2012). While firms have become dis-embedded from society in significant ways, they are tied to other actors in a variety of relationships that matter (Best and Gheciu, 2014; Ciepley, 2013; Ruggie, 2004). Their position within networks for instance, participation in the UN Global Compact, influences their access to relevant information, and shapes the norms and practices that they adopt. Exploring transnational business regulation through the position and power of firms within different networks may provide new insight into how global governance operates and gets implemented (Avant and Westerwinter, 2016; Kahler, 2009). Recent research that is relevant to this question explores relations between international organisations and non-state actors (Abbott et al., 2015), public-private partnerships, and multi-stakeholder initiatives (Bäckstrand, 2006; Borzel and Risse, 2005).

One of the main points that Coen and Pegram make is about the need to address global public policy delivery, or implementation, instead of focusing exclusively on the creation and design of institutions. As they point out, there are many steps between designing a strategy and moving to execution. New forms of global governance are part of an ongoing process of bargaining about goals and institutional design, and are not fixed institutions. However, a number of them have become increasingly institutionalised over time, building up some implementation capacity of their own. This raises the question of the relative autonomy of these forms of governance from industry participants, in a similar fashion to how we ask this with regard to states and intergovernmental organisations (Barnett and Finnemore, 2004).

What do we gain by exploring global governance through the perspective of political economy? What are the implications for global policy? As I have argued here, the global structure of production creates particular types of problems that generate both industry and civil society demands for global governance. Interdependence among firms located in different national jurisdictions through global value chains means that the policies of different governments are also mutually dependent (Elms and Low, 2013). The design of global policy must take account of the distribution of power within the multiple contractual relationships that characterise global industry today. It must also address the risk that a policy domain will evolve and change over time. As issue boundaries change, so do the relevant actors and potential governance mechanisms. In the case of transnational business regulation, the market itself has its own dynamics that shape both who is involved and what issues are at stake. This can make it particularly challenging to answer the important question of 'what works'?

Our current era is one in which the commitment to intergovernmental cooperation to resolve problems appears to be weaker than in the past, as reflected in the vote for withdrawal of the UK from the European Union and the move by the US President to withdraw from the Paris Agreement and renegotiate other multilateral treaties. In response, transnational business regulation may become more important to upholding global standards. At the same time, we are also seeing a reduced commitment to globalisation, which until recently enjoyed fairly widespread support around the world. We could see a reduction in the globalisation of production – for instance, through a shortening of supply chains. This may reduce some of the problems attached to global production, but also reduces the leverage of transnational business regulation within a global value chain. Global governance scholarship to date has tried to explain the expansion in global governance of all types, public and private, formal and informal. There is a possibility that we will also need to explain the opposite – the stagnation or contraction of global governance – if policy makers turn their back on global rules and standards.

Notes

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1. I use the terms 'global value chains,' 'commodity chains,' and 'supply chains' interchangeably here, although they are slightly different; see the Duke University Global Value Chain Initiative for more: https://globalvaluechains.org/concept-tools
2. Nike shifted its position over time and today has a Code of Conduct for suppliers and a policy of transparency and disclosure. http://about.nike.com/pages/resources-faq
3. Private authority is not a new historical phenomenon, but has waxed and waned over centuries. See for instance Cutler (2003) and Cutler et al. (1999).
4. The Kimberley Process requires strict certification and chain-of-custody, but is plagued by corruption, falsification of certificates, and smuggling.
5. The notion of a 'chain' implies a straight line hierarchical set of relationships, but the reality is more like a spiderweb.

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