

Transnational Private Regulation in Practice:

The Limits of Forest and Labor Standards Certification in Indonesia

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Abstract

Systems for certifying sustainable resource use and decent labor conditions have become prominent modes of private regulation at the transnational level. But serious questions remain about how these global standards are translated into practice in particular places, especially in developing countries. Drawing on fieldwork in Indonesia, this paper examines the growth of certification of sustainable forestry (e.g., through the Forest Stewardship Council) and certification of decent labor conditions in factories (e.g., through Social Accountability International). Based on the controversy that surrounded both sweatshops and deforestation in Indonesia, and the export dependence of both the apparel/footwear and forest products sectors, these would appear to be prime candidates for the application of certification. Yet in both sectors, the growth of multi-stakeholder certification has been limited. Furthermore, private regulation in Indonesia has taken somewhat divergent paths in these two sectors, which shape certification's significance at the point of production. The paper examines how the socio-legal context of certification, supply chains, and possible differences in the politics of labor and the environment can help to explain these patterns and contribute to prying open the black box of implementation.

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Introduction

The global economy is increasingly layered with standards, covering issues from accounting procedures to human rights. Private-sector coalitions of NGOs and companies have especially taken on the role of developing, monitoring, and enforcing standards for business—a task previously reserved mainly for the state. Such initiatives have emerged so rapidly and broadly that some scholars have heralded the rise of an “NGO-Industrial Complex”¹ and distinct new “fields of transnational governance.”² While some standards seek primarily to coordinate global trade,³ many purport to promote ecological sustainability and social justice or to institutionalize “corporate social responsibility” (CSR). These include labor standards developed in the wake of sweatshop and child labor scandals, environmental standards for pollution control or sustainable forestry, and systems for certifying Fair Trade or sustainable coffee and produce, to name just a few.

The growing body of research on “transnational private regulation”⁴ or “civil regulation”⁵ of labor and the environment has too often limited itself to examining negotiations among firms, NGOs, and governments in affluent countries, leaving the implementation of the resulting standards and monitoring systems in developing countries as something of a black box. In some instances, scholars imply that local conditions do not matter, by talking about private regulatory initiatives as *transcendent*—that is, forms of authority that transcend or bypass older forms of governance and express moral distinctions on the global stage.⁶ In other instances, scholars argue that the effects of private regulatory systems can be read off of their principles of design

¹ Gereffi, Garcia-Johnson and Sasser 2001

² Djelic and Sahlin-Andersson 2006

³ Loya and Boli 1999; Mattli and Büthe 2003

⁴ Bartley 2007

⁵ Vogel 2005

⁶ Boli 2006; Loya and Boli 1999

in a fairly straightforward way.⁷ In either case, the process of turning standards “on paper” into practice “on the ground” remains a black box.

As a way to begin prying open this black box, I conceptualize certification as a “governance chain,” in which rules and enforcement activities travel through a variety of actors and locations.⁸ Consumers and retailers in affluent countries often sit at one end of this chain, while workers, communities, and ecosystems in developing countries often sit at the other end. In between are a variety of important actors, including certification associations (e.g., Forest Stewardship Council, Social Accountability International), accredited auditors/certifiers (e.g., Rainforest Alliance, SGS, Bureau Veritas), compliance consultants (including NGO-sponsored programs like the Tropical Forest Trust), production firms (often with parent companies and subsidiaries), and sub-contractors/suppliers. In general, we know more about the “top” of the governance chain—that is, demands from consumers, retailers, and the construction of certification programs—than we do about the “bottom” of it, especially in developing countries.⁹ Governance chains are embedded in multiple political and economic settings, which shape their operation in profound ways. Like Ponte and Seidman,¹⁰ who show how certification systems get intertwined with configurations of power in producer countries, I do not assume that a governance chain in any way bypasses or trumps the state, though it may insert rules and actors that intersect with state statutes in novel ways.

Conceptualizing certification as a governance chain denotes that it is not merely a mode of governing supply chains—it is itself a chain of events and actors. This concept bears some resemblance to Vandenberg’s concept of “private environmental contracting” where

⁷ Potoski and Prakash 2009

⁸ Thanks to Tim Bütte for suggesting this direction.

⁹ For notable exceptions, see Seidman 2007, Ponte 2008, and Espach 2009.

¹⁰ Ponte 2008; Seidman 2007

requirements for environmental performance are required by retailers and communicated down a supply chain;¹¹ as well as to work using Actor-Network Theory¹² or theories of “translation”¹³ to understand global governance. It also resonates with Abbott and Snidal’s “regulatory standard-setting process,”¹⁴ though it is more geared toward unpacking some of their stages (implementation, monitoring, and enforcement) than encompassing others (agenda setting, negotiation of standards). The point is not to coin another term for certification and other forms of private regulation, but merely to suggest a framework that sensitizes one to the processes involved in translating a demand for standards into practice in a particular place.

The goal of this paper is to examine the extent to which private regulatory standards in two arenas—forestry and apparel—have been translated into practice in one political setting—Indonesia. Whereas most previous studies focus on a single domain (i.e., labor, forestry, fisheries) in a particular country, I seek breadth and analytical leverage by considering two domains. Indonesia is an important site for research on both labor standards and forestry. It has large export-oriented manufacturing sectors (e.g., garments, footwear, furniture), the fourth largest labor force (behind China, India, and the U.S.) and the third largest tropical forest area (behind Brazil and the Congo) in the world. Furthermore, since the fall of the New Order Suharto regime and the democratization of the polity, Indonesia has become an especially dynamic environment, which international observers have viewed as both as a promising (moderate Islamic) democracy and a site of rising inequality and persistent corruption. Indonesia’s burgeoning but highly fragmented trade union movement and its high degree of capital mobility (both within and outside the country) have captured the attention of labor

¹¹ Vandenberg 2007

¹² see Riles 2000

¹³ Merry 2006

¹⁴ Abbott and Snidal 2009

scholars.¹⁵ For scholars of the environment and development, rapid rates of deforestation, clearing of forests for agriculture (including biofuels), and high profile environmental scandals (particularly in the mining industry) in Indonesia have garnered attention from across the disciplinary spectrum.¹⁶

My analysis draws on 47 interviews with representatives of NGOs, companies, trade unions, and certifiers/auditors working in Indonesia, as well as informal conversations with dozens of other individuals working in this field and various secondary sources. All interviews were conducted in Java or East Kalimantan in 2008 or 2009, either in English or in Bahasa Indonesia with the assistance of interpreters.

I proceed in several steps. I begin by discussing common predictions about the growth of certification and then apply them to the Indonesian forestry and apparel/footwear sectors. Next, I use information on the growth of forestry and labor standards certification in Indonesia to partially assess these predictions. Finding some patterns not well anticipated by prior analyses, I then explore several avenues for solving these puzzles and conclude with an agenda for pushing the analysis further.

Conditions for the Growth of Certification in Producer Countries

Although scholars have paid far more attention to the construction and content of private regulatory initiatives than to their implementation and consequences, the existing literature is not without statements that can guide such an inquiry. In particular, scholars have begun to identify conditions under which certification initiatives are likely to take hold in a given country or region. I consider the two most common of these below.

¹⁵ Caraway 2006a; Robinson and Hadiz 2004

¹⁶ Curran et al. 2003; Tsing 2005

Two Major Factors: Controversy and Export Dependence

One condition stressed throughout the literature is the existence of public controversy and international attention to dramatic instances of exploitation. In general, social scientists have argued that public controversy and legitimacy crises open windows for the growth of regulatory standards,¹⁷ new conceptions of market order,¹⁸ and new strategies among firms.¹⁹ The catalyzing force of public controversy in a particular sector has been stressed in numerous studies of private regulatory initiatives.²⁰ Public attention and controversy focuses the efforts of transnational activists on particular sites.²¹ It also creates legitimacy crises for industries and puts a premium on initiatives that can improve reputations or allow firms to differentiate themselves.²² Haufler, for instance, shows how the “blood diamond” framing created a legitimacy crisis for the industry in major diamond producing countries and led to support for the Kimberley Process certification system.²³ Linton argues that the “coffee crisis” of the 1990s spurred the growth of various sustainability certification initiatives, since it both threatened the viability of the specialty coffee industry and highlighted ecological damages associated with price volatility.²⁴ In the realm of labor and forestry standards, Sethi argues that anti-sweatshop activism creates a “legitimacy gap” between societal expectations and the current practices of firms, which firms must be aggressive in narrowing.²⁵ Cashore et al. find that the extent of

¹⁷ Baumgartner and Jones 1993; Schneiberg and Bartley 2001

¹⁸ Fligstein 2001

¹⁹ Suchman 1995

²⁰ Esbensen 2004; King and Lenox 2000; Kolk 2005; O'Rourke 2006

²¹ Seidman 2007

²² King, Lenox and Barnett 2002; Potoski and Prakash 2009

²³ Haufler 2009

²⁴ Linton 2008

²⁵ Sethi 2003

external pressures contributes to whether forest certification is supported in a particular country or not.²⁶

Espach's work perhaps goes furthest in explicitly linking the severity of external scrutiny and legitimacy crises to the growth of certification in particular countries. He argues that forest certification grew more in Brazil than in Argentina in part because

in a national industry with as bad a reputation as Brazilian forestry, responsible firms must do everything they can to indicate their social and environmental responsibility. Since the 1970s, Brazil's national image has been tarred by images of ruthless deforestation and an uncaring government. This legacy places a mighty burden on companies that wish to legitimately sell products from the rainforest. They must differentiate themselves from a sea of nefarious, unethical competition and compete against the constant supply of cheap illegal wood. Many firms ultimately view certification as critical for their public images, or to avoid scrutiny and criticism.²⁷

This dynamic is further fueled by the ineffectiveness of domestic government responses, such that "the legacy of decades of state ineffectiveness or indifference has had a strong positive influence on FSC effectiveness, though not in any way the government would have wished."²⁸

The second major factor stressed throughout the existing literature involves the export dependence of industries and their position in supply chains. It is the increasing importance of export-oriented production in developing countries that creates the conditions for private regulatory initiatives to gain authority.²⁹ Furthermore, it is export-oriented sectors that have

²⁶ Cashore, Auld and Newsom 2004

²⁷ Espach 2009, 77

²⁸ Espach 2009, 90

²⁹ Gereffi, Garcia-Johnson and Sasser 2001; Seidman 2007; Vandergeest 2007

become subject to private regulatory initiatives, while those parts producing for domestic consumption have been relatively untouched by such efforts.³⁰ Going further, the degree of export dependence of particular sectors is expected to shape whether private regulatory systems take hold or not, since this is the mode through which international controversy is translated into market signals.³¹

Cashore et al. show that export dependence shaped which regions and countries in Europe and North America had the most support from industrial forest companies for the FSC,³² and Auld et al's review of the literature finds that "most work indicates that sending exports to Europe or North America increases the probability that an operation will certify."³³ Overdevest's comparison of Swedish and Finnish timber industries suggests that export dependence may even be sufficient to lead industry actors to upgrade their forest certification efforts, largely trumping other differences between national industries.³⁴

While some work has suggested additional factors—including the associational structure of industries and domestic policy agendas³⁵—the literature as a whole speaks loudly and almost in unison regarding the crucial role of public controversy and export dependence. I therefore take these two key factors as a starting point for considering the growth of private regulation of forestry and labor in Indonesia.

³⁰ See Amengual forthcoming; Gulbrandsen 2009. Gulbrandsen notes that since "most of the seafood in developing countries is consumed locally, in markets with little or no interest in ecolabeling, fisheries certification probably has limited potential to spread among the fisheries in these countries" (p.659).

³¹ Prakash and Potoski 2006

³² Cashore, Auld and Newsom 2004

³³ Auld, Gulbrandsen and McDermott 2008, 195

³⁴ Overdevest forthcoming

³⁵ Auld, Gulbrandsen and McDermott 2008; Cashore, Auld and Newsom 2004; Espach 2009

Controversy and Export Dependence in the Indonesian Forest Products Sector

By each of these criteria, the forest products and apparel/footwear industries in Indonesia would both appear to be ripe for the growth of certification. Both industries were the focus of intense external scrutiny and both are highly dependent on exports. In the remainder of this section, I describe the contours of this scrutiny and export dependence, starting with the case of forestry and then moving to apparel and footwear.

Indonesian forests have rapidly deteriorated over the past two decades. Indonesia lost nearly a third of its primary forest cover (from 70.4 million to 48.7 million hectares) from 1990 to 2005, a period when deforestation rates were actually slowing in much of the rest of the world.³⁶ Both slash-and-burn agriculture and large-scale clearing of forests (often for conversion to agriculture) have contributed toward a long term trend toward deforestation, but a confluence of factors made the late 1990s an especially destructive period. First, facilitated by El Nino and destructive large-scale logging, the forest fires that raged throughout Indonesia in 1997-1998 created a haze that spread through much of Southeast Asia and fed into a crisis of confidence in the Suharto regime.³⁷ The instability that resulted from the Asian financial crisis and fall of the Suharto regime further facilitated the rapid exploitation of forests, as did the subsequent decentralization of forest governance, as land users and government officials raced to exploit as much as they could in this ambiguous legal environment.³⁸

This degradation certainly did not go unnoticed. International environmental organizations mobilized attention to the destruction of Indonesian forests through much of the 1980s. In addition to noting the ecological damage being wrought, environmentalists pointed out the ways in which government development policy, corruption, and ties between the industry and

³⁶ Food and Agriculture Organization (FAO) 2006

³⁷ Dove and Kammen 2001

³⁸ Curran et al. 2003; McCarthy 2004

military were contributing to massive deforestation.³⁹ Tropical timber boycotts and proposed governmental bans swept through much of Europe in the late 1980s and often targeted Indonesian timber, leading the Indonesian industry and government to complain about western protectionism.⁴⁰ It was in the midst of these boycott campaigns that Indonesia became the site of what is usually seen as the first independent forest certification effort. In 1990, the Rainforest Alliance certified forests managed by Perum Perhutani, a state-owned forestry company, in order to recognize innovative harvesting techniques being used there and provide a “positive alternative” to boycotts.⁴¹ In sum, from the late 1980s through the late 1990s, Indonesia was the subject of intense international scrutiny—implicating both industry and government—boycott campaigns, major visible moments of crisis, and even the first independent forest certification. These dynamics would seemingly make Indonesia ripe for the growth of forest certification, which was initially created with tropical forests in mind.⁴² Certification, by this logic, might allow responsible firms to differentiate themselves and improve the international image of the industry.

The industry’s export dependence should further increase the chances for certification to grow there. In 1997, Indonesian producers exported approximately \$5.2 trillion worth of wood products—more than either Brazil or Malaysia, and putting it among the top forest products exporters in the world (3rd by one account, 6th by another).⁴³ In that year, it ranked first in the world in exports of plywood, 7th in pulp for paper and 9th in sawnwood (all by volume).⁴⁴ The

³⁹ Dauvergne 1993

⁴⁰ Vogt et al. 2000

⁴¹ Donovan 2001; Ussach 1990

⁴² Bartley 2007; Elliott 2000

⁴³ Lebedys 2008 and FAO ForeStat database, respectively

⁴⁴ FAO ForeStat database

vast majority (upwards of 90%) of both wood-based panels (including plywood) and wood pulp produced in Indonesia is exported.⁴⁵

The sizeable furniture industry is also largely geared toward exports. Through the 1990s Indonesia was one of the six largest furniture exporters in the developing world,⁴⁶ and its furniture industry accounts for nearly 3% of the country's total export value and around 2% of its total manufacturing output.⁴⁷ Though shaken by the Asian financial crisis and recent economic downturn, furniture remains a major sector, roughly half of which is currently export-driven.⁴⁸ Some portion of this consists of high end specialty furniture, for which a "green premium" might be feasible. Indeed, in recent years, a variety programs sponsored by NGOs and development agencies (including USAID, GTZ, and the ILO) have sought to upgrade the Indonesian furniture industry and make it "known as a source of sustainable products."⁴⁹

As an example of how export-dependence can increase the leverage of activists (potentially including advocates for certification), consider the campaign led by Greenpeace in the early 2000s, which showed that "wood being used for the new Ministry of Environment building in the UK had come from logs that could be traced back to a protected area in Kalimantan and [an illegal] timber trader."⁵⁰ As a result, several major British importers ceased purchasing Indonesian timber,⁵¹ exports to the UK dropped significantly, and negotiations soon began over how to eliminate illegal logging in Indonesia.⁵² Separately, an unexpected domestic constituency for certification may also exist in some trade unions, whose interest in maintaining employment in export-oriented sectors may lead them to promote "sustainable forests for

⁴⁵ FAO, Country report for Indonesia, Exports and imports

⁴⁶ Kaplinsky, Morris and Readman 2002

⁴⁷ Posthuma 2004

⁴⁸ ASEANAFFAIRS 2009

⁴⁹ interview with forest certification advisor, Yogyakarta, 6/23/09

⁵⁰ interview with forestry consultant, Jakarta, 7/3/09

⁵¹ Hall 2003

⁵² interview with forestry consultant, Jakarta, 7/3/09

sustainable jobs.” As one union official in this sector (an affiliate of the Building and Woodworkers International, BWI) put it, “We work to get more companies to get certified because we need to secure the jobs for our members.”⁵³ In sum, as with the international controversy surrounding deforestation, the character of forest products exports should, by the logic of most treatments of certification, make Indonesia a prime candidate for the expansion of programs like the FSC.

Controversy and Export Dependence in the Indonesian Apparel/Footwear Sector

Turning to the apparel and footwear industries, one again finds a high degree of international scrutiny and export dependence. In many ways, the anti-sweatshop movement of the 1990s got its start in Indonesia. In 1992, Nike first became the target of anti-sweatshop activism with the publication of a major exposé of its Indonesian contract factories⁵⁴ (though its Vietnamese suppliers were also attracting sweatshop attention at this time). This all occurred 2-3 years *before* the major wave of international anti-sweatshop activism (peaking in 1995-1997), putting Indonesia very much on the front lines of this battle. Media attention to problems of sweatshops and child labor in Indonesia increased in the mid 1990s.⁵⁵ Nike, of course, became synonymous with the sweatshop stigma, and other companies, including Reebok, adidas, and the Gap, also faced scrutiny over their Indonesian factories. The U.S. government threatened several times between 1987 and 1995 to revoke Indonesia’s status in the Generalized System of Preferences (GSP) due to complaints about restrictions on the right to freedom of association and harassment and intimidation of workers.⁵⁶

⁵³ interview with union official, Jakarta, 6/30/09

⁵⁴ Spar and LaMure 2003

⁵⁵ Harrison and Scorse 2006

⁵⁶ Harrison and Scorse 2006

This wave of anti-sweatshop pressure actually led to increased wages in the Indonesian textile and apparel sector (where they were low compared to other sectors),⁵⁷ but the devaluation of the rupiah in 1997 soon drastically reduced the real earnings of low wage employees, and growing poverty and food riots fed into anti-government protests. The collapse of the rupiah lowered production costs for the industry,⁵⁸ but also led anti-sweatshop activists to make the immiseration of Indonesian workers one of their central rallying calls.⁵⁹ Naomi Klein's chronicle of anti-corporate activism, *No Logo*, for instance, began with a story of underpaid Indonesian garment workers who struck after "being forced to work long hours of overtime but [not] being paid at the legal rate."⁶⁰ On the whole, the Indonesian garment and footwear industries were hit with the "sweatshop stigma" early and often, especially over wage issues, and in the later years, also suppression of trade union rights.

These industries are also quite dependent on exports. The rapid growth of the Indonesian garment industry in the 1980s and early 1990s was driven primarily by exports.⁶¹ While parts of the garment and footwear industry are geared toward domestic production, Dicken and Hassler estimate that approximately 65% of all clothing produced in Indonesia between 1982 and 1997 was exported.⁶² Especially important are large retailers and brands (e.g., Nike, JC Penney, and Marks & Spencer) based in Europe and the U.S.—the two main destinations of Indonesian garment exports.⁶³ In 1996, at the height of anti-sweatshop activism, Indonesia's textile and garment exports were valued at \$6.5 trillion, second only to China among Asian exporters, and

⁵⁷ Harrison and Scorse 2006

⁵⁸ Dicken and Hassler 2000

⁵⁹ Monshipouri, Jr and Kennedy 2003

⁶⁰ Klein 1999, xv

⁶¹ Dicken and Hassler 2000, 265

⁶² Dicken and Hassler 2000, 270

⁶³ Hill 2000

these exports made up approximately 25-30% of all Indonesian exports of manufactured goods throughout the 1990s.⁶⁴

Indonesian garment and footwear manufacturers have faced a nearly constant threat of losing their position in global supply chains. Since the 2005 removal of apparel import quotas for the American and European markets, buyers have shifted orders to China, as well as to rapidly growing industries in Vietnam and Bangladesh, in search of lower costs. This has generated many attempts to determine whether the Indonesian garment industry can survive. At present, the export-oriented garment sector has *not* died, and some orders have returned to Indonesia, due to rising wages in China and work disruption in Vietnam.⁶⁵ At a recent conference, the sourcing director for the U.S. apparel conglomerate, VF, reported that the company will more than triple its sourcing from Indonesia in the next four years, since “labor costs and living standards are growing so fast in China and Vietnam.”⁶⁶ Though the threat of losing orders looms large, it appears that Indonesia will continue to be a major apparel and footwear exporter over the coming years.

Interestingly, some have suggested that garment industries in precisely this situation could benefit from branding themselves as socially responsible sourcing locations.⁶⁷ Though Indonesian trade unions are extremely fragmented, Indonesian law does support freedom of association⁶⁸—an aspect of companies’ codes of conduct and CSR policies that is routinely flouted when they source from China and Vietnam, where only state-controlled unions exist. Buyers who want to lend credibility to their codes of conduct might be expected to prefer Indonesian factories, and Indonesian factories might flock toward something like the SA8000

⁶⁴ Hill 2000

⁶⁵ interview with trade association official, Jakarta, 7/8/08; interview with foundation official, Jakarta, 6/25/09

⁶⁶ presentation at WRAP conference, Jakarta, 7/2/09

⁶⁷ Polaski 2006

⁶⁸ Caraway 2006a

certification offered by Social Accountability International to enhance their reputation as responsible producers. Of course, if branding the industry as responsible meant raising wages substantially, supplier factories might find themselves priced out of the market. Yet at the margins, one might expect Indonesian factories to seek advantages through non-price competition—perhaps by highlighting decent working conditions or the existence of a union—or to see trade associations or government agencies promoting the country as a responsible sourcing location.

In general, as in the forest products industry, both public attention and export dependence would appear to make the Indonesian garment and footwear industries susceptible to and interested in international certification efforts. As prior analyses have argued, credible third-party certification should be an attractive option when firms face significant external scrutiny and occupy market positions that make them vulnerable to international pressures.⁶⁹

The Status of Certification in Indonesia

Patterns of forest certification

While there are reasons to expect certification to become a prominent form of social and environmental governance in Indonesia, for the most part, it has not. In the case of forest certification, there are only nine FSC-certified forest management units in Indonesia (as of 2009), representing approximately 1.09 million hectares total. While this is not an insubstantial amount of land, it makes up but a small fraction of the country's roughly 100-120 million

⁶⁹ One additional feature of the Indonesian garment industry potentially bodes well for advocates seeking to gain leverage for multi-stakeholder certification efforts: The garment industry does not have its own trade association (though the association for textile manufacturers does work with garment manufacturers to some degree). This lack of associational capacity should, by some accounts, decrease the industry's ability to fend off external challenges and thus increase its chances of acceding to pressure to cooperate with multi-stakeholder certification initiatives (Cashore et al. 2004).

hectares of total forest cover, more than half of which is designated by the government for “sustainable” production purposes.⁷⁰ Comparatively speaking, Brazil has seen much greater amounts of land FSC-certified (61 forest management certificates, 5.46 million hectares). Even smaller countries like Bolivia and Latvia have more FSC-certified land (1.73 and 1.62 million hectares respectively) than Indonesia does. The Indonesian alternative to the FSC, Lembaga Ekolabel Indonesia (LEI), has similarly only certified 20 forest management units covering 1.5 million hectares, and most of the largest of these are also certified by FSC.⁷¹ Compare this to the 4.4 million hectares certified by the Malaysian Timber Certification Council, that country’s alternative to the FSC. In sum, forest certification in Indonesia has not grown nearly as much as theories that stress international attention and export-dependence would expect it to.

The stunted growth of forest certification in Indonesia is not for lack of effort on the part of international organizations. Government aid agencies, NGOs, and retailers have sponsored a number of projects and consultancies (e.g., Tropical Forest Trust, Timber Trade Action Plan, and Global Forests and Trade Network) to assist forest management companies in getting FSC certified. Yet few of the companies involved in these projects have actually made it to that endpoint.⁷² At the macro level, forest certification has done little to stem the tide of forest degradation, conversion of forest land to agriculture, and illegal logging—all of which remain serious threats to Indonesian forests. Indonesia is perhaps the clearest illustration of Gullison’s argument that FSC certification has had impacts on the relatively few companies that have been certified but has failed to shift the broader dynamics of deforestation and land degradation.⁷³

⁷⁰ Muhtaman and Prasetyo 2006

⁷¹ <http://lei.or.id/en/>

⁷² interview with forestry consultant, Samarinda, 7/6/09

⁷³ Gullison 2003

It is possible that low levels of certification could reflect the strict application of standards, and thus signal a type of success rather than failure of the FSC in Indonesia. It is true that FSC accredited auditors have refrained from granting outright “sham” certifications, and watchdog NGOs have kept a close eye out for such cases. Nevertheless, the evidence about auditing does not suggest an especially strict interpretation of compliance. In the absence of an FSC-endorsed national standard for Indonesia (discussed below), auditors must use their own standards, which increases their discretion in certification decisions.⁷⁴ My initial analysis of audit reports over time reveals that many of the changes that forest managers were required to make in order to get (or stay) certified were procedural rather than substantive, and many of the auditors’ “corrective action requests” went unfulfilled. In some cases, unmet corrective action requests led auditors to suspend the certificate, as required by FSC rules, but in at least two cases (PT Erna Djuliawati and PT Intracawood), instances of repeated non-compliance appear to have been finessed by the auditors, allowing the company to keep its certificate.

It is also possible that the low level of certified forests could simply reflect a lack of demand for certified wood by the industries that *process* forest products. While it is difficult to assess this possibility fully, it is notable that while FSC certification of forest management units has been limited, there has been quite a lot of FSC “chain of custody” certification, which provides the users of certified wood with the ability to label their products as such. As of 2009, there are approximately 130 FSC “chain of custody” certificates in Indonesia, mostly of furniture factories, and this type of certification has grown dramatically among factories in China, a major destination for Indonesian timber. Yet this capacity for processing certified timber is often underutilized, due the limited supply available.⁷⁵ One Javanese furniture company sells an FSC-

⁷⁴ Maletz and Tysiachniouk 2009

⁷⁵ interviews with furniture manufacturers, Yogyakarta, 6/22/09-6/24/09

certified product using certified timber imported from the U.S. Others are hopeful that the supply of certified teak will increase soon, though as discussed in a later section, the de-certification of Perum Perhutani forests makes this unlikely. Several larger firms that supply to IKEA are also among those with “chain of custody” certification, constituting a potentially important market driver. In general, a puzzle still remains as to why the supply of FSC certified timber has remained limited as the apparent demand for it (in the furniture sector at least) has increased. After reviewing patterns of certification in the labor standards case, I suggest some partial solutions to this puzzle.

Patterns of factory certification

Certification of factories with decent labor conditions has similarly had only a limited impact in Indonesia to date. The leading international, multi-stakeholder factory certification—Social Accountability International’s SA8000 standard—is in place for only 11 factories in Indonesia (as of 2009), employing a total of approximately 19,000 workers (a tiny fraction of the country’s total labor force of approximately 112 million).⁷⁶ This compares poorly to SA8000 certification in other countries with competitive garment industries, like India (396 facilities, approx. 269,000 workers), China (231 facilities, 221,000 workers), Pakistan (87 facilities, 47,000 workers), and Vietnam (47 facilities, 54,000 workers).⁷⁷ These figures suggest that SAI’s role in Indonesian labor issues have been even more circumscribed than the FSC’s involvement in forestry.

The activities of SAI in Indonesia have not only been limited in number but also appear to be limited in effect. Two SA8000 certified facilities turned out to have been certified despite

⁷⁶ CIA World Fact Book: Indonesia

⁷⁷ Social Accountability Accreditation Services, certified facilities list, www.saasaccreditation.org/certifacilitieslist.htm

questionable management activities. In one case (PT Theodore Garmino), a complaint spurred an investigation that revealed that management was forcing permanent workers to resign and replacing them with temporary, contract workers, a violation of domestic labor law. In this case, the firm's certificate was revoked. In another case (PT Kasrie), SAI allowed a certificate to continue, despite finding in its investigation that management had infringed upon freedom of association by firing union organizers, which the original audit had overlooked, and which successfully derailed the insurgent union in the factory.⁷⁸ As one observer noted, it is "incredible that trade unionists were fired and a new trade union structure was raised close to management, and SGS [the SAI-accredited auditing firm] said there was no problem."⁷⁹

In general, similar to the case of forestry, independent, multi-stakeholder certification has played a limited role in the governance of labor standards in Indonesia. Yet there are three important ways in which the experience with labor standards does not mirror the case of forestry. First, though the level of international controversy and attention to Indonesian sweatshops has been high, the extent of international efforts to promote credible standards systems has been low. Some development agencies (e.g., GTZ in Germany) have been active in linking environmental and "social" (i.e., labor) certification in various settings, but this does not appear to have translated into projects on the ground in Indonesia. A USAID-funded project on upgrading the Indonesian garment sector tellingly decided to sidestep labor issues altogether.⁸⁰ Recently, the International Labor Organization (ILO) and International Finance Corporation (IFC) have begun to develop a "Better Work" factory monitoring program in Indonesia. But to date at least,

⁷⁸ Social Accountability Accreditation Services 2005. In addition to pointing out the limited nature of SAI's response, this case illustrates the challenges of freedom of association in a context where multiple unions are vying for power, occasionally with as many as three unions seeking to represent workers at a single facility and questions about which unions are legitimate and which are "yellow."

⁷⁹ interview with labor rights advocate, Bonn, 7/17/09

⁸⁰ interview with development consultant, Jakarta, 6/29/09

international efforts promoting labor standards in Indonesia pale in comparison to the numerous efforts focused on forestry (involving a variety of consultants and advocates from WWF, the Nature Conservancy, World Bank, USAID, and others).⁸¹

Second, in the labor standards arena, the stronger, multi-stakeholder certification system has foundered, but a weaker, industry-driven system has grown significantly. The Worldwide Responsible Apparel Production (WRAP) program was originally created by the American Apparel and Footwear Association as an alternative to SAI and the Fair Labor Association.⁸² As of 2009, there are 50 WRAP-certified factories in Indonesia, more than in Vietnam (44) and roughly comparable to the number in Thailand (54), though still less than in China, Pakistan, or India.⁸³ WRAP is also seeking a greater foothold in Indonesia in the coming years.⁸⁴ Unlike SA8000, the WRAP principles set no criteria for wages or hours of work beyond what is allowed by local law; nor do they address the use of contract labor to avoid legal obligations or operationalize freedom of association. More importantly, available evidence suggests that auditing under the WRAP system is quite lax. One Indonesian industry advisor described the audit as “Not so difficult. . . . If they [supplier factories] want to have the certification, then they can get it.”⁸⁵ Even some for-profit labor auditors (who have themselves been criticized as “captured” by activists and scholars) perceive the WRAP program as weak. As one said, “we’ve found a lot of factories audited by WRAP—but our findings conflict—some [in ways that are]

⁸¹ It may be for better or worse that international organizations are not as involved in labor issues. Many labor advocates would rather see domestic actors—especially trade unions—play an important role. Some unions have shown an interest in leveraging corporate codes of conduct, but their capacities for doing so have been limited (interview with trade union leader, Jakarta, 6/25/08; interview with union coalition leader, Jakarta, 6/29/09).

⁸² see Bartley 2007

⁸³ Worldwide Responsible Accredited Production, Certified Facilities, www.wrapcompliance.org/certified-facilities

⁸⁴ observation of presentation at WRAP conference, Jakarta, 7/2/09

⁸⁵ interview with garment industry consultant, Jakarta, 6/29/09

critical, like falsified records or double-books.”⁸⁶ In general, in this case, the weaker initiative has outpaced the stronger one, arguably making labor standards certification in Indonesia little more than a sham.

This description does not fully capture the state of voluntary labor standards in the Indonesian garment and footwear sector, however. Private regulation has indeed grown in this sector, but less through third party certification than through the internal compliance activities of major brands. Many of the major brands producing in Indonesia—Nike, adidas, Disney—have sophisticated internal monitoring programs, supplemented in some cases by external audits done under the auspices of the Fair Labor Association, but they do not rely on external certification. This flies in the face of a received wisdom that says that as claims and counter-claims about corporate social responsibility spiral, third party certification should become the dominant institutional arrangement for reestablishing credibility and trust. WRAP appears to have captured the market for brands that do not have a compliance office that directly oversees supplier factories. Given that third-party certification has become the norm in many other sectors (including forest products) and given theoretical arguments about its superior credibility in the eyes of consumers and retailers, the persistence of internal, firm-specific compliance activities in the garment and footwear sector is somewhat puzzling. This and other puzzles, both within and across the cases of labor and forestry, are taken up below.

Toward an Explanation

The preceding discussion has highlighted the puzzle of why both forest and labor standards certification are underdeveloped in Indonesia, relative to theoretical expectations.

⁸⁶ interview with social compliance auditor, Jakarta 6/30/09. For more on falsification and audit fraud, see Locke et al. 2009.

Solving this puzzle in a comprehensive fashion is beyond the scope of this paper. Nevertheless, I develop partial solutions by delving deeper into the practice of private regulation in each field, starting with forestry and moving to labor.

Forest Certification in an Unsettled Socio-Legal Environment

Why has forest certification remained so circumscribed in Indonesia? One barrier has to do with market demand, since although exports are crucial, the most common destinations for Indonesian forest products are Japan and China, where consumer and retailer demand for green products is very small. Still, given that some exports to China will be manufactured into products destined for U.S. and European markets (illustrated by the growth of “chain of custody” certification in China) and given that the U.S. and EU remain important export markets in themselves, especially for specialty furniture, the underdevelopment of green markets is only part of the solution to the puzzle, not the whole story.

The other important set of dynamics has to do with what appear to be deep conflicts between the logic of certification and the political economy of land use in Indonesia. Simply put, certification evaluates particular forest units, but in several respects, forest governance in Indonesia does not respect the integrity of such units. At the beginning of the New Order era (Suharto regime), the Indonesian state claimed essentially all forest land and remains responsible for granting concessions to manage it. The state has on one hand prioritized the clearing of forests for conversion to agriculture (especially acacia and oil palm plantations), leading to massive amounts of deforestation and forest degradation. But on the other hand, the state has encouraged the growth of industries with an insatiable appetite for timber and a reliance on natural forest concessions to feed that appetite—and when that is not enough, a reliance on

illegal timber. Barr argues that this “structural timber deficit” has made a joke of the Indonesian government’s claims to manage natural forest concessions “sustainably.”⁸⁷ In the words of a plywood conglomerate official, “The government won’t let the industry collapse from lack of raw materials because plywood is too important for the economy. The Forestry Department will always find a way to make more timber available, as long as the demand exists.”⁸⁸

Politically, this structural timber deficit fostered close ties between the Indonesian military, Ministry of Forestry, and the large investment groups (e.g., Sinar Mas/APP Group, Raja Garuda Mas/APRIL Group, Samko Timber) that dominate the pulp and paper and plywood industries. The government subsidized a huge growth in the capacity in these industries in the 1990s, and then defined them as “too big to fail” in the Asian financial crisis, leading to bailouts and further fostering short term profit opportunities and moral hazard.⁸⁹ Certification, like many other policy interventions in this area, fails to tackle what Barr argues is the root cause of deforestation and illegal logging—overcapacity in the pulp, paper, and plywood sectors. This contradiction became clear when one conglomerate—APP Group—forged a series of partnerships with FSC-affiliated certifiers (which assessed a small portion of the company’s land and considered granting it “chain of custody” certification) and publicly touted its links to the FSC, without necessarily changing its overall timber supply practices.⁹⁰ Under pressure from media and environmental groups charging APP with greenwash, the FSC publicly disassociated itself from APP and developed a “policy on association” to prevent the misuse of its name in the future.⁹¹

⁸⁷ Barr 2001

⁸⁸ qtd. in Barr 2001, 40

⁸⁹ Barr 2001

⁹⁰ FSC Watch 2008; Raitzer 2008

⁹¹ interview with certification official, Bonn, 7/17/09

In terms of land use, this structure of collusion and moral hazard appears to have impeded both the Ministry of Forestry and parent companies' interest in allowing firms that do want to harvest a particular area in a responsible way from doing so. Forest management firms taking steps toward FSC certification have sometimes had the rug pulled out from under them by parent companies focused solely on short-term balance sheet entries and government agencies reappropriating forest concessions.⁹² Reflecting on the contradiction between the FSC's focus on the forest management unit and Indonesian forest firms' inability to fully control the forest units they are managing, one person working in this arena lamented that "maybe sustainability at the forest management unit level is not sustainable."⁹³

A second conflict between the logic of forest certification and the practice of land use in Indonesia has to do with the character of land tenure itself. By some estimates, only 12% of Indonesian forests have even been gazetted, meaning that 88% is of ambiguous legal status.⁹⁴ Though land tenure is a problem in many developing countries, Indonesia appears to be an extreme case. It is also a case in which the official system of property rights fails to acknowledge a longer historical set of customary community-based land rights (*adat*).

Such ambiguity about the legal status of forests not only potentially accelerates dynamics of deforestation,⁹⁵ it directly conflicts with the standards of the FSC. FSC principles two and three say, among other things, that "local communities with legal *or customary* tenure or use rights shall maintain control, to the extent necessary to protect their rights or resources, over forest operations unless they delegate control with *free and informed consent* to other agencies," (principle 2.2) and that "the legal *and customary rights* of indigenous peoples to own, use and

⁹² interview with forestry consultant, Samarinda, 7/6/09

⁹³ interview with forestry consultant, Samarinda, 7/6/09

⁹⁴ interview with NGO representative, 6/18/09; interview with certification official, Bogor, 7/1/08

⁹⁵ see McCarthy 2004

manage their lands, territories, and resources shall be recognized and respected” (principle 3) (emphasis added). Yet the Indonesian Ministry of Forestry routinely grants concessions to timber firms for the use of land where communities have customary *adat* rights or where the legal status of the land is disputed.⁹⁶ This creates dilemmas for firms interested in certification, certifiers, and watchdog NGOs. Some NGOs have argued that credible FSC certification is structurally impossible in Indonesia because of land tenure issues.⁹⁷ Companies often argue that they have gained claims to land through normal channels and should not be punished for this.⁹⁸ The FSC and its certifiers have argued that companies and communities might come to private agreements about land rights that satisfy the “free and informed consent” principle, though critics charge that this is no substitute for serious land tenure reform, especially if companies can “buy off” community elites.⁹⁹ This makes the terrain of certification especially uncertain and contentious. As one forestry consultant put it, “the problem is where you [a company] as a rights holder come up against an ineffective government. ‘I’ve done what I can. Is that good enough? Or are you [the certifier] going to hold me ransom?’”¹⁰⁰ Far from transcending state power, attempts to certify Indonesian forests have highlighted the continuing significance of the state in setting the parameters for land use.

These problems came to the fore in 2001, when the Rainforest Alliance suspended the certificate of Perum Perhutani, the state-owned forestry company that had been the first in Indonesia to be certified. By the late 1990s, tensions between the company and surrounding communities had mounted, and Rainforest Alliance auditors eventually decided that the company’s limited efforts toward cooperation and production sharing with the community were

⁹⁶ Colchester, Sariat and Wijardjo 2003

⁹⁷ Colchester, Sariat and Wijardjo 2003

⁹⁸ interview with industry executive, Jakarta, 6/26/08

⁹⁹ Colchester 2006

¹⁰⁰ interview with forestry consultant, Jakarta, 7/3/09

insufficient to stem the tide of unauthorized logging on its land.¹⁰¹ As the auditors reported, “illegal timber trade networks have been operating for as long as the state claimed ownership of all forest lands in Indonesia, [but] times of political destabilization, such as 1998 and 1999, are characterized by sharp increases in illegal harvesting.”¹⁰² Perum Perhutani was a major supplier of teak and other hardwoods, and the suspension of the certificate affected numerous downstream firms and raised questions about the future of FSC certification in Indonesia. While the FSC has continued its operations there, the Perum Perhutani case partly explains why there is a disconnect between the capacity for processing certified forest products (i.e., “chain of custody” certification) and the actual supply of certified timber (i.e., forest management certification).

Finally, forest certification is complicated by the lack of an FSC-approved national standard for Indonesia. The FSC has a universal set of “Principles and Criteria,” but also develops more specific standards that operationalize these for particular countries or regions. Despite two decades of experience with forest certification in Indonesia, no FSC-recognized national standard yet exists there. As a result, FSC-accredited certifiers must develop and rely on their own internal standards, giving greater discretion to auditors and arguably reducing the credibility of certification. The reasons for the lack of a national standard for Indonesia are complicated, but largely revolve around the shifting and somewhat uneasy relationship between the FSC and LEI, which was developed in 1993 as a response “from within Indonesia” to international scrutiny and certification efforts.¹⁰³ Due in large part to the leadership of former Environment Minister Emil Salim, LEI was less beholden to industry than many other domestically-driven certification efforts, which led to discussions between FSC and LEI about

¹⁰¹ Donovan 2001

¹⁰² Rainforest Alliance SmartWood Program 2002

¹⁰³ interview with forestry expert, Bogor, 6/30/08

the development of national standards. For a variety of reasons, various partnerships between FSC and LEI continued, but only tenuously so, and an FSC-recognized national standard never emerged.¹⁰⁴

In sum, Indonesia has proven a difficult setting for forest certification, due largely to the political economy of forestry and the ambiguous character of land tenure. These obstacles are not necessarily unique to Indonesia, but they do appear to be less tractable in this setting than in some others. Furthermore, there has been enough scrutiny of certification efforts themselves—from watchdogs both within and outside Indonesia—and enough transparency built into the FSC system, that the result has been stunted growth rather than the growth of sham certification.

Labor Standards through Multiple Mechanisms

The limited influence of certification in the labor standards arena in Indonesia is somewhat easier to explain. The question here is why multi-stakeholder, third-party certification has not won out over weaker, industry-driven certification on one hand or over firm-specific internal compliance activities on the other hand. I highlight two factors that can help make sense of this outcome.

First, the character of supply chains in the garment and footwear sectors appears to have facilitated the persistence of internal compliance and a low rate of reliance on third-party certification among brands with the greatest investments in CSR. Companies like Nike, adidas, the Gap, and Marks & Spencer have responded to sweatshop scrutiny by developing high profile CSR programs. While in some industries, such firms have become key supporters of multi-stakeholder certification initiatives, in this case, they have tended to build their own compliance

¹⁰⁴ interview with NGO official, Jakarta, 7/8/08; interview with certification official, Bogor, 7/1/08

staff, usually working out of sourcing offices already in the region. Their preference for primarily internal compliance procedures likely stems from a combination of factors—the individualized character of their brand reputation,¹⁰⁵ a desire to “brand” their CSR programs, and the heavy control that they exercise over supplier factories. In addition, there is growing evidence that routine interaction between internal compliance staff and factory management may actually be a more promising way of solving labor problems than the kind of formalized, external auditing central to certification.¹⁰⁶ In short, the credibility benefits theorized to accrue from external certification and the transitory character of internal compliance activities may both be overstated by much of the existing research literature on voluntary labor standards.¹⁰⁷

Second, both domestic and international labor rights advocates have been largely uninterested in certification as a way to address labor issues in Indonesia. To some extent, this is true in nearly every country, as trade unions and anti-sweatshop activists have seen certification systems as corporate dominated, weak in enforcement, and disempowering.¹⁰⁸ Why, then, would this limit the growth of certification specifically in Indonesia? The answer likely has to do with the political context and the viability of other ways of promoting and enforcing labor rights, particularly involving legislation and legal redress. While legal and legislative enforcement of labor standards in Indonesia is highly imperfect, corruption is rampant, and government labor inspection is extraordinarily weak, Indonesia is nonetheless a democratic polity where legal protection of labor rights has *expanded* in the past decade, especially in the protection of freedom of association and the construction of a labor court system.¹⁰⁹ Even on the controversial topic of contract workers, Indonesian labor law is stronger than the strongest codes of conduct and

¹⁰⁵ see Garcia-Johnson 2001

¹⁰⁶ Locke, Amengual and Mangla 2009

¹⁰⁷ Bartley 2007; Elliott and Freeman 2003

¹⁰⁸ Esbenschade 2004; Seidman 2007

¹⁰⁹ Caraway 2006a; Caraway 2006b

certification standards, though this law is often flouted in practice. Whereas private regulation may be nearly the “only game in town” in closed, authoritarian polities (including Vietnam and China), other avenues are available in a setting like Indonesia. To the extent that trade unions do engage with private regulatory standards, they often frame them as “alternative tools—besides using the local and national labor law,”¹¹⁰ and international human rights organizations have become more attuned to the ways in which labor courts might be useful in certain campaigns.¹¹¹ This availability of public regulatory avenues, however imperfect, combined with labor advocates’ critiques of the certification model in general, may explain why international attention and export dependence have not translated into the growth of credible, multi-stakeholder, “high-road” certification in this case. In its absence, a weaker “low-road” form of certification (WRAP) has grown as a way to assuage buyers with minimal CSR commitments. In the broader picture, this account underscores Espach’s argument that the existence of domestic (not merely transnational) coalitions that actively mobilize support for certification explains a lot about certification’s prominence in different countries.¹¹²

Labor and Forestry: Divergent trajectories?

Research on private regulation increasingly compares standard-setting and certification systems across different industries and issue-domains.¹¹³ This work has made a powerful case that similar forms of private regulation are emerging in diverse settings and has helped to expand the scope of the emerging literature. Yet, as Vogel points out, the consequences of private

¹¹⁰ interview with trade union leader, Jakarta, 6/25/08

¹¹¹ interview with NGO leader, Jakarta, 7/7/08

¹¹² Espach 2009

¹¹³ Bartley 2007; Espach 2009; Gulbrandsen 2005; Taylor 2005; Vogel 2008

regulation seem to vary across issue domains.¹¹⁴ My analysis of labor and forestry standards in Indonesia highlights several specific differences across these two domains: In forestry, multi-stakeholder certification (through the FSC) has been promoted in Indonesia by a variety of international organizations, but has experienced limited growth there, partly due to uncertainty and patronage in the political economy of timber and land use, as discussed above. Here, “high road” international certification efforts are symbolically important though practically limited. In the case of labor standards in the apparel and footwear sector, multi-stakeholder certification (through SAI) is not especially prominent. Labor standards are more likely to be governed by particular firms or by weaker, industry-driven certification. Here, third-party certification has largely taken a “low road,” and among those who might have supported a “high road,” one finds firm-specific compliance activities and activism geared more toward the state.

What might account for these different trajectories of standards and certification? First, there appear to be differences in the structure of supply chains in these sectors that are overlooked by the more typical strategy of emphasizing their similarities as “buyer-driven” commodity chains. In the apparel and footwear sector, brands and retailers have tended to rely on their own internal programs, but in forest products, they have more often privileged FSC certification (e.g., Home Depot, IKEA, and Kingfisher).¹¹⁵ This could be a result of the greater role of apparel and footwear brands in directing the entire production process, including design and sourcing of supplies. It could also reflect activists making different kinds of demands of these lead firms. Future research might explore this issue by revisiting the question of precisely

¹¹⁴ Vogel 2005

¹¹⁵ In addition, the difference in the *prominence* of “high road” multi-stakeholder certification initiatives (i.e., FSC vs. SAI) may reflect differences in the transparency of certification in these sectors. The FSC publicly discloses more information about certified operations (such as detailed public summaries of audit reports) than SAI does, and the state of forests is more visible to external watchdogs than the state of particular factories. Partly for these reasons, the credibility of particular certifications has been more open to scrutiny in the forestry arena than in labor standards.

how a firm's reputation, supply chain position, and social movement pressure interact to generate a preference for a *particular form* of private regulation.¹¹⁶

In addition, the difference in the prominence of “high road” multi-stakeholder certification initiatives (i.e., FSC vs. SAI) may reflect differences in the transparency of these particular organizations. The FSC publicly discloses more information about certified operations (such as detailed public summaries of audit reports) than SAI does, and the state of forests is more visible to external watchdogs than the state of particular factories is. Partly for these reasons, the credibility of particular certifications has been more open to scrutiny in the forestry arena than in labor standards.

Finally, it is worth considering whether deep differences in the politics of labor and environmental issues might send certification initiatives down different paths. Distinctions between labor and environmental issues are often overstated. It is tempting to assume that “greening” is more technical, less “social,” and more efficiency-enhancing than are attempts to improve labor conditions. But this caricature overlooks the ways in which many environmental issues—especially forestry—are intertwined with communities, power, and social inequalities, not to mention the “technical” side of labor issues like occupational health and safety.¹¹⁷ It also overlooks the similarities of land and labor as what Polanyi called “fictitious commodities”—that is irreducibly social things that are treated *as if* they are merely quantities to be bought and sold.¹¹⁸

¹¹⁶ Garcia-Johnson 2001

¹¹⁷ Furthermore, although responsible forest management may help to mitigate global warming, it is not like energy efficiency initiatives that promise to save money for consumers and firms.

¹¹⁸ Polanyi 1944

Beyond these caricatures, there are several ways of thinking about potentially important differences in the politics of labor and environmental issues. For many scholars, this means thinking about the extent to which positive externalities associated with improved production practices flow to the public at large—that is, the extent to which certification systems generate public goods rather than only private benefits.¹¹⁹ Of particular importance for certification systems is the extent to which broad benefits might flow to affluent consumers, such that their interest in buying a certified product goes beyond merely “warm glow” preferences¹²⁰ or the desire for political expression.¹²¹ Improved air quality or reductions in global warming, for instance, might provide direct, albeit diffuse, benefits for consumers. The question, then, is whether sustainable forestry and fair labor are different in this regard. Forests’ contribution to enhancing biodiversity and mitigating global warming do make them more in line with conventional analyses of public goods. On the other hand, if one believes that labor standards might generate not only private benefits for the covered workers but also outcomes like greater respect for rights or a leveling of destructive competition in international labor markets, then certification in this arena might conceivably generate public goods as well. These may flow primarily to other workers rather than to the public at large, but these categories should be almost completely overlapping. In short, it is clear that environmental problems have been more powerfully associated with a “common good” frame, but it is less clear if this is fully justified.

A more promising route would focus more on the historical development, ideologies, and strategies of labor and environmental movements in both domestic and transnational spheres. At the transnational level, the “compromise of liberal environmentalism,” whereby major

¹¹⁹ Kotchen and Veld 2009

¹²⁰ ala Feddersen and Gilligan 2001

¹²¹ ala Micheletti 2003

environmental NGOs became more accepting of market mechanisms in the latter part of the 20th century¹²² has no direct analogue in the labor rights movement. This is likely due to a mix of strategic, ideological, and organizational differences between these two movements,¹²³ as well as elite responses to the movements. Though a full analysis of this issue is beyond the scope of this paper, such an exercise may help explain why the FSC has received more consistent support from environmental NGOs than an initiative like SAI has from trade unions and labor rights activists. Within the Indonesian context, history looms especially large over labor movements. Although independent trade unions exist—and have grown in number, if not in power, since democratization—they exist in the shadow of a national history that includes anti-communist purges and killings of union leaders (with a total death toll approximated at 500,000) in the wake of the 1965-66 attempted coup and rise of the Suharto regime. Further inquiry is needed to determine how this shapes domestic actors’ power at the current time and their interest in various public and private regulatory arenas.

Conclusions

Research on private regulation has often left the implementation of standards in developing countries as something of a black box. Some assume that this black-boxed process works “as advertised,” while others assume that private regulation is not up to the task anyway—meaning that opening the black box would merely reveal a smokescreen. The reality of the “governance chain” is both more complex and more interesting than either of these stylized possibilities.

¹²² Bernstein 2001

¹²³ Evans and Kay 2008; Obach 2004

The Indonesian case reminds us of the variety of factors that can limit the significance of private regulation at the point of production. While both the forest products and apparel/footwear sectors in Indonesia experienced high degrees of international controversy and export dependence, in neither sector did credible, third-party certification take hold as much as expected. In the forestry case, the FSC attracted a great deal of attention but fairly low levels of uptake, and concerns about its utility in the Indonesian context have persisted. In the labor standards case, SAI has been outpaced by the weaker WRAP system of certification, while many leading brands have continued to rely on internal compliance activities rather than turning to certification. These findings deserve systematic inquiry that can explain the overall limited significance of certification in Indonesia and unpack the differences across industries. Cross-national comparisons as well as further inquiry into failed or revoked certifications should be central to such work.

It is clear that an emphasis on controversy and export dependence—while an important start—is insufficient to explain the conditions under which multi-stakeholder systems take hold and influence conditions at the point of production. Elaborations that stress industry associations¹²⁴ are useful but may fail to capture entanglements between industry and the state that are especially important in developing countries. Elaborations that focus on emergent domestic constituencies for certification¹²⁵ could benefit from being extended into additional countries and issue domains (including labor).

Do these findings and future directions mean that transnational standards cannot reasonably be expected to apply in diverse domestic settings? Will attempts at universal standards ultimately prove fruitless? Based on this research and other work on global standards,

¹²⁴ Cashore et al. 2004

¹²⁵ Espach 2009

it appears that it is not that universal standards *cannot* be applied in diverse settings. It is that doing so requires a great deal of work, mostly carried out by actors in the governance chain. Here, scholars of private regulation would do well to follow the lead of a growing literature on the “translation” of global standards into particular settings, articulated most powerfully by Merry¹²⁶ and elaborated by other socio-legal scholars.¹²⁷ Scholars of private regulation should abandon the image of global standards bypassing the state and transcending old configurations of power and instead attend to the fascinating ways in which standards are filtered, renegotiated, or compromised as they enter particular political economies.

¹²⁶ Merry 2006

¹²⁷ Fourcade and Savelsberg 2006; Halliday and Carruthers 2007

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