WHO GOVERNS AND HOW? NON-STATE ACTORS AND TRANSNATIONAL GOVERNANCE IN SOUTHEAST ASIA

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Abstract
This Special Issue focuses on transnational governance, essentially cross-border networked forms of co-ordination in which non-state, or private, actors play important or leading roles in providing standards, rules and practices that other actors voluntarily abide by. While not denying the pre-eminent role of the state in governance, we nonetheless believe there is an under-estimation of transnational governance in Southeast Asia and the varied governance role played by non-state actors that go beyond that of simply acting as pressure or advisory groups lobbying or advising states and regional organisations. We provide five different case studies that explore in detail the varied governance roles played by non-state actors using the common analytical framework set out in this Introduction. The case studies reveal interesting variations in the architecture of transnational governance, why they emerge, the modes of social co-ordination through which they work to shape actor behaviour and achieve impact, their normative implications, and how these governance schemes intersect with the state and national regulatory frameworks. This Special Issue, thus, highlights the variegated architecture of governance in this region in which non-state actors play substantial governance roles regulating the conduct of other actors.

Keywords
Transnational governance, non-state actors, progressive governance, functional networks, multi-level governance, Southeast Asia.

The question of "who governs and how" directs attention to the growing role of non-traditional actors – rising powers, middle powers, developing states, and non-state actors – working to fill in the gaps in traditional state-based forms of governance including multilateral or inter-governmental institutions. Scholars of international organisations have increasingly focussed on how rising powers and even developing states are re-shaping regional and global forms of governance (see Acharya 2014). This is unsurprising because there is real dissatisfaction on the part of these states with not only the distribution of power in existing governance institutions but also some of the fundamental norms and principles that underpin them. Moreover, we now have examples of where dissatisfied rising powers are prepared to introduce their own new governance forms to fill perceived gaps, or where there

is frustration with the pace and direction of change in existing institutions (or both). The creation of the BRICS New Development Bank and the Asian Infrastructure Investment Bank might not individually or collectively represent the fundamental radical rejection of dominant modes and principles of development financing that some have suggested. Nevertheless, they show that states that were not key actors in the creation of the current global order have both the desire and the capacity to ensure that their preferences and interests are more clearly heard and articulated (and their growing power resources more effectively used) than current governance forms allow.

In the light of these developments, focusing on the preferences and actions of states in promoting (or resisting) governance reform is entirely understandable. And we certainly would not deny here the significance of states, including but not solely the major powers, in shaping the nature of both global and regional forms of governance. However, we do suggest that focussing on states alone gives us only a partial understanding of the drivers of change, and indeed, also the extent of this change. A range of different actors (in addition to states) are actively involved in ongoing dynamic transitions that are impacting on what is governed, for what reasons, how, and where. Moreover, the involvement of a more diverse cast of governing actors is also driving shifts in the institutional configuration of governance.

For example, new forms of authority structures have emerged in world politics that are not necessarily "coterminous" with state "territorial space" (Rosenau 2003, 39). In these governance spaces, which can span multiple levels, a variety of actors such as states, international organisations, and non-state actors located at various sites around the world are increasingly able to shape the conduct of other actors. Ruggie (2004, 503) points out that non-state actors have, in fact, now carved out "non-territorial spaces and management systems" in which they directly regulate business on sustainability, human rights or labour standards. This form of transnational governance, sometimes termed transnational private

governance or transnational private regulation, depicts the cross-border networked forms of co-ordination in which a variety of actors, but especially private or non-state actors, provide standards, rules and practices that other actors, often corporations, voluntarily adopt, in areas such as the environment, labour practices, industrial safety, accounting, banking and finance, and telecommunications to name a few (Hall and Biersteker 2002; Graz and Nolke 2008; Abbott and Snidal 2009; Avant, Finnemore and Sell 2010; Ruggie 2014; Roger and Dauvergne 2016). Non-state actors that have taken on key governance roles in these processes include multinational corporations (MNCs), other business firms, non-governmental organisations (NGOs), industry associations, philanthropic foundations, and experts. These forms of transnational governance are now a significant feature of world politics, their emergence often the result of deficits in state-based governance in a variety of issue areas. In transnational governance, non-state or private actors play important roles in the authoritative allocation of values for societies by developing, monitoring and even enforcing standards, rules and practices that regulate some aspect of social life.[1]

We distinguish between variants of transnational governance. One type, public-private governance partnerships bring state and non-state actors together to accomplish governance in some issue area. Within this category, partnership through delegation is rather common whereby state actors, who are the principals who retain decision-making authority and control over the setting of rules and standards as well as enforcement, formally delegate to non-state agents tasks like monitoring outcomes or undertaking service delivery in the issue area concerned (see Green 2014). A second variant of public-private partnership sees state actors formally deemed equal partners with non-state actors (Abbott and Snidal 2009). Another fast-growing category of transnational governance is the purely private governance scheme in which non-state actors either singly or jointly with other non-state actors initiate and enforce standards and rules to regulate the actions of other actors, usually corporations

(Abbott and Snidal 2009).[2] Because state actors are absent or have minimal direct roles in these private voluntary regulatory schemes, they raise important questions about how these schemes emerge and are then adopted by those who choose to voluntarily commit to these standards in the absence of state directives to do so. Whatever form they take, transnational governance schemes signify the expansion of authority beyond the state and have become a "fairly solid third pillar of global governance that complements inter-governmental and trans-governmental networks" (Dingwerth 2008, 608).[3] In this more complex multi-centric world, states and non-state actors "operate at times independently of each other, at times in open rivalry, and sometimes as cooperative partners in constructing new emergent structures of order" (Karkkainen 2004, 74). In this Special Issue, we are interested in the private or non-state actors playing these kinds of governing roles undertaking actions that go beyond advocacy or lobbying.

The non-state actors underwriting these regulatory schemes have been likened to governments but "producing a disengagement of law and state" in global governance (Cutler 2002, 32-33). As such, these schemes constitute new transnational and non-territorial spaces of governance that could pose a challenge to states, the "traditional territorially-based" sites of rule-making (Ruggie 2004, 503). But, rather than seeing authority simply and unproblematically shift *from* the state *to* the private sphere, these transnational spaces of governance are better regarded as sites of collaboration and/or contestation among the various private actors who may be involved in producing these regulations or are affected by them as well as with state actors who display "differences in their respective willingness to resist or embrace these [transnational] trends" (Ruggie 2004, 522). Because all systems of rule have distributional effects, with some gaining and others losing, this new transnational sphere complicates governance because it creates a new level or scale that can privilege different interests, ideas and actors from those privileged by state-based national and regional

governance (see Hameiri and Jones 2013). It also involves contests over authority, over who has the right and legitimacy to make rules that ought to be obeyed. Although in this article we recognise that non-state or private actors can be closely linked to the state, for instance, in the form of government-linked corporations or government-created or government-sponsored NGOs, we nonetheless find it useful to maintain a distinction between state and non-state actors for analytical purposes and to avoid presuming an *a priori* conflation of interests between state actors and non-state actors closely allied to the state. Our interest in these schemes stems from these more novel governing roles undertaken by non-state actors, prompting us to ask whether we can find similar trends in Southeast Asia.

There is certainly a large literature that has explored the role of business networks, civil society groups and scholars' networks in regional governance in Southeast Asia (see Bowles and MacLean1996; Lee 2004; Caballero-Anthony 2005). However, these non-state actors have been studied more for their advocacy activities directed at states and international organisations or in providing expert advice to these traditional governors in world politics rather than as rule-makers and enforcers themselves. There is a fine line separating these roles, however. Advocacy may be the pre-cursor to undertaking governance tasks while the provision of expertise is closely intertwined with rule-making and adjudication. Nonetheless, we are interested in exploring additional or new roles that non-state actors play beyond simply acting as pressure or advisory groups lobbying or advising states and international organisations to make or change standards, rules and practices. To date, there is little explicit focus on analysing such kinds of transnational governance activities in the region. While recent exciting works on multi-level governance in the region such as Jayasuriya (2015) and Hameiri and Wilson (2015) recognise that corporations, NGOs and scholars' networks are crucial players, state bureaucracies are the primary governing agents in these works, which

are also less focused on precisely *how* non-state actors actually govern. This collection of articles attempts to fill this gap in the literature.

In this collection, we are not suggesting the end of the state as a governing actor. Nor do we suggest that current regional institutions have no future as a provider of regional public goods and regional governance. However, we are keen to explore other forms of governance that take place in Southeast Asia beyond these state-centric configurations. We examine forms of governance in which the state is not the sole governing actor but delegates governance tasks to non-state actors, we also consider governance frameworks in which states co-govern with non-state actors as equal partner. We also explore purely non-state governance schemes in which the state is absent as a governing partner. While transnational governance, even when it is purely private, clearly occurs within national regulatory environments, our studies also reveal how transnational governance sometimes works within and in fact may be synergised by such regulatory environments but transnational governance could also challenge national regulatory frameworks. In other cases, transnational governance emerges in regulatory lacunae, to fill governance gaps. Thus, our papers also explore how and why non-state actors become involved in transnational governance, how these actors navigate national regulatory frameworks, and state responses to these moves.

But, are such forms of non-state governance even possible in this region? It has been implicitly assumed that transnational regulation will not take root in Southeast Asia to the extent it has in the developed world because of the still dominant state in this region. This does not seem like an unreasonable proposition given that member states are not even willing to cede authority to formal regional institutions like the Association of Southeast Asian Nations (ASEAN). In fact, Southeast Asia is usually regarded as rather hostile to the activities of autonomous non-state actors, especially when these actors challenge state agendas and offer alternative ideas of governance on key issues. Although non-state actors

have become a common feature targeting national governments as well as ASEAN on a wide variety of issues, translation of that activism into influence on governance – institutions, ideas, policies and practices – is not always assured because state actors have been able to control civil society agendas and discourses as well as dictate whose voices are heard (Quayle 2012; Gerard 2014). Involvement of civil society, business networks, scholars or experts in governance is usually only tolerated if their demands and actions do not fundamentally undermine or challenge the power and authority of states. In fact, the hierarchical "corporatist state", which Ruland (2014) argues is the dominant political form in Southeast Asia, tightly controls interest group representation to preserve its hegemony.

Indeed, it is entirely for this reason that governance gaps exist in the region, forcing concerned and affected actors to search for other sources and sites of governance beyond national and regional cooperation frameworks like ASEAN. Traditional national and regional inter-governmental efforts have not been effective in addressing a range of issues and problems in Southeast Asia such as on the environment, labour standards, land conflicts, migrant workers, human rights and good governance (see Aggarwal and Chow 2010; Elliot 2012; Davies 2013; Nesadurai 2014; Varkkey 2016). Regional governance through ASEAN remains narrowly focused and conservative, committed to the principles of state sovereignty and non-interference, and therefore mimicking and usually reinforcing the ineffective, limited or absent national governance on these pressing issues and problems. Because many of these issues are associated with dominant economic activities across the region, and often interwoven with the interests of state and corporate actors bound in the patronage networks so ubiquitous across Southeast Asia, there appears to be little political will to address these collective interest problems.

Yet, non-state actors do act as makers and enforcers of new standards and practices in Southeast Asia. Sometimes non-state actors have been delegated those roles by state actors,

sometimes they act in collaboration with state actors, and sometimes these governance arrangements are fully private in that they exclude involvement by state actors. These variants of transnational governance provide rules, standards and guidelines for socially responsible behaviour in a diverse range of sectors including forestry, environmental sustainability and labour practices, though with varying degrees of effectiveness and attention to normative considerations. The Forest Stewardship Council (FSC) established in 1993 as a joint effort of NGOs and corporations to certify that traded timber is produced from sustainably-managed forests has a small footprint in Southeast Asia although its effectiveness has been limited (Bartley 2010). The FSC emerged out of the failure of governments to conclude a multilateral global forest management agreement. Private labour codes stipulating factory working conditions and workers' rights have been adopted by global corporations pressed by NGO watchdogs (Bartley 2010; Garwood 2011). Even in national security we see private security companies providing important anti-piracy services, for instance, in the Strait of Malacca (Liss 2009). States sometimes form governance partnerships with corporations and NGOs such as those in Cambodia aimed at protecting labour rights in local factories (Wetterberg 2011). Indonesia and Myanmar also participate in a tripartite regulatory arrangement, the Extractive Industries Transparency Initiative that brings together states, corporations and civil society/NGOs as formally equal partners to reduce corruption in the mining sector by enhancing transparency over the revenues and payments received by governments from mining companies awarded concessions.

However, there is little systematic study of the transnational governance phenomenon in the literature on Southeast Asia. We suggest that there has been a general under-estimation of the extent to which transnational governance constitutes a salient part of multi-level governance in Southeast Asia. This Special Issue makes a modest attempt to redress this misperception by providing five different case studies of transnational governance in the

region. Our aim is not to be comprehensive – an impossible task with a limited number of articles – nor to seek to find single and once-and-for-all answers to why transnational regulation emerges. On the contrary, we focus on difference and diversity by providing examples of very different types of transnational governance that help us to show the variations in:

- the structure, or architecture, of these schemes;
- why they emerge;
- the processes or modes of social co-ordination through which they work to shape actor behaviour and achieve impact;
- their normative implications; and
- how these schemes intersect with the state and with existing regional institutional forms of governance.

Although the recent excellent work on multi-level regional governance is valuable in demonstrating the political drivers and contests involved in re-scaling governance beyond the state, this work does not fully explore the possibility of what Ruggie (2004, 521) calls a "distinctive public domain" of transnational governance (see Hameiri and Wilson 2015 on Southeast Asia). The articles in this Special Issue probe more deeply into the governing roles of non-state actors and how they exercise agency in shaping the conduct of others. As we have noted at the outset, these transnational realms of governance see private actors rather than just states engage in the authoritative allocation of values for societies by developing, monitoring and even enforcing standards, rules and practices that regulate some aspect of social life. The standards and rules prescribed by non-state governance often seem to challenge prevailing practices in these states. But, these rule systems could as well aid state actors to more effectively govern local or trans-border problems. Consequently, it is important to ask how states in Southeast Asia respond to these systems of rule. Transnational

governance also requires more detailed analysis as to its progressive potential for creating paths to fairer or improved outcomes compared to prevailing state-based governance.

THE ANALYTICAL FRAMEWORK AND OVERVIEW OF THE STUDY

Common Questions, Diverse Cases

This collection of articles attempts to address such lacunae in the study of regional or multi-level governance in Southeast Asia through its focus on transnational governance. The authors were not asked to adopt a common theoretical framework but they were asked to address three common questions to help us plot the contours of this new mode of governance, using five case studies in different issue areas as points of entry:

> (i) Who are the key non-state or private, actors involved in various governance schemes, what institutional forms does governance take and what kinds of social processes are involved in co-ordinating behaviour?
> (ii) Why have these actors engaged in these processes of governance and how do these actors interact, if at all, with the state, still regarded as the traditional site of authority in this region?
> (iii) Does the involvement of non-state actors offer the possibility of "progressive" governance defined in this collection as principled improvements over the governance status quo in the different issue areas under consideration?

The cases were selected to highlight different aspects of each of these questions in terms of who governs, why these actors have chosen to govern, and how governance is accomplished.

These are also key questions in the field of global governance, which has gone much further in recognising the diverse modes of governance through which order and even justice might be achieved.

The five papers in this Special Issue address these questions in five diverse strategic sectors or issue areas salient to the Southeast Asian political economy—(i) the palm oil industry, a strategic economic sector in Indonesia and Malaysia, targeted as a key pathway to development in other Southeast Asian countries, but which is implicated in environmental destruction with regional and global implications (Nesadurai 2018); (ii) the mining sector, which is a crucial resource earner in this region but reputed to be so mired in corrupt practices that domestic publics are not gaining from state policies of attracting investments into extractive sectors (Bünte 2018); (iii) maritime safety and security, which has substantial economic as well as political implications given the critical importance of safe sea lanes for the movement of goods and people in the waterways in and around Southeast Asia (Ba 2018); (iv) labour migration, a key source of economic growth and income in both labour-receiving and labour-sending countries but a sector characterised by considerable abuse of migrant workers, especially female domestic workers (Elias 2018); and (v) Islamic finance, a fast growing global industry that intersects economics/finance and cultural/identity politics, has the potential to embed important social justice principles into financial governance but has become caught up with national preoccupations with global competitiveness (Rethel 2018).

These studies are important as they show that non-state actors do not simply engage in advocacy or lobbying but they undertake various tasks of actually governing although the degree to which they do so varies in the different issue areas. The case studies also show there is no one single model of non-state participation in governance structures. Thus, states can formally delegate governance to non-state actors (religious experts in governing Islamic finance), or non-state actor involvement is implicitly encouraged (private foundation in

Melaka Strait security/safety) or tacitly accepted (labour brokers in governing domestic worker migration), or state and non-state actors govern as equal partners (mining sector transparency). In purely private or non-state governance, state actors are excluded from having direct roles in designing regulatory standards and rules (palm oil sustainability governance).

While these differences amongst the cases studied make comparison more difficult, focused case comparison is not the key aim of this collection. Rather, our aim is to provide a broad overview of the rich, dynamic and multi-faceted world of transnational governance in Southeast Asia, to identify common themes as well as points of difference in how state, market and civil society relate to each other in different issue areas, and to demonstrate the varied governance architecture in Southeast Asia that we believe has not been fully analysed, though it has been alluded to, by scholars of regional governance, multi-level governance and regulatory regionalism. At the same time, we hope to bring what we might call "an area studies" focus using our country- or region-level cases into the debates and discussion on transnational governance. Transnational governance has a number of disciplinary homes, notably Sociology, Regulation, International Law, and increasingly International Relations and International Political Economy. But, to truly understand how transnational governance actually works, explaining how this phenomenon is shaped or mediated by local actors and their interests and ideologies is essential.

CONCEPTUALISING GOVERNANCE AS STRUCTURE, PROCESS AND OUTCOMES

A good starting point for this collection is to conceptualise governance, which is broadly understood as steering the behaviour of actors towards some desired end. Borzel and Risse

(2010, 114) usefully define governance as "the various institutionalised modes of social co-ordination to produce and implement collectively binding rules, or to provide collective goods." Not explicitly mentioned in this definition is the question of who governs. Avant, Finnemore and Sell (2010, 2) are emphatic that the question of "who governs" is a crucial part of understanding processes and outcomes of global governance because explicitly posing the question of who governs implies that these tasks of co-ordinating behaviour towards some desired end is not always undertaken by states or international organisations but a diverse cast of agents who draw on distinct resources and relationships to provide norms, standards and rules to regulate behaviour and outcomes, or who engage in new practices that bring order to the issue area in question. This is why governance needs to be conceptualised as both structure and process.

Governance as *structure* directs attention to the architecture of governance, or the institutions and actor constellations that dominate in *processes* of governance, that is, the modes of social co-ordination through which governing actors regulate behaviour towards the public good or collective interest. Important to the structure of governance is also the issue of the different *sites* of governance where processes of steering unfold. These sites form part of the institutional structure of governance. Thus, transnational governance may be found in bilateral spaces between two states, in transnational regional or global spaces, but they can also be located within states as instantiations of governance initiated elsewhere. In fact, a hallmark of transnational private governance is its fluidity across levels as governing agents at one level attempt to regulate the behaviour of subject actors at different sites.

The cases studied in this set of articles tell us that there are a variety of actors who undertake governance activities. Thus, corporations and civil society groups or NGOs have jointly developed globally-accepted private sustainability regulation for the palm oil sector, which has also seen note-worthy on-the-ground changes in cultivation practices in Indonesia

and Malaysia (Nesadurai 2018). In contrast, corporations, NGOs *and* state actors collaborate as formally equal partners to ensure transparency in the mining sector through the Extractive Industries Transparency Initiative (EITI). Bünte (2018) examines the EITI, which has only recently been adopted in Myanmar, albeit in preliminary fashion given its recent adoption in the country. Both palm oil and mining governance are far more institutionalised than the other cases explored in this collection. However, these two cases also differ in that state actors are not directly involved in setting standards in the palm oil case while states are co-governors with private actors in EITI. The Nippon Foundation was instrumental in initiating and co-ordinating the development of safety aids, programmes and collaborative practices in the Melaka Strait, and although backed by the Japanese government and working closely with the Japanese maritime industry, had to engage in more institutionalised fashion with the sovereignty-conscious littoral states of Malaysia, Indonesia and Singapore to bring these sometimes reluctant actors on board this private governance initiative. Nonetheless, Nippon's efforts eventually birthed a multilateral safety/security regime in the Melaka Strait (Ba 2018).

The Islamic finance and the migrant domestic worker cases differ in that the state respectively delegates tasks to religious experts or implicitly accepts the governing practices initiated by non-state actors such as labour brokers. Although the governance roles taken on by these non-state actors are more circumscribed compared to the preeminent roles assumed by non-state actors in the palm oil, mining and maritime safety/security cases, these actors, nevertheless, demonstrate interesting forms of agency in developing principles and practices to secure their respective interests while fulfilling important functional needs and seemingly normative goals in these two issue areas. Labour brokers who are contracted to bring in female domestic workers from Indonesia to labour-receiving countries like Malaysia do a lot to stabilise this particular labour migration regime through new practices aimed at disciplining these workers (Elias 2018). Religious experts contracted by state actors have

been crucial to the development of standards, rules and practices in the Islamic finance industry in Malaysia and Indonesia, a regime to which they also lend their moral authority. The traditionally non-binding *fatwas*, or religious legal opinions, issued by such religious experts through which particular financial practices are deemed permissible or forbidden were later made mandatory by the state, which can help to consolidate this alternative financial regime and possibly its transnational spread (Rethel 2018).

A related issue is the question of why governing agents embark on developing rule systems and practices to regulate behaviour in some issue area. Four determinants of the demand for global governance—strategic, functional, normative, domestic politics—identified by Acharya (2016, 6-15) are especially salient to our study. These determinants are not mutually exclusive but likely to work in tandem. Although private governance usually has some normative aim—sustainability, good governance, human rights, safety, justice/equity—we also recognise that governing actors may be driven to supply governance by their respective strategic interests, by the functional need to address collective action problems and bring order to an issue area, or by domestic pressure groups and public policies. In fact, the functional rationale of many of these governance arrangements is reflected in the fact that governing agents are often collectives of varied actors such as the multi-stakeholder roundtables comprising corporations and NGOs regulating palm oil sustainability or the tripartite governing coalition of state actors, corporations and NGOs that regulate transparency in the mining sector or the club of maritime industry actors, experts, littoral state bureaucracies and the Nippon Foundation in the Melaka Strait Council.

While such "coalitions of the willing" amongst diverse actors suggest shared functional goals as a key driver of governance, the reality of such coalitions is that transnational governance is also highly contested by those subject to it, by state actors unhappy with private governance encroaching into matters of state authority and even among

the mixed cast of governing actors themselves. Take the case of the primary commodity multi-stakeholder roundtables, which are voluntary private associations comprising corporations and NGOs developing certification schemes to verify sustainable practices in different primary commodity sectors like forestry, marine fisheries, palm oil, soy, sugar and beef. These roundtables, which are essentially networks of diverse non-state actors (or members) engaged in drawing up standards and rules to regulate sustainable agricultural production, often face internal differences between corporations and NGOs. Even though corporations might display what Sell and Prakash (2004, 143) describe as "normative ideals and material concerns," instrumental, profit considerations are unlikely to be ignored (Kollman 2008). This creates the grounds for conflict with NGO conceptions of normatively desirable actions. However, firms located at different positions within an industry structure or supply chain, and thus embedded within different social constituencies, will likely have different views of how their respective corporate interests relate to normative goals (Cashore 2004; Nesadurai 2017).

Both Nesadurai's and Bünte's articles in this collection reveal the constraints such internal tensions and conflicts pose to governance but also the opportunities provided to leverage on such divergent interests to fashion new rule systems in their respective issue areas. While Nesadurai's study of multi-stakeholder governance of palm oil sustainability reveals that these conflicts led to a ratcheting up of private standards, Bünte's analysis reveals the possibility that the polar goals of its cast of governing actors could either reinforce or unravel EITI in Myanmar. The government committed to EITI to attract foreign investment and foreign aid but civil society has used the state's strategic commitment to EITI to advance its core goals of subjecting the Myanmar state to greater accountability beyond transparency, in human rights, and in economic sectors beyond mining. EITI, thus, appears to serve the interests of different groups for whom the core focus of this transnational governance

arrangement—transparency in the mining sector—is not always their respective primary or only goal in pushing for EITI's adoption.

This brings us to the question of how governance is accomplished. The literature on governance identifies three generic social co-ordination mechanisms—hierarchy, markets and negotiation networks (Borzel and Risse 2010). While hierarchical forms of co-ordination involve decisions by state-based authoritative bodies such as governments, courts, or international organisations, the latter two non-hierarchical co-ordination processes are especially central to the way transnational governance, especially those schemes enacted by corporations and civil society actors, works in the absence of state authority to compel adoption and compliance. In fact, Cashore (2002, 503) defines private regulation as "non-state, market-driven" governance because it tends to rely on market dynamics to drive change. However, transnational governance more generally relies on networked modes of social co-ordination whereby corporate, civic and even state actors engage in deliberation and negotiation with each other to solve conflicts of interest in the delivery of public goods (Bartley 2007; Borzel and Risse 2010, 115). The articles in this collection reveal all three mechanisms at work in their respective cases; in fact, these mechanisms often co-exist or work sequentially such as when networked deliberations over decades eventually led to a more state-centric multilateral governance institution for the safety and security of the Melaka Strait or when firm-level Islamic governing boards became subsumed under national, mandatory Islamic financial standards.

Within these broad modes of social co-ordination, we can also identify more specific resources through which governing agents attempt to regulate the behaviour of others. For instance, Elias' case study of the domestic worker regime identifies training by labour brokers as a crucial means of disciplining female domestic workers. Through these disciplinary practices, this labour migration regime is stabilised, which serves the interests of

state actors in labour-sending and labour-receiving countries, individual employers of domestic workers, and the "middlemen" labour brokers. However, Elias questions the normative implications of such regimes for the female domestic workers targeted for disciplinary training despite claims that such training is aimed at enhancing the quality of these workers and thus protecting them from abuse by employers unhappy with their work. In the palm oil sector, Nesadurai's case study reveals the crucial role of disciplinary surveillance and training in consolidating private palm oil sustainability standards although she sees this in more positive normative light than Elias does in her case study. Rethel similarly shows how centralising religious knowledge production at the national level has been key to consolidating and spreading Islamic financial norms across capital markets but while such knowledge offers the potential for a more just financial system, Islamic finance has itself become subordinated to national development and competitiveness goals in key proponent states like Malaysia. Strategic motivations intersect with normative drivers in this instance.

A final aim of this collection is to consider the prospect that transnational governance can deliver "progressive" outcomes. The authors had extensive discussion on what "progressive" governance means and we were conscious especially of the implicit universalist and/or liberal cosmopolitan connotations of such a term. However, we believe that our conception of progressive governance as *principled improvements over the governance status quo* in the different issue areas under consideration has a number of advantages. First, we do not identify "progressive" norms or practices ex ante but accept as principled improvements the subjective claims made by governance agents. However, the papers also interrogate these normative claims as well as discuss alternative principled goals advanced by other actors. Second, a conception of progressive governance as principled improvements allows us to make a distinction between the end goal aimed for and the means of reaching that principled goal. Thus, while environmental sustainability is a principled goal

of private environmental governance, the use of the market to reach such goals may be regarded as far from progressive if it further entrenches neo-liberal capitalism and extends the dominance of large, multinational firms even if cultivation practices have improved considerably (see Dauvergne 2016; Lipschutz 2005; Roger and Dauvergne 2016). In the case of domestic worker regimes, the labour brokers may have instrumental motives but devising programmes to train domestic workers could be regarded as having a principled element that will help to avoid later abuse at the workplace. However, as Elias shows, the principled outcomes in this case are limited as training is focused on disciplining the worker and showing her how to be a good worker, which has the effect of commodifying migrant female domestic workers, even worsening abuse if "trained workers" do not conform to employer expectations, and enabling brokers to command higher prices for their services. Third, this approach allows us to consider principled values/norms and practices that emerge out of non-liberal ethical frameworks, for instance from Islamic religious doctrine and other local contexts.

CONCLUSION

What do these papers collectively say about the evolving architecture of governance in Southeast Asia – or indeed of governance in general? First, despite the very strong commitment to state sovereignty and non-interference in this region, various forms of transnational governance are emerging and/or consolidating where private actors (business firms, NGOs, foundations, experts) engage in or contribute directly to the development of norms, standards, rules and practices that steer the behaviour of other actors towards some principled (or functional) end. These developments are not uncontroversial, however, seen in the highly politicised conflicts and tensions associated with these modes of governance and

documented in the five case studies. Although there is a tendency to see these transnational modes of governance as technicist, and above politics, our studies show they are inherently political, highly contested, and normatively ambiguous.

Second, and perhaps most obviously, they individually and collectively point to the failings of existing global and regional institutions and organisations to provide the governance that the various actors are searching for. Quite simply, if there weren't governance gaps, then there would be no need to try and find new forms to fill them. Somewhat more tentatively, we might suggest that they point to a more general dissatisfaction with the performance and efficacy of existing governance forms and providers. As we have discussed in this introduction, within the region itself, ASEAN has not provided effective governance in a number of key issue areas. Moving away from the specifics of Southeast Asia, there appears to be a more general concern with the efficacy of existing global governance regimes more generally.

As Rethel notes in her article, the global financial crisis has not just undermined faith in the prescriptions of neo-liberal capitalism, but also many of the governance forms and structures that failed to predict or prevent the crisis (or even to ameliorate its impact for many). Such dissatisfaction is compounded by a feeling that the existing distribution of power does not reflect the changed realities of global power distribution – not least from the rising powers – compounded by a frustration with the speed and scope of reform. This appears to be one of the reasons that countries like China have turned to developing their own governance institutions rather than wait for existing ones to reform themselves in ways that meet their demands and expectations. Similarly, the unwillingness of states to conclude a multilateral forest management agreement in the early 1990s may have been a blow to environmental activists who had actively lobbied for one but this set-back only prompted non-state actors to develop the private multi-stakeholder certification roundtables described

as “one of the most innovative and startling institutional designs” in global governance (Cashore, Auld and Newsom 2004, 4). Thus, dissatisfaction with existing governance frameworks is resulting in governance innovations that look to establish new forms of governance and sites of authority, built around new coalitions of actors and interests. This can entail rethinking not just how to govern, but also what it is that needs to be governed (including, for example, the new prominence of issues like cyber-security as well as those studied in this collection of papers), and the spatial scope of governance forms.

Building on this understanding, our third major conclusion is to focus on how new governance forms are being provided. The cases in this collection also show that despite multiple determinants driving demand for transnational governance—strategic, normative/principled, functional, domestic interest groups—there is a strong functional drive behind these governance frameworks. The fact that each of these cases documents “task-specific rather than general-purpose governance” points to their problem-solving goals.[4] These studies thus reinforce the point made by Breslin and Wilson (2014) of the salience of functional solutions to governance problems that do not fit neatly within the contours of current state-based institutions. They argue that the spatial domains of different transboundary problems in economics, security or environmental matters are not necessarily coterminous with existing regional institutions in Southeast Asia like ASEAN, ASEAN Plus Three, the East Asia Summit or the ASEAN Regional Forum. The logical consequence of this line of thinking is to consider functional solutions, which do not have to rely on existing regional institutions but can take different institutional configurations so that problems are more effectively addressed by key stakeholders and protagonists, including by avoiding the politicisation that often retards collective action. Transnational governance is rightly part of the functional turn in governance, demonstrated in the articles in this collection.

Moreover, the transnational governance phenomenon displays some commonalities with recent developments in world order. Breslin and Wilson (2014) point out how different issues not only generate different forms of governance, but that they also are built on often very different sets of alliances. The power transition that seems to be occurring in the global order is leading to the emergence not of solid and cohesive blocs or camps that stay together and fight common positions on all issues but where different constellations of actors come together on shared issue specific areas (including building forms of governance). Likewise, the alliance of interests and actors that come together on one issue – for example, financial governance, might be very different from the group that finds a common position on another issue – for example, maritime security. Indeed, firm allies on one issue area can and do find themselves on the opposite sides of other fault-lines. What this means is that it is more difficult to identify who is likely to ally with whom and also more difficult to identify leaders (or putative leaders) as these may change from issue to issue. We need to think on a case by case basis who has the willingness and capacity to lead on that issue area. And then we have to consider if this leadership is acceptable to others – whether it is seen as legitimate by others. Or as Zwartjes and colleagues (2012: 400-401) put it, there is a need to focus on not just interests and leadership, but also followership. Crucially, as the papers in this collection have demonstrated, potential leaders include private or non-state actors and fully private or public-private multi-stakeholder bodies while potential followers often include states and multilateral organisations.

Fourth, the articles in this collection problematise the global-local and public-private divides. They show how transnational spaces of governance are fluid spatially in that actors located at different levels not only interact with each other but are actually co-located at multiple levels through the functional networks in which they participate. Rather than seeing global/external influences as simply impinging on local actors and vice versa, a move that

separates the global and local as discrete levels of social and economic activity, we get better analytical traction by regarding external and domestic levels as "interpenetrated" through functional networks and interactions (see Hay 2014, 35-36). In addition, the papers also interrogate the public-private divide. While some papers question the "private-ness" of ostensibly private governing actors, like Ba does for the Nippon Foundation, other cases like Nesadurai's analysis of private palm oil standards show how private rule systems are fast gaining authoritative status, which suggests that these are demonstrating a public-ness that is masked by the prevailing statist worldview.

All in, these issues highlight new lines of research in the study of governance in Southeast Asia. Our studies reveal not only the complex, multi-faceted and contested nature of transnational governance with different potentials for progressive change in the region; they also highlight the variegated architecture of governance in this region in which non-state actors do more than engage in advocacy or lobbying of state actors or provide state actors with policy ideas. Indeed, the five papers reveal intricate relationships between state, market and civil society as well as local, regional and global levels, and how varying combinations of these come to bear on governing gaps in the region. In doing so, these papers highlight new research possibilities in studying non-traditional modes of multi-level governance in this region, the processes through which they operate, and how they interact with the state.

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NOTES

[1] This follows Easton's conception of politics as the processes through which the "authoritative allocation of values in societies" takes place (see Easton 1965, 50).

[2] Purely private governance schemes may be solely enacted by corporations, by NGOs, or jointly by corporations and NGOs working together.

[3] Trans-governmental networks refer to networks formed through the interaction of individual agencies of the state such as for instance central banks, environment ministries, securities commissions, education ministries, and so on.

[4] The terms are from Hooghe and Marks (2003) cited in Karkkainen (2004, 74).