Transnational Corporations and Global Governance

Tim Bartley

Dept. of Sociology

Washington University in St. Louis

bartleyt@wustl.edu

Running title: TNCs and Global Governance

ABSTRACT

Governing across borders would appear to be the task of treaties negotiated by governments, overseen by inter-governmental bodies, and shaped by non-governmental organizations. It is increasingly important to examine corporate involvement. The rise of transnational corporations has challenged national regulation, shifted political priorities, and facilitated forms of private authority in which companies push standards—for safety, sustainability, and human rights—through their supply chains. This article compiles research from a variety of fields to argue that corporations can be seen variously as *supporters, inhibitors,* or *direct providers* of global governance. They have, for example, been supporters of neoliberal trade rules, inhibitors of some environmental regimes, and providers of product safety standards. While scholars may be tempted to focus on just one of these roles or to presume unified corporate dominance, it is important to grapple with all three and to investigate the conditions under which corporate actions are more or less unified and decisive.

Keywords: globalization, political sociology, neoliberalism, corporate social responsibility

Acknowledgments: For helpful comments, I thank audiences at the Max Planck Institute for the Study of Societies and the Reinhard Mohn Institute of Management at Universität Witten/Herdecke.

INTRODUCTION

Commentators and scholars often lament that corporations rule the world, but predominant theories of global governance seem to suggest the opposite: *Everyone except corporations* appears to write the rules that govern across borders. National governments are the central actors in most theories in political science, whether these focus on the evolution of cooperation or realist power politics (Kahler & Lake 2003, Keohane 2001). Constructivists have added epistemic communities of experts, international non-governmental organizations (INGOs), global civil society, and other "non-state actors" (Boli & Thomas 1999, Finnemore & Sikkink 2005). Economic interests may be assumed to shape governments' negotiating positions, but actual corporations are usually relegated to the background. Meanwhile, much research on global governance resembles an alphabet soup of international treaties, UN agencies, and INGOs.

In political sociology, there is a long tradition of research on corporations and public policy, but nearly all of this is focused on the national level, and mainly on the U.S. (Akard 1992, Domhoff 1990, Mizruchi 2013, Prechel 2000). Reviewing research on the political mobilization of firms and industries, Walker and Rea (2014) accordingly focus almost entirely on the American context. Sociological accounts of global governance, in turn, have focused mainly on INGOs and the structure of the world polity (Beckfield 2003, Boli & Thomas 1999, Hughes et al 2009, Schofer & Longhofer 2011) or on global social movements and transnational advocacy (Bandy & Smith 2005, Stamatov 2013).

This article pulls together strands of research that can help us better understand the influence of corporations on global governance. Some of the relevant research comes from outside of sociology, mainly from corners of political science that have attended to corporate mobilization for or against global regimes. This includes "neo-Gramscian" perspectives on international relations (e.g., Fuchs & Lederer 2007, Levy & Newell 2005), comparative politics

research on the interests of firms within and across the varieties of capitalism (e.g., Woll 2008), and some firm-centered strands of international political economy research (e.g., Greenhill et al 2009, Phillips & Weaver 2010). There is, to be sure, a variety of relevant material in sociology as well. This includes debates about a transnational capitalist class (e.g., Robinson 2014), research on the construction of neoliberalism (e.g., Chorev 2007, Quark 2013), theories of transnational legal and regulatory orders (e.g., Dezalay & Garth 2002, Djelic & Sahlin-Andersson 2006, Quack 2010), and accounts of corporate social responsibility and sustainability projects (e.g., Bartley 2018, Tsutsui & Lim 2015).

Drawing from research on a range of sub-fields and topics, I argue that corporations have played three main roles in the drama of global governance—supporter, inhibitor, and provider. First, multi-national and transnational corporations have actively *supported* (and partially devised) some international regimes. This is clearest in the global rise of neoliberalism and its institutionalization in trade agreements. Second, corporations have *inhibited* the expansion of global governance in other arenas, mobilizing to defeat or defang rules pertaining to labor, environment, and health and safety, for instance. Third, corporations have become direct *providers* of global governance, as seen in the rise of transnational governance and private regulation. Here, corporations are not pushing for or against inter-governmental agreements but rather pushing standards for safety, sustainability, technical specifications, and human rights through their global supply chains.

Identifying these three roles helps to see the varied actions of global firms, organize an array of relevant research, and look concretely at processes by which companies have acted. Rather than asserting either a unified transnational capitalist class or a divided set of competing national economies, sociologists should pay closer attention to the vehicles through which companies mobilize, the conditions under which they are more unified or divided, and the

circumstances in which they capture global governance or accept significant compromises. In addition, rather than trumpeting just one of these roles—highlighting corporations' private provision of sustainability and human rights norms, for instance—scholars should inquire into the other two. A company may be providing global governance while working to inhibit more stringent inter-governmental standards or promoting global trade rules that restrict what governments can do.

Global governance was never as state-centered as the literature would make it seem, but it has become especially important to focus on transnational corporations. The rise of global value chains has enabled companies to coordinate production across national borders while keeping their high-value design and marketing activities in affluent countries—or perhaps in offshore tax havens (Davis 2009, Gereffi 2005, Seabrooke & Wigan 2017). This transnational structure of production is one reason why inter-governmental approaches face new challenges —and why activists have turned to the private sector for reforms, making global value chains into infrastructures for the flow of rules (Bartley 2018). Analytically, there is growing interest in moving beyond "methodological nationalism" in macro-sociology (Wimmer & Glick Schiller 2002). States and national boundaries remain essential, but we should also not let a nationalist data infrastructure—with governments as cases—define the research agenda.

NATIONAL, MULTINATIONAL, AND TRANSNATIONAL CORPORATIONS IN SOCIOLOGY

The earliest corporations were essential transnational—in the form of colonial trading companies such as the Dutch East India and English East India companies (see Erikson 2014). But the rise of the integrated industrial corporation in the 19th and early 20th centuries happened mainly within national borders, producing powerhouses like U.S. Steel, General Motors, Renault,

and Siemens. By the mid-20th century, many companies had expanded their foreign investments to become multi-national corporations (MNCs), such as Royal Dutch Shell, the United Fruit Company, Dow Chemical, and Coca-Cola (see Elmore 2015 for an interesting corporate history). Scholars of international business have typically theorized multi-national expansion as a way for large firms to exploit the capabilities they have developed at home or protect their market positions as product cycles make domestic manufacturing uncompetitive (Dunning & Rugman 1985). American banks followed their clients abroad in the 1960s and 1970s, until the third world debt crisis and a wave of consolidation left just a handful of highly globalized financial companies (Mizruchi & Davis 2004).

Increasingly, global firms have taken the form of networked transnational corporations (TNCs) which have extensive global reach but much more limited foreign direct investments. As unwieldy global conglomerates collapsed and financial markets pushed firms to shed all but their "core competencies" (Davis et al 1994), a "supply chain revolution" made it possible for many industries to rely more on global sourcing than on joint ventures (Gereffi 2005). TNCs such as Nike, Apple, Wal-Mart, Ikea, and H&M built their fortunes by nimbly managing networks of independent contract manufacturers. National corporations and integrated MNCs remain, and there is some debate about the amount of change in international trade (Hirst et al 2009), but there should be little doubt that production—and to a lesser degree, corporate governance—has been reorganized on a transnational scale in many industries (Dicken 2015).

Development and Economic Sociology

Thirty years ago, one would have found MNCs occupying central positions in sociological research. Quantitative research inspired by dependency theory asked whether MNC "penetration"—that is, foreign direct investment relative to total investment—affected economic growth and inequality in developing countries (Bornschier & Chase-Dunn 1985). Firebaugh's

(1992) critique opened up a methodological morass, at root exposing the challenge of unpacking closely intertwined measures in small samples of countries over limited periods of time. Still, evidence mounted that FDI tends to increase economic growth, but also promotes income inequality up to a point (likely by initially distorting labor markets and displacing workers through technological change) (Alderson & Nielsen 1999) and stunts economic growth when countries rely heavily on a single source of investment (Kentor & Boswell 2003). More recently, researchers have extended this tradition to additional outcomes, asking how FDI shapes environmental degradation (Jorgenson et al 2007).

While quantitative research sought to infer the effects of corporations, a wave of case study research in the 1980s shed light on how MNCs actually navigated developing countries. As Evans (1979) put it, "Corporations remove control over production from those engaged in production; multinationals extend the alienation across political boundaries" (p.35). His account of dependent development in Brazil highlighted a "triple alliance" of MNCs, domestic firms, and the authoritarian state that promoted a productive though inequitable form of growth. Research by Bradshaw (1988) in Kenya and by Gereffi (1983) in Mexico similarly highlighted the strategies of MNCs and their varied alliances and conflicts with the state and domestic industry.

The growth of economic sociology in the 1990s brought intensive scholarly attention to the corporate form in the U.S. Examining the 19th century origins and 20th century transformations of American corporations, sociologists built the foundations for political, cultural, and relational alternatives to "efficiency theories" in economics (Berk & Schneiberg 2005, Dobbin 1994, Fligstein 1990, Roy 1990). But economic sociology has paid relatively little attention to multi-national and transnational corporations—with several notable exceptions. These include Guillen's (2001) research on the divergent globalizing paths of multinational business groups in Spain, Argentina, and South Korea; Kristensen and Zeitlin's (2005) account of

how an MNC was cobbled together from Danish, British, and American firms; and Bandelj's (2009) research on the growth of FDI in Central and Eastern Europe. Research on the varieties of capitalism sometimes examines multi-national firms, but almost always with an emphasis on national institutional complementarities in the home country (Hall & Soskice 2001).

The strategies of networked TNCs have been most widely studied in the multi-disciplinary literatures on global value chains (GVCs) and global production networks (GPNs). Here, TNCs are analyzed as lead firms in the construction and coordination of complex global outsourcing systems. Specifically, scholars in these traditions have, for example, analyzed the role of large retailers in globalizing apparel production (Appelbaum & Gereffi 1994); identified distinct modes of coordination in the production of fresh vegetables, electronics, clothing, and bicycles (Gereffi et al 2005); and argued that companies like HP, Dell, and Apple have outperformed the developmental state in fostering innovation and upgrading in East Asian electronics manufacturing (Yeung 2014). Scholars in this tradition were also among the first to draw attention to the rise of private global governance (Barrientos 2000, Gereffi et al 2001), as will be discussed later.

A Transnational Capitalist Class?

Finally, a provocative literature on the transnational capitalist class has argued that TNCs are the backbone of a unified class of investors, capable of demanding forms of global governance that facilitate the accumulation of wealth and manage the endemic crises of capitalism (Robinson 2014, Sklair 2000). By this account, what appear to be distinct and competing national economies are actually tied together by interlocking directorates, cross-national (and concentrated) corporate ownership, global business associations, and supply chain linkages. Much of the empirical research in this tradition is highly structural, using network

analysis to document growth in transnational interlocks among the largest global companies (Carroll 2010, Kentor & Jang 2004).

Only rarely have scholars tried to assess whether these structural ties generate unified political action. In one recent contribution, Murray (2017), connects transnational interlocks with contributions by corporate Political Action Committees (PACs) in the U.S. While banks have lost their role as unifying agents in the American corporate community (Mizruchi 2013), Murray finds evidence that other types of interlocks and transnational ties—especially to an inner circle of internationally connected corporate directors—are associated with unity in the PAC contributions of the world's largest companies. Focusing on transnational policy planning networks rather than American politics, Carroll and Sapinski (2010) find a relatively small but important inner circle of business leaders—mainly European executives—who are well-connected to both corporate boards and transnational policy boards (e.g., the International Chamber of Commerce, World Business Council for Sustainable Development). There are clearly infrastructures for coordinated political action, but it also remains possible for competitive concerns to fragment corporate communities in action.

Rather than investigating processes of mobilization or the exercise of structural power, the transnational capitalist class literature often relies on a Marxist style of functionalism: Because the transnational capitalist class needs supra-national organizations to manage crises, a "transnational state" (composed of the World Bank, International Monetary Fund, World Trade Organization, and other organizations) has arisen to fulfill the need (Robinson 2001). This is obviously insufficient if one wants sociological explanations to account for processes, mechanisms, sequencing, or paths not taken (Gorski 2004, Roy 1990). In reviewing evidence about corporations as supporters, inhibitors, and providers and global governance, I will seek to highlight processes of influence to the extent possible.

SUPPORTERS

Corporations and the Neoliberal Project

While some might suspect that TNCs are averse to global rules, they have been enthusiastic supporters and architects of some types of rules, and even of stringent enforcement mechanisms. This can be seen most clearly in the construction of neoliberalism—that is, a set of ideas and policies focused on removing barriers to international trade, expanding the reach of markets, and reducing democratic intrusion into market operations. There is a burgeoning sociological literature on neoliberalism (see Centeno & Cohen 2012), but it has taken a decidedly political and cultural turn. Some scholars emphasize governments and international financial institutions (the World Bank and International Monetary Fund) that have pushed privatization, trade openness, and other neoliberal reforms (Fourcade-Gourinchas & Babb 2002, Prasad 2006). Others highlight communities of intellectuals behind the neoliberal project—from the Mt. Pelerin society of libertarian intellectuals to the networks of economists puzzling over planning (Bockman & Eyal 2002, Mirowski & Plehwe 2015). These accounts are important, but they should not obscure the role that corporations have played in the construction of neoliberalism, particularly at the global level.

The liberalization of international trade—through the General Agreement on Tariffs and Trade and eventually the World Trade Organization (WTO)—happened largely because of the actions of globalizing American corporations, including financial, computing, and consumer products companies. As analyzed by Chorev (2007) this segment of American companies was able to outmaneuver companies demanding protection from cheap imports (e.g., steel and textile producers) and turn the U.S. government into an advocate of global neoliberalism. Starting in the early 1970s, executives from Chase Manhattan Bank, IBM, General Mills and other MNCs used

vehicles such as the Committee for a National Trade Policy and the Emergency Committee on American Trade to push the U.S. government to reduce trade barriers, pacify opponents with "selective protectionism for special cases," and shift trade policy from the legislature to the executive branch, where protectionists had less access. Later, companies such as Texas Instruments, Boeing, and Monsanto led the lobbying to expand the GATT and form the WTO to legalize dispute resolution and further remove trade policy from the U.S. congress (Chorev 2007).

As the WTO was being formed, a handful of companies led the effort to incorporate stringent intellectual property protection rules. "In effect, twelve corporations made public law for the world," Sell (2003:96) argues, referring to the CEOs of twelve American companies—including General Electric, Du Pont, Monsanto, Merck, and Procter and Gamble—who had essentially devised the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Starting in the mid-1980s, through an ad hoc Intellectual Property Committee, these CEOs captured the ear of U.S. trade policymakers, mobilized their peers in Canada, Europe, and Japan, and pushed for enforceable intellectual property protections in the GATT. The group acted nimbly and overcame opposition from developing countries, ultimately getting "95 percent of what it wanted" in the TRIPS agreement, including strengthened WTO dispute settlement and the possibility of criminal procedures against violators (Sell 2003:55).

While U.S.-based firms have loomed especially large in the neoliberal project, European firms have also embraced and helped to globalize it. In the early 1980s, the executives of 17 major European companies, led by the CEO of Volvo, formed the Roundtable of European Industrialists to promote European market integration and revitalize the region in the face of competition from Japan and the U.S. As described by van Appeldoorn (2000), this group gradually shifted from a neo-mercantilist to a neoliberal agenda as new members joined (e.g.,

Shell, BP, Unilever) and the currency union took on a life of its own. By the mid-1990s, the Roundtable had become an avid proponent of the WTO and source of neoliberal policy prescriptions within Europe. Some European companies underwent their own transformation during this period, from champions of their national variety of capitalism to aggressive TNCs. As Streeck (2009) recounts, after Daimler became the first German company to be traded on the New York Stock Exchange in 1993, it steered away from social partnerships and coordinated capitalism, and after merging with Chrysler, embraced shareholder value and tax avoidance.

We should not assume universal corporate control of global economic governance, though. American insurance and financial firms led the charge for a General Agreement on Trade in Services (GATS), and service sector companies in Europe gradually came on board as well (Woll 2008). But as Sell (2003) shows, the final agreement was much weaker than its corporate backers wanted, leaving some routes for governments to discriminate against foreign service providers. Similarly, the corporate backers of the Agreement on Trade-Related Investment Measures (TRIMs) could not overcome divergences with their governments or opposition from civil society. Sell argues that the large industry associations that led the charge in these two cases were less nimble than the CEO group in the TRIPS case. Notably, ad hoc CEO groups were central to the efforts studied by Chorev and van Appeldoorn as well.

In a different way, Quark's (2013) account of the global cotton trade likewise reveals an uneven relationship between corporations and neoliberal trade rules. American cotton producers stood to lose from the liberalization of the cotton trade, but they managed to navigate the global market by teaming up with the U.S. government and transnational cotton merchants to effectively turn their quality grading system into the global standard. Once the WTO was created, though, their ascendant rivals in China were able to contest the American standards system and promote their own alternative. This left transnational merchants and U.S. government agencies

scrambling to reconstitute their authority and ultimately promoting something like "U.S. standards with Chinese characteristics" (p.182). As Quark argues, transnational corporations have clearly driven the expansion of neoliberalism, but their power is contested, and new rivals have "gained growing power through the creative dynamics of the U.S.-led liberal market project" (p.226).

Moreover, there may be settings in which corporations are secondary in the promotion of neoliberal trade architectures. Fairbrother (2014) argues that in affluent countries, companies have been important in seeking the expansion of markets and removal of trade barriers. In less affluent countries, though, technocratic experts in government, backed by the authority of economics and ties to international financial institutions, have been more important. Examining the construction of NAFTA, Fairbrother shows that large companies and business associations in the U.S. almost universally supported NAFTA as a way to institutionalize trade, investment, and access to low wage labor in Mexico. As Dreiling (2000) shows, the Business Roundtable was especially important in structuring this consensus across industry lines. In Canada, the business community gradually embraced trade liberalization—largely to improve access to the American market—as it became more domestically-owned, expansionist, and organized by a Business Roundtable-like group (the Business Council on National Issues). In both countries, economists had their own rationales for supporting NAFTA, but these were sidelined as government officials embraced rationales developed by the business community. In Mexico, in contrast, the government's interest in NAFTA can be traced to dependence on international financial institutions, domestic political changes, and the technocratic economic experts they empowered. Many Mexican industries did embrace neoliberal reforms—as analyzed by Gates (2008)—but they were following rather than leading the government and technocrats, Fairbrother argues.

Globalizing Preferences

Beyond trade agreements, there are a variety of examples of corporations supporting—and shaping—the expansion of global governance. An elite club of experts, the Group of 30, has helped financial corporations globalize their preferred versions of securities and derivatives regulation. The club, which brings the leaders of large financial corporations (e.g., Merrill Lynch, Santander, Barclays, Deutsche Bank) together with academic experts, central bankers, and public sector officials, has produced agenda-setting studies and best practice standards that have been taken up by inter-governmental bodies such as the International Organization of Securities Commissions and the Basel Committee on Banking Supervision (Tsingou 2015).[1] Multinational law firms, especially those based in the U.S., have played key roles in the development of both the human rights and commercial arbitration fields, as research by Dezalay and Garth (1996, 2002) documents. Silicon Valley technology firms—including Google, Facebook, and Intel—have recently amped up their lobbying and convinced U.S. trade representatives to push a digital free trade agenda that combats the so-called "digital protectionism" that China, Brazil, and others have used to foster domestic companies (Azmeh & Foster 2016).

In addition to expanding their markets and protecting their assets, companies are often argued to support global or regional governance in order to harmonize divergent national regimes and "level the playing field" for their competitors (see Bruszt & McDermott 2014, Vogel & Kagan 2004). Farrell and Newman (2014) argue that when companies operate in multiple jurisdictions, they will press for global standards that reduce the uncertainty of competing and fluctuating rules. As an example, they point to the role of banks in supporting data privacy rules that mediated between American and European approaches. One can also point to the Montreal

[1] Based on Tsingou's list, corporate leaders made up roughly one-third of the group's members from 1988 to 2014.

Protocol on Substances that Deplete the Ozone Layer, the 1987 inter-governmental agreement that phased out chlorofluorocarbons (CFCs). It was supported by companies such as DuPont and Imperial Chemicals Industries that had invested in alternatives to CFCs and saw a global ban as a way to gain advantages over their competitors (Murphy 2004). As we will see, though, in other circumstances companies have resisted and inhibited the globalization of rules, sometimes even when "leveling" rationales were plausible.

INHIBITORS

There is little doubt that companies have inhibited the development of global governance in some arenas, particularly with regard to labor rights, climate change, hazardous substances, and corporate taxation. Despite talk of harmonization, transnational corporations often profit from taking advantage of cross-national regulatory differences, whether by gravitating to sourcing destinations with lax enforcement of labor and environmental laws or by setting up shop in tax and investment havens (Berliner et al 2015, Mayer & Phillips 2017, Seabrooke & Wigan 2017). In addition, companies generally resist rules that would limit their autonomy, and they can use both lobbying and the threat of exit to undermine them.

Specifying exactly what has been inhibited and how, though, is more difficult. Scholars typically focus on governance arrangements that have emerged, rather than looking for failed cases or the watering down of rules over time. Additionally, it is usually easier to observe government representatives negotiating final versions of treaties than corporate actions prior to that point. The structural power of mobile TNCs over immobile nation-states—and the chilling effects this can have on policy preferences—are substantively important but methodologically difficult to capture. Nevertheless, some research does show how companies have hindered global rules or pressed for less stringent, less binding, or more narrowly defined versions. Indeed,

looking at how corporations have mobilized against global rules also sheds further light on the conditions under which they will promote or accept particular versions.

Trade, Labor, and Human Rights

TNCs have endorsed voluntary principles on business and human rights (see below), but they have worked to derail instruments that might include binding penalties or extended legal liabilities. In the mid-1970s, a wave of debates about the ethics of corporate investment in developing countries spawned several guidelines and a proposed United Nations Code of Conduct on Transnational Corporations, which some advocates hoped could have legally enforceable provisions. Negotiations dragged on as developing countries split into factions, OECD countries developed their own voluntary guidelines, and multinational companies became increasingly hesitant about even a non-binding code (Sauvant 2015, Tapiola 2015). As this code effort failed, a wave of Bilateral Investment Treaties arose in its place, providing protection to MNCs' assets without imposing additional responsibilities on them.

By the early 1990s, labor and human rights advocates were calling for a "social clause" to be added to the GATT and subsequently the emerging WTO. Unlike the successful linkage of trade and intellectual property rights described above, the call to link trade and labor rights was soundly rejected by the WTO in the Singapore meeting of 1996 and again at the Seattle meeting of 1999. Scholars have pinned the outcome mainly on opposition from governments, employers, and unions in Asia, who feared protectionism from affluent countries (Kolben 2006). But researchers have not asked the comparative question of why the positions of developing countries proved more successful in this case than in many other WTO negotiations.

There is evidence of direct corporate mobilization against some other global human rights instruments. In particular, companies have mobilized against an obscure U.S. law, the Alien Tort Claims Act, which has been used to sue companies in American courts for violations of

international law. In 1996, human rights groups helped villagers in Burma sue Unocal over violence and repression surrounding a pipeline project, and this was followed by cases against Chevron and Shell in Nigeria, Texaco in Ecuador, and Coca Cola in Colombia. As described by Shamir (2004), companies quickly mobilized in response, led by the International Chamber of Commerce and a specialized group called USA Engage, which included Exxon, Dow, Caterpillar, Monsanto, and others. Though it is difficult to disentangle the effects of corporate lobbying from other jurisprudential debates, several court decisions have subsequently limited the use of the Alien Tort Claims Act against companies, and an upcoming U.S. Supreme Court decision is likely to gut it entirely.

Climate Change, Environmental Policy, and the Prospects for Compromise

It is also clear that American corporations have mobilized to inhibit a strong inter-governmental response to climate change. This is likely one reason that there is a fragmented "regime complex" for climate change (Keohane & Victor 2011), rather than a strong unified regime. Starting in the early 1990s, fossil fuel companies and industry associations—most notably, the Global Climate Coalition, which included ExxonMobil, General Motors, and the American Petroleum Institute—supported climate change "skeptics," waged public relations campaigns, and successfully lobbied against U.S. participation in the Kyoto Protocol. Several of the foundations that have supported the larger conservative mobilization on climate change—such as the Scaife and Koch family foundations—are also rooted in the fossil fuels industry (Dunlap & McCright 2011). European fossil fuel companies and the International Chamber of Commerce were also part of a transnational anti-regulatory industry coalition up through the mid-1990s (Meckling 2011).

Corporate positions evolved and diverged over time, though. BP and DuPont became leaders of the International Climate Change Partnership, through which companies promoted

emissions trading over a carbon tax, influencing the eventual design of the Kyoto Protocol and helping to make the EU an avid supporter rather than a critic of carbon markets (Meckling 2011). In what Levy and Spicer (2013) call the "carbon compromise" period (1999-2008), fossil fuel companies (especially in Europe) began looking for carbon market opportunities and investing in alternative energies, while insurance, financial, and branded consumer products companies (e.g., Nike, Apple, and Coca-Cola) began taking positions on climate risks. But then, in what Levy and Spicer call the "carbon impasse" period (starting in 2009), corporate opposition to governmental and inter-governmental action strengthened. Alternative energy initiatives withered under the credit crunch and declining fuel prices, and American fossil fuel companies joined the offensive against the Obama administration's cap-and-trade proposals. Companies that that had previously supported cap-and-trade, such as BP and ConocoPhillips, backtracked. Some information technology and telecommunications companies have become vocal supporters of governmental action on climate change, while large energy companies seem to be hedging their bets through ties to both "denialist" and "low-carbon future" positions (Peetz et al 2017).

On one hand, then, the research on climate change demonstrates how corporate mobilization can affect the viability and approach of global governance. On the other hand, it reveals evolving sectoral and national divisions that have divided the corporate community and fostered a mix of opposition, strategic support, and acquiescence to the expansion of climate governance.

Research on other environmental regimes has revealed more about the mix of corporate opposition and acquiescence to the expansion of global governance. Ovodenko (2016) notes that oligopolistic industries, where a few large firms dominate, should have the power to fight off environmental rules, but that they also seem to be the site of most effective environmental treaties. Pointing to the Montreal Protocol and the recently-signed Minamata Convention on

Mercury, he argues that oligopolistic industries are better able to make technological innovations that allow for smooth transitions to new rules and can provide an effective infrastructure for governments to implement changes. Thus, the Montreal Protocol effectively phased out CFCs but left exceptions for the ozone-depleting pesticide methyl bromide, which is used in the more fragmented and competitive strawberry farming industry (see also Gareau 2013).

When the Minamata Convention was proposed, it covered all heavy metals—mercury, lead, and cadmium. "Well-organized industrial sectors lobbied heavily against the treaty in its original form" (Ovodenko 2016:116) but then accepted a narrower version that restricted industrial uses of mercury—in the production of chlorine, lamps, and cosmetics, for instance. The World Chlorine Council appears not to have pushed strongly against controls, since manufacturers in some countries had already developed alternative technologies (Sun 2017). Meanwhile, exceptions were made for another major source of mercury pollution—the millions of artisanal gold miners around the world. The upshot is that large and powerful corporations can impede broad and stringent global rules—like the original version of the Minamata Convention—but they may also be willing to accept compromises that allow for predictable and profitable transitions, even if these involve binding restrictions.

Competition and Content

Whether companies support or inhibit the globalization of rules seems also to depend on the content of the rule itself. Callaghan (2011) argues that companies will sometimes seek to globalize the rules that they already live with domestically in order to level the playing field and "constrain thy neighbor"—but this leveling potential may not be enough. She shows how British companies supported EU directives that reduced managers' ability to resist takeovers by shareholders, since they already faced this risk and saw the potential to acquire companies elsewhere in the EU. But when it came to EU directives on worker participation, German and

British companies were united in opposition, even though German firms already had high levels of worker participation through the co-determination/works council system. Supporting the directive would have raised costs for their foreign competitors, but German companies feared that the directive would also reduce their autonomy in operating (or moving) abroad and empower labor at home.

Thus, whether companies inhibited or supported the globalization of a rule depended on the competitive potentials and issue-based threats—and perhaps class-based threats—carried in the rule itself. Put differently, both a relatively unified transnational capitalist class *and* a divided set of competing national economies may coexist, with each being activated by a particular episode of rule-making.

PROVIDERS: THE RISE OF PRIVATE AUTHORITY

In addition to supporting or inhibiting inter-governmental agreements, transnational corporations have become direct providers of global governance, covering issues from finance to food safety to environmental justice and labor rights. This is described in burgeoning multi-disciplinary literatures on global private authority, transnational private regulation, voluntary sustainability standards, and corporate social responsibility (Auld et al 2008, Büthe & Mattli 2011, Cutler et al 1999, Quark 2013, Tsutsui & Lim 2015, Vogel 2008).

Through private governance, companies can create harmonized standards without government action (Büthe & Mattli 2011), manage risks and preserve their brand reputations (for quality, safety, sustainability, or fairness) (Hatanaka et al 2005), respond to "naming and shaming" campaigns by social movements (Bartley et al 2015, McDonnell et al 2015), and/or meet investors' growing demand for "environmental, social, and governance indicators" (Barman 2016). The failure of inter-governmental agreements and rise of neoliberal prescriptions have

facilitated the growth of private governance by channeling institution-building to the private sector in a variety of ways (Bartley 2007).

Finance

Global financial markets would seemingly be inoperable without private forms of governance. Rating agencies, such as Moody's and Standard & Poor's, essentially regulate the debt of corporations, as well as national and municipal governments (Carruthers 2013, Sinclair 2005). The global market for derivatives depends heavily on the International Swaps and Derivatives Association's Master Agreement, a striking technology of private governance (Riles 2009). Similarly, the London Interbank Offered Rate (LIBOR) was a privately-managed indicator, though it was subjected to greater public oversight after recent manipulation scandals (see Angeletti 2017).

Researchers have paid particular attention to the rise of global accounting standards. Professional bodies formed an International Accounting Standards Committee in 1973, after several failed attempts to harmonize accounting methods through inter-governmental arenas. A key change occurred in 2001, when this was transformed into the International Accounting Standards Board (IASB), governed more by large accounting firms than by national professional bodies (Botzem & Quack 2006). The "big 4" accounting firms took on an especially central role, contributing roughly 60% of financial support and having former executives in four of the twelve seats on the governing board (Nölke & Perry 2007, Perry & Nölke 2005). Initially hesitant, EU authorities endorsed the IASB standards in 2005, apparently seeing them preferable to the globalization of the American approach (Farrell & Newman 2014). Yet the IASB standards veer more toward an Anglo-American model, and Büthe and Mattli (2011) find that American firms have had the greatest influence over the IASB. This is not because of sheer power, they argue, but because the American system (via the Financial Accounting Standards Board) has a

hierarchical structure that matches the IASB, while the European system was more fragmented. In a different domain—namely, technical product standards— Büthe and Mattli find that European systems have proven more congruent with and thus more influential on the International Organization for Standardization. By this account, even while private governance has fostered convergence on global standards, domain-specific national institutional differences have determined which corporations' standards have been globalized.

Food Safety

Studies of global food systems point to the rise of large supermarkets as de facto regulators of quality, safety, and sustainability in agricultural operations around the world (Busch & Bain 2004). In fact, Clapp and Burnett (2013) argue that while WTO negotiations on agriculture have stagnated, private actors have become the key players in governing global agriculture. The concentration of food retailing—especially in Europe and increasingly in the U.S. as well—means that companies such as Carrefour, Tesco, and Wal-Mart have a tremendous amount of power over suppliers, and the growth of "private label" brands and direct sourcing means that there are fewer intermediaries between supermarkets and farmers around the world (Hamilton et al 2011).

Food safety standards are routinely incorporated into contracts between retailers and their suppliers, who are often asked to get third party certification to demonstrate their compliance with the predominant "hazard analysis and critical control points" (HACCP) approach (Hatanaka et al 2005). Governments have also adopted the HACCP approach, but they typically use risk-based oversight approaches, focusing on risky operations and accepting private certification (e.g., by GlobalGAP or the British Retail Consortium) as an indicator of low risk (Verbruggen 2013). It remains a challenge to cover complex agro-food networks, and safety lapses still occur, but food safety standards have imposed strict discipline on farmers and manufacturers around the

world. The high cost of standards can marginalize small producers, but there is also evidence of producers coping with and leveraging food safety standards. Perez-Aleman (2013) shows how dairy cooperatives in Nicaragua learned new food safety systems and upgraded their capacities, and Coslovsky (2014) shows how Bolivian firms used food safety standards to become the dominant producers of so-called Brazil nuts. For governments in the global south, the food safety standards imposed by dominant companies, importing countries, and the WTO have scientized risk management in complex, and perhaps contradictory ways (Epstein 2014).

Sustainability and Labor Standards

Large supermarkets have also been essential to the rise of sustainability standards and the "mainstreaming" of organic and Fair Trade certification (Barrientos & Smith 2007, Bartley et al 2015, Fuchs & Kalfagianni 2010, Raynolds 2009). As Schurman and Munro (2009) show, the highly concentrated supermarket sector in the UK made it a prime target for anti-GMO activists and led to GMOs being effectively banned in the British market through the policies retailers adopted. The more fragmented supermarket sector in the U.S., in contrast, proved much less receptive.

More broadly, environmental NGOs have used a combination of activist campaigns, corporate partnerships, and public scorecards to convince large retailers and manufacturers to support sustainability standards and join multi-stakeholder initiatives, in which NGOs also have a seat at the table. Wal-Mart and McDonalds agreed to promote certification to the Marine Stewardship Council's standards for seafood, for instance, while Nestle and L'Oreal promised to get suppliers certified to the standards of the Roundtable on Sustainable Palm Oil (Auld 2014, Ponte 2012).

It is becoming clear that even the most credible multi-stakeholder initiatives rely heavily on participating companies to push standards through their supply chains (Bartley 2018,

Vandenbergh 2007). Through contracts that demand compliance or incentives for certification, large retailers and brands end up being the primary enforcers of sustainability standards, even when there is oversight by multi-stakeholder groups and independent auditors. The Forest Stewardship Council, despite its serious commitment to multi-stakeholder governance, has relied heavily on companies such as Ikea, B&Q, and Stora Enso to promote—and sometimes subsidize—the certification of forest management operations (Bartley 2018). Researchers have argued that corporate dependence limits what voluntary standards can accomplish (Jaffee 2012, Moog et al 2015), but there is also evidence of some initiatives—particularly the Forest Stewardship Council and Fairtrade International—preserving their stringency in the face of industry pressure (Child 2015, Overdevest 2010, Raynolds 2017).

Transnational corporations have also become direct providers of global labor standards and purported protectors of human rights (Anner 2012, Bair 2017, Locke 2013, Seidman 2007, Tsutsui & Lim 2015). Following a wave of anti-sweatshop activism in the late 1990s, apparel, footwear, and toy brands in North America and Europe adopted codes of conduct (or ethical sourcing policies) for their global supply chains and began monitoring compliance, sometimes with help from auditing firms or multi-stakeholder initiatives. This soon spread to the electronics, food, and mining industries, spurring growing fields of practice (and research) focused on corporate social responsibility. The UN's Guiding Principles on Business and Human Rights and related Global Compact initiative have garnered support from thousands of companies around the world, though it is a much smaller number of branded TNCs (e.g., Nike, H&M, the Gap, HP, Marks & Spencer) that have been central to more rigorous multi-stakeholder compliance and capacity-building projects (Locke 2013, Tsutsui & Lim 2015).

Much research has focused on the rise of global corporate social responsibility, its market and political underpinnings, and a debate about whether it is predominantly a reflection of

neoliberalism or an extension of prior forms of "institutionalized social solidarity" (see Brammer et al 2012, Tsutsui & Lim 2015). To the extent that researchers have looked at these rules "on the ground," they have often found low quality auditing, evasion by suppliers, weak enforcement of collective rights, and poor coverage of subcontractors (Anner 2012, Nadvi & Raj-Reichert 2015, Seidman 2007). A growing body of research is identifying some conditions under which compliance is more plausible (Distelhorst et al 2015, Toffel et al 2015) and several pathways to improvement (Esbenshade 2012, Locke 2013, Oka 2016), but nearly always within the constraints of TNCs' demand for low prices and quick deliveries. In recent work (Bartley 2018), I have compared land and labor standards as implemented in Indonesia and China, finding that both fair labor and sustainable forestry standards are of limited significance and are altered by the domestic context, but labor standards have been especially troubled.

Making Sense of Consequences: A Substantive Typology of Rules

Strikingly, the existing research portrays some private rules as revolutionizing production and tightly controlling their targets, while other rules are met with evasion, weak oversight, and only modest reforms. As I argue in Bartley (2018), we can get some purchase on the reasons with a simple typology of rules and the consequent preferences of TNCs. First, the primary purpose of rules may be either to coordinate or restrict markets. Market-coordinating rules seek to harmonize divergent national approaches and thus expand markets, as seen in accounting, quality, and technical standards. Market-restricting rules seek to limit activities that might be profitable but that would expose consumers, workers, or residents to serious hazards, as seen in product safety, labor and environmental standards. TNCs usually have a strong interest in market-coordinating standards. They often get enmeshed in conflicts about *whose* standards should be globalized, as seen above, but they rarely question *whether* global standards are desirable. TNCs' interests in market-restricting standards, on the other hand, tend to be indirect

and defensive. Firms would prefer more autonomy, but they recognize that standards may help them manage risks to their reputations and market positions.

Second, rules might seek to affect the product or the production process. Quality, safety, and inter-operability standards typically focus on products, while labor standards, most environmental standards (except those focused on the health of a product), and even accounting standards focus on the production process—that is, on how workers are treated, how natural resources are managed, or how profits are calculated. The "product versus process" distinction has been much debated in WTO jurisprudence (see Kysar 2004), but its importance to the current discussion is simply that it shapes *where* the hazards of non-compliance tend to be felt. For product-focused rules (such as food safety), hazards travel along with the product to the end-consumer—and can usually be easily linked to the seller or maker of the product. For rules that focus on the production process, though, the hazards of non-compliance largely stay near the point of production, in hazardous workplaces, polluted local environments, and degraded landscapes, for instance. Here, TNCs may have an interest in minimizing bad publicity and protecting their brands, but given the distant and indirect links to the possible damage, this interest can easily be trumped by other business priorities.

Crossing these two dimensions, it is not hard to see why TNCs have adopted but not always vigorously enforced market-restricting rules focused on the production process (e.g., labor and sustainability standards). Stringent enforcement would reduce a company's autonomy, and the risk management benefits would be comparatively fuzzy and distant. TNCs tend to take a stronger interest when market-restricting rules are focused on the products themselves, as with product safety standards. These still reduce corporate autonomy but also help to manage potentially direct and severe risks. TNCs should most vigorously promote market-coordinating rules, seemingly whether they pertain to products or production practices, since these carry the

prospect of market growth. This simple typology points out the importance of differentiating rule-making projects and helps to make sense of their varied outcomes.

IMPLICATIONS

Corporations play multiple roles—supporter, inhibitor, and provider—in the drama of global governance. While these roles have been obscured by many theories of global governance, other research literatures risk focusing on one role without recognizing the others. In particular, in the enthusiasm to understand TNCs as the new providers of global rules, scholars of CSR and sustainability seem to forget that companies have also worked to inhibit inter-governmental rules in the same domains. Or, in the desire to portray companies as seeking a freewheeling and unregulated global economy, scholars may forget that companies have promoted sweeping and binding rules for trade and intellectual property protection. Market-making requires rule-making of a particular sort, even if other rules tend to be broken or prevented in the process. Some companies may be playing all three roles simultaneously. Going forward, it would be useful to study the mix of roles—and positions on different rules—in a sample of large TNCs, rather than having separate bodies of research for each role.

Second, it should be clear that corporations are important and privileged players in global governance arenas but do not fully control them. Some corporate mobilizations to shape the WTO, for instance, have succeeded while others have fallen short. Companies have helped to defeat or cripple some inter-governmental treaties, but in other cases they have had to accept significant compromises. There are hints in the existing literature about when and how corporations gain the upper hand—regarding CEO groups, industry structure, and competitive threats and opportunities—but there is room for far more research on the conditions for corporate

capture or compromise in global governance arenas. Systematic comparisons of issue domains, industries, and time periods would be especially helpful.

Third, substance matters. As discussed above, the content of a rule-making project appears to influence whether companies will treat it as an opportunity to level the playing field against foreign competitors or as an industry-wide or class-wide threat to be defeated. In addition, the content of rules—that is, whether they coordinate or restrict markets and pertain to products or production processes—seems to shape the depth of companies' investment in providing global rules themselves. More research is needed to assess the simple typology sketched above and to identify exactly when corporations perceive global rules as threats or opportunities. More generally, these are just two indications of the need to avoid formalistic accounts of global social structure, which tend to strip social processes of both their context and contents.

Finally, it is important to ask whether these roles rub off. For instance, do corporations who have embraced the private provision of global governance become more likely than their competitors to support stringent and binding governmental regulation and inter-governmental agreements? There are some hints that they do. Nike broke with the American Chamber of Commerce in not opposing China's labor contract law of 2007 (So 2010), and Carrefour, B&Q, and Ikea supported the EU Timber regulation of 2010, which penalizes the sale of illegally harvested forest products (Leipold et al 2016). Perhaps private governance is helping to create a new global "corporate liberal" block that will do less to impede inter-governmental rules for environment, labor, and consumer safety. On the other hand, there is also evidence that companies that embrace voluntary provision of global governance will resist even seemingly minor moves toward legal obligation. The EU's Non-Financial Reporting Directive merely mandates particular forms of sustainability and CSR reporting for large, publicly traded firms.

Ikea and Unilever—two firms central to global private governance—publicly supported it, but hundreds of other firms that engaged in voluntary reporting nevertheless fought against this mandate, ultimately weakening the law's substance and scope (Kinderman 2016).

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