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Varieties of multi-stakeholder governance: selecting legitimation strategies in transnational sustainability politics

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ABSTRACT

Multi-stakeholder initiatives (MSIs) are often referred to as the ‘gold standard’ of private governance. However, existing MSIs vary strongly in their institutional designs and the ways in which they use inclusiveness, procedural fairness and, expert-based strategies to create legitimacy for their rules. This article investigates these institutional choices. It reviews arguments about demand from legitimacy-granting audiences, isomorphic pressures, and the role played by institutional entrepreneurs, and intergroup bargaining. It explores these mechanisms in an empirical investigation of the formation of three MSIs in the field of sustainable agriculture. Its findings advance our understanding of the conditions under which MSIs adhere or depart from normative ideals of democratic governance.

KEYWORDS

Legitimacy; legitimation; multi-stakeholder initiative; private governance; sustainability; institutional design

Introduction

Non-state actors supply a growing proportion of the rules and regulations that govern the global economy, raising pressing questions about the legitimacy of transnational governance (McKeon, 2017; Wouters, Bijlmakers, Hachez, Lievens, & Marx, 2013). The existing literature on legitimacy and private governance falls fairly neatly into two camps: one normative, the other empirical in its orientation. Scholars working in the normative tradition theorize and evaluate private rule-making activities from the vantage point of democratic theory (Bäckstrand, Khan, Kronsell, & Lövbrand, 2010; Dingwerth, 2007; Schouten, Glasbergen, & Leroy, 2012). In contrast, empirically oriented scholars define legitimacy in relational terms. From this perspective, legitimacy is granted or denied by a private governance institution’s audience in a dynamic process of legitimation (Bernstein, 2011; Cashore, 2002).

While sharing a common interest in the concept of legitimacy, the normative and empirical literatures have developed largely in isolation from one another. To bridge this divide, Quack (2010) has proposed a cross-cutting perspective, which explores the normative dimension through the views and strategies of real actors. In a nutshell, the proposed argument goes that transnational regulators adapt to demands for more inclusiveness, expertise, and procedural fairness, if these demands are expressed in form of protest and criticism by legitimacy-granting audiences. Quack’s cross-cutting perspective thus suggests a direct link between the empirical and normative dimension of legitimacy.

With a focus on multi-stakeholder initiatives (MSIs) – often referred to as the gold standard of private governance – this article explores this and other explanations. The analysis of three MSIs

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in the field of sustainable agriculture finds that choices over legitimation strategies often do not follow a functional logic of demand and supply. Instead, they involve difficult trade-offs and are contested internally in these arrangements. Reviewing existing propositions and studying how they interrelate, this article advances our understanding of these processes. It finds that while institutional designers respond to criticism and contestation in their environments, there is often no clear identifiable demand for more inclusiveness, expertise, and procedural fairness. Instead, normative legitimation strategies are often used to fend off more general criticism and contestation. Institutional designers also follow the logic of appropriateness when adopting these features. However, the resulting isomorphic effect is limited, as emerging transnational norms leave considerable room for interpretation. This creates opportunities for ‘window dressing’ and instead of true interest representation the creators of new MSIs often opt for less intrusive legitimation strategies in order to maintain control over the regulatory process. Thus, depending on the preferences of these actors and the internal conflicts and power struggles within MSIs, decisions about legitimation strategies can vary significantly. However, once taken, they often develop path dependencies that are difficult to reverse.

In developing this argument, this article contributes to current discussions about the legitimacy of transnational private governance. Particularly, it advances our understanding of the conditions under which real-world arrangements approximate or depart from normative ideals of democratic governance. In this way, it improves our understanding of the link between the adherence to normative standards and sociological legitimation dynamics.

Two perspectives on legitimacy

In their landmark study on *Private Authority in International Affairs*, Cutler, Haufler, and Porter (1999, p. 16) observed that ‘private actors are increasingly engaged in authoritative rule-making that was previously the prerogative of sovereign states’. These findings have sparked much interest and debate about the legitimacy of private governors. Existing studies are often either normative or empirical in their orientation. Buchanan and Keohane (2006, p. 405) describe the difference between the two as follows: to say that an institution is legitimate in the normative sense is to assert that it has *the right to rule*. On the other hand, an institution is legitimate in the sociological or empirical sense when it is widely *believed to have the right to rule*.

To assert that a non-state institution has *the right to rule* requires a normative theory of legitimate rule-making. Such a theory needs to specify and justify standards against which real-world arrangements can be assessed and evaluated. With its focus on preference aggregation and principal-agent accountability, liberal democratic theory is widely considered unsuitable for the reality of transnational private governance (Dingwerth, 2007; Dryzek, 2000). In search for substitutes, scholars and practitioners have developed alternative standards for normatively evaluating the legitimacy of transnational governance. Widely referenced and discussed criteria are: inclusiveness of participation, expertise-based effectiveness, and procedural fairness (Quack, 2010). These concepts find some common ground with what Scharpf (1999) and Risse and Klein (2007) define as input, output, and throughput legitimacy. Very influential among students of private governance have been input-oriented approaches, in particular deliberative democratic theory (Bäckstrand et al., 2010; Dingwerth, 2007; Schouten et al., 2012). In addition, scholars have studied the output legitimacy of transnational governance (Kalfagianni & Pattberg, 2014). This line of research suggests that the legitimacy of private governors depends on their ability to provide effective solutions to policy problems. This problem solving capacity is often seen as a direct function of their technical, professional, and bureaucratic expertise (Quack, 2010). Finally, with regard to throughput, procedural fairness and

impartiality are sometimes considered as evaluative criteria. In this context, quasi-judicial conflict resolution mechanisms are believed to enhance the normative legitimacy of transnational private governance (Marx, 2014).

As we shall see below, MSIs (to varying degrees) attempt to approximate these normative ideals through the creation multi-stakeholder structures, expert working groups, and dispute settlement procedures. But scholars have criticized that these measures are based on very narrow interpretations of the underlying normative principles. As a result, local knowledge, minority voices, and non-technical discourses are often absent or suppressed in these arrangements (Cheyns, 2014; Ponte & Cheyns, 2013), which raises deeper questions about the suitability of the MSI institutional model to enhance legitimacy in transnational governance.

In contrast to the normative approach, empirically oriented scholars are interested in the question why and when transnational governors are *believed to have the right to rule* as well as the processes through which institutions can gain or lose legitimacy (Bernstein, 2011; Cashore, 2002). The main difference is that, from this perspective, legitimacy is defined in relational terms. It is granted or denied by an institution's audience in a dynamic process of legitimation. To analyze these processes in the area of transnational private governance, Cashore (2002) draws on the work of Suchman (1995). In Suchman's strategic approach, and later applications of his work to the study of transnational governance, legitimacy is seen as an organizational resource that private governors can and need to manage.

Surprisingly, while sharing a common interest in the concept of legitimacy, the normative and empirical approaches have developed largely in isolation from one another. To bridge this divide, Quack (2010) has proposed a perspective that attempts to link the two dimensions. She and her collaborators identify demand from an institution's legitimacy-grating audiences as an important driver behind the use of normative legitimation strategies. While this is a possible explanation, alternative arguments can be found in the literature. This article reviews the main propositions and probes their plausibility in an empirical investigation of multi-stakeholder governance.

Varieties of multi-stakeholder governance

In the domain of private governance, MSIs are commonly believed to hold the greatest potential for legitimate private rule-making. In the past, scholars have repeatedly praised them as a 'good governance model' (Gulbrandsen, 2008b). Their signature design feature is inclusiveness. By definition, MSIs involve a variety of stakeholders in their governance and standard-setting activities. A prominent example is the Forest Stewardship Council (FSC), an organization that sets global standards for sustainable forestry management. The FSC features three stakeholder chambers, representing environmental, social, and economic interests, with equal participation from organizations from the Global North and South. Next to inclusiveness of participation, the FSC also uses expert- and procedural fairness-based strategies to create legitimacy for its rules. In this regard, the organization involves independent scientists in its standard-setting process and was one of the first private governance initiatives to introduce a formal dispute resolution system in 1998 (Marx, 2014).

The MSI model has developed into what one could call the gold standard of transnational private governance. Fransen (2012) describes how the label 'multi-stakeholder' has become for many an indicator of legitimacy. However, not all MSIs share the same properties, and scholars have repeatedly criticized the dominance of established stakeholder groups, a focus on selective topics and discourses, power asymmetries between participants, and differences in their level of inclusiveness (Cheyns, 2011; Fransen & Kolk, 2007; McKeon, 2017; Schouten et al., 2012). There is also variation

in the use procedural fairness-based strategies. In his analysis of 426 voluntary sustainability standards, Marx (2014) finds that only 30 of them had clear dispute settlement procedures in place. While most of them are MSIs, he finds significant differences as to what constitutes a complaint, by whom complaints can be made, and how dispute settlement decisions are reached. In addition, the literature points to variation in the use of expert-based strategies. Auld and Gulbrandsen (2010), for example, describe how the founders of the Marine Stewardship Council (MSC) put more emphasis on expert-based effectiveness, in order to compensate for a less participatory governance structure.

Hence, while the legitimacy of MSIs is commonly considered superior to that of other types of private governance, these arrangements do not form a homogenous group. One important reason is that the choice of legitimation strategies involves difficult trade-offs. While inclusiveness of participation may bring legitimacy, interest representation often competes with other important objectives (e.g. the speed of decision-making) (Auld & Gulbrandsen, 2010). A related argument has been made by Boström and Hallström (2013). They argue that inclusiveness of participation can facilitate the establishment of legitimate decision-making power, but that MSIs are also inherently more fragile and conflict prone because of it. Finally, scholars point to an inverse relationship between inclusiveness and the level of control individual actors are able to exercise over the regulatory process (Gulbrandsen, 2008a).

Given these trade-offs, private governors may try to substitute true interest representation with less intrusive legitimation strategies, such as expert-based effectiveness (Auld & Gulbrandsen, 2010). For similar reasons, one would expect variation in the design and stringency of dispute settlement procedures. The interesting question is: what explains these variations?

Reviewing existing propositions

This section discusses four literatures that can all be related to the institutional design and the choice of legitimation strategies in transnational private governance. Each of these literatures emphasizes a different causal mechanism.

In the legitimation literature, legitimacy is seen as a key resource that regulatory institutions need to gain and maintain in order to exercise rule-making authority. Scholars have set out to study these processes and how private governance arrangements shape and are shaped by them (Cashore, 2002; Fransen, 2012; Glasbergen, 2013; Schouten & Glasbergen, 2011). Creating a bridge between this and the normative approach (see discussion above), Quack examines the link between empirical legitimation dynamics and the use of normative legitimation strategies. The argument is that a 'perceived lack of fit between the regulators' legitimacy claims and the addressees' expectations, if expressed as protest and criticism by the latter, can lead transnational governance institutions to adjust to demands for more inclusiveness, expertise and procedural fairness' (Quack, 2010, p. 3).

Sharing many assumptions with the legitimation perspective, sociological institutionalists posit that organizations and their structures are shaped by the political and cultural environments in which they are embedded (DiMaggio & Powell, 1983). Organizations are seen as legitimacy seekers that respond to normative, mimetic, and coercive institutional pressures that structure their environments. A central hypothesis in this literature is that these pressures make organizations within organizational fields become more similar over time. Dingwerth and Pattberg (2009) have made this argument for the field of transnational sustainability governance. They describe how private rule-making organizations came to share a set of core features (stakeholder councils, process rhetoric, and participatory elements). They explain these similarities with the evolution of an

organizational field in this arena and the resulting isomorphic pressures. While Dingwerth and Pattberg would expect variation in legitimation strategies to disappear over time, others believe that institutional variation will persist (Auld & Gulbrandsen, 2013; Fransen, 2012).

A look at the micro-level helps to shed some light on the issue. One important factor are the varying interest of institutional entrepreneurs, defined as actors ‘who have an interest in a particular institutional arrangement and who leverage resources to create new ones or change existing ones’ (Maguire, Hardy, & Lawrence, 2004, p. 657). Several authors in the private governance literature have described the activities of these actors in multi-stakeholder processes (Auld, Balboa, Bartley, Cashore, & Levin, 2007; Auld & Gulbrandsen, 2013; Bartley, 2007; Zietsma & McKnight, 2009). When new MSIs are created, they set agendas, provide leadership, mobilize resources, and act as gate keepers. These functions give them considerable influence over the initial composition and trajectory of the multi-stakeholder process. However, their preferences can vary. In this regard, they can be a force behind convergence, but also divergence is possible and has been observed. For example, Auld et al. (2007, p. 25) describe how, learning from the FSC, the founders of the MSC decided against the ‘psychotic democracy’ of the forestry initiative in order to become a market mechanism faster.

Finally, negotiations and bargaining between interest groups is a mechanism through which decisions within multi-stakeholder processes are made. Inspired by political models of liberal pluralism, MSIs are seen as political arenas in which struggles over influence and diverging interests take place. In this context, scholars of multi-stakeholder governance have analyzed processes of intergroup bargaining in connection with decisions about institutional design and legitimation strategies (Abbott & Snidal, 2009; Boström & Hallström, 2013; Schleifer, 2016). For example, Boström and Hallström (2013) show how the interpretation of legitimacy ideals and principles in MSIs are often open to dispute and negotiation between the participants of these processes. In a similar vein, Abbott and Snidal (2009, pp. 72–82) point out how firms and NGOs would often differ sharply over the structure and governance of schemes as well as the design of standards and procedures. The result is a ‘bargaining game’ in which the distribution of bargaining power determines whose preferences prevail and which institutional outcome is selected.

This section discussed four mechanisms thought to influence the choice of legitimation strategies in transnational private governance. One way to organize them is to distinguish between internal and external mechanisms. The external mechanisms are protests and criticisms expressed by legitimacy-granting audiences as well as isomorphic pressures that exist within organizational fields. The internal mechanisms are the preferences of institutional entrepreneurs and processes of institutional bargaining between stakeholder groups. Existing studies on MSIs suggest that these mechanisms can interact in complex ways (Glasbergen, 2013). However, with few exceptions (e.g. Gulbrandsen & Auld, 2016), most studies take either an external (Dingwerth & Pattberg, 2009; Fransen, 2012; Overdevest, 2010) or internal perspective (Boström & Hallström, 2013; Schleifer, 2016), and a more systematic exploration of how these mechanisms compare and interact is still missing.

Methods and data

For the empirical analysis a qualitative approach is used that combines within-case analysis with cross-case comparisons (George & Bennett, 2005). Given the study’s exploratory character, the within-case analysis will involve a strong inductive component as well. Induction was part of the research strategy, because the choice of legitimation strategies in multi-stakeholder governance remains under-theorized (George & Bennett, 2005, p. 74).

For the analysis, three MSIs in the field of sustainable agriculture have been selected as cases. The case selection followed a simple logic: First, the three initiatives belong to a larger group or class of MSIs (so-called agriculture commodity roundtables). These initiatives share many similarities (e.g. issue scope, global reach, use of certification, time of creation) and are thus comparable. Second, the cases display variation on the dependent variable (the use of legitimation strategies). Scholars sometimes warn that selecting on the dependent variable can lead to truncated samples and result in biased results (King, Keohane, & Verba, 1994). However, as discussed by Bennett and Elman (2006), this critique has been overstated and does not apply in the same way to inferences drawn from within-case analysis.

The analysis draws on over 50 semi-structured interviews, which targeted the management of the three MSIs as well as organizations (NGOs, business actors, government agencies) on the inside and outside of these organizations. The interviews were conducted between 2011 and 2014. The evidence obtained through the interviews was triangulated through the use of other primary and secondary sources, including meeting minutes, background documents, and media reports.

The case of agricultural commodity roundtables

In the mid-2000s, NGOs and business actors launched several MSIs – so-called commodity roundtables – in key agricultural sectors. With a focus on the Roundtable on Sustainable Biomaterials (RSB), the Roundtable on Responsible Soy (RTRS), and Bonsucro (formerly known as the Better Sugarcane Initiative or BSI), this section explores the varied use of legitimation strategies in these arrangements as well as the external and internal drivers behind these choices.

The use of legitimation strategies in the RSB, RTRS, and Bonsucro

Although all three programmes are MSIs and use a similar multi-stakeholder rhetoric, the analysis of their institutional designs revealed significant differences – in particular, with regard to inclusiveness of participation. Most inclusive is the RSB. In the biofuel roundtable, decision-making was initially organized in eleven stakeholder chambers. The private sector was represented by four chambers and environmental and social groups by a further six. State actors and research institutions were given observer status in an eleventh chamber. In addition, there was a careful balance between organizations from the Global North and South. Standard-setting in the RSB took place in four working groups. Participation was free of charge and open to all interested parties. Overall, some 280 organizations and individuals participated in the working groups. Through its transparency the RSB also enables a high level of external scrutiny. All meeting minutes are made publicly available and, following the guidelines of the ISEAL alliance,¹ several outreach and consultation events were organized.

The second component of the RSB's legitimation strategy is expert-based effectiveness. To this end, three expert groups on genetically modified organisms, greenhouse gases, and indirect impacts were formed. In addition, the RSB commissioned the Kluyver Centre for Genomics of Industrial Fermentation to conduct an independent review of its standards. As the RSB evolved, it also used procedural fairness-based strategies to create legitimacy for its rules. In 2011, a formal complaint mechanism was created, which was revised and updated in 2013. Under the reformed procedure any person or entity can file a complaint against the RSB, its members, or certified operators. The procedure clearly defines the requirements, processes, roles, responsibilities, as well as the time period in which complaints need to be resolved. While disputes shall be resolved at the lowest

possible level (e.g. the certification body), ultimate decision-making authority rests with the Assembly of Delegates – a quasi-parliamentary assembly of all RSB members (EPFL, 2014, pp. 48–54).

Inclusiveness of participation is also an important feature of the RTRS, but some compromises were made. The result was a stronger position of industry actors and a less participatory approach to standard-setting. The RTRS central decision-making bodies consist of three stakeholder chambers: (1) producers, (2) industry, trade and finance, and (3) civil society organizations. While industry actors outnumber civil society actors two to one, each chamber possesses a veto right. This guarantees that no single interest group can dominate the process. Standard-setting in the RTRS was organized in the so-called Principles Criteria Verification Development Group (PCVDG). But unlike the RSB's open approach, participation in the PCVDG was restricted. Each chamber could appoint nine experts to represent its interests in the PCVDG. In terms of enabling public scrutiny, the RTRS and RSB are very similar in their approach. Detailed meeting minutes of the RTRS' central decision-making bodies are made publicly available and several outreach and consultation events were organized.

The founders of the RTRS also used expert-based and procedural fairness-based strategies. One example is the creation of a so-called International Technical Group in 2010. Composed of external experts, the group reviewed the responsible soy standard and provided technical feedback to the PCVDG. The RTRS has also given attention to issues of procedural fairness. In 2011, a grievance procedure was introduced. Through the grievance procedure members and non-members can submit a complaint against the RTRS, its members, as well as certified operators. All complaints or grievances are handled by a so-called Grievance Committee. While requirements, processes, roles, and responsibilities are clearly defined in the RTRS dispute settlement procedures, the dominance of industry actors in the Grievance Committee has been criticized as a weakness (EPFL, 2014, pp. 39–43).

In comparison to the RSB and RTRS, Bonsucro is the least participatory of the three MSIs. Formally, Bonsucro distinguishes between five stakeholder categories: (1) end users, (2) civil society, (3) farmers, (4) intermediaries, and (5) industrial. In practice, however, the scheme's central decision-making body was dominated by a coalition of big brand companies and large Northern NGOs from the very beginning. Civil society groups from the Global South were not represented in this body and no veto mechanism was put in place to protect the organization from regulatory capture. Standard-setting in Bonsucro was organized in three Technical Working Groups (TWGs) on agronomy, processing and milling, and social impacts. Like in the RTRS, access to these bodies was restricted to a small group of experts. But unlike in the RTRS, there was no formal balance in the composition of the TWGs. Instead, all three TWG leaders had an industry background and only few NGOs participated in the standard-setting work. Later in the process, Bonsucro followed ISEAL guidelines and organized several outreach and consultation events. However, the scheme does not make its meeting minutes public, thus limiting the degree of external scrutiny.

To compensate for this lack of inclusiveness, the founders of Bonsucro emphasized expert-based effectiveness in the overall design of their organization. This is exemplified by their objective to create a 'science-based commodity discussion' (WWF, 2004). While the RSB, RTRS, and most other standard systems work with process standards (best practices), the founders of Bonsucro broke new ground by developing a metric-based system. Instead of defining best practices, the metric-based approach works with measurable impact indicators. In theory, this makes it possible to quantify impact reductions and thus to better demonstrate scientific rigor and effectiveness. Since 2011, Bonsucro has also a formal complaint resolution process in place. However, in an assessment of dispute

resolution and settlement for biomass certification schemes, Bonsucro's complaint resolution process has been criticized for the fact that the CEO and the Board of Directors decide on a complaint:

They are not independent and this implies that there are potential conflicts of interests. In combination with the fact that the Board consists of more members representing company-interests in Bonsucro than civil society there is a risk of being biased to favor the industry interests. (EPFL, 2014, p. 46)

As summarized in [Table 1](#), the analysis of the institutional design of the three MSIs revealed significant variation in the use of legitimation strategies.

Demand from legitimacy-granting audiences

How can these differences be explained? Quack (2010) identifies demand from legitimacy-granting audiences for inclusiveness, expertise, and procedural fairness audiences as a causal mechanism. At first sight, the broader patterns observed in the three cases align with this explanation. Whereas the RSB and the RTRS were confronted with high levels of criticism and contestation from the very beginning, Bonsucro was 'sailing in calm waters' as one interviewee put it.² However, the qualitative analysis of these processes uncovered that while there was criticism and contestation, there were no identifiable demands for more inclusiveness, expertise, and procedural fairness from external audiences. Instead, the criticisms were more fundamental, directed against the certification of biofuels and genetically modified soy as sustainable. Still, the founders of the RSB and RTRS responded by adopting normative legitimation strategies, hoping that this would help to diffuse these criticisms.

Launched in 2006, the formation of the RSB fell in a time of increasing controversy surrounding biofuels and the policies promoting it. While biofuels had long been praised as a green solution to problems with energy security, the dynamic of the debate started to shift as topics like competition with food, land grabs, and indirect land use change appeared on the agenda (e.g. Oxfam International, 2008). It was in this environment in which the founders of the RSB held their initial meetings. In light of the controversial nature of biofuels, legitimacy was a much discussed topic. The meeting minutes reveal how the founders of the RSB were eager to avoid making mistakes that would compromise legitimacy at a later stage (RSB, 2006, p. 2). Interviews with members of the Steering Board lend support to the hypothesis that criticism from external audiences strongly influenced the choice of their legitimation strategy. In this regard, one member explained: 'in biofuels there was so much polemic and criticism. The situation was so explosive and created the necessity of a broad process'.³

Table 1. Use of legitimation strategies in RSB, RTRS, and Bonsucro.

	RSB	RTRS	Bonsucro
Inclusiveness of participation	Highly inclusive and balanced governance structure, open standard-setting process, high level of external scrutiny	Dominance of industry actors but veto position for civil society actors in central decision-making organs; balanced but restricted standard-setting process; high level of external scrutiny	Dominance of industry actors in central decision-making organs; restricted and unbalanced standard-setting process; limited level of external scrutiny
Expert-based effectiveness	Use of expert knowledge to complement standard-setting process	Use of expert knowledge to complement standard-setting process	Strong emphasis on science and measurable impacts; expert-based effectiveness is primary legitimation strategy
Procedural fairness	Existence of formal complaint mechanism; balanced complaint settlement process	Existence of formal complaint mechanism; dominance of industry actors in complaint settlement process	Existence of formal complaint mechanism; dominance of industry actors in complaint settlement process

A similar pattern could be observed in the soy sector. From the beginning, the RTRS faced a lot of criticism from environmental groups. In particular, the organization came under fire for its plans to certify genetically modified soy as responsible. Already, the first RTRS roundtable conference in 2005 in Foz do Iguacu, Brazil, became a highly politicized event. Parallel to the meeting, NGOs held a counter-conference and organized a protest march. Similar protest activities surrounded the following roundtable conferences. In response to this criticism, the founders of the RTRS agreed that they had underestimated the political nature of the issue.⁴ When preparing the launch of the formal organization, a report commissioned by the Organizing Committee advised:

who will be affected, who can affect the RSS [RTRS] and the level of impact are key guides in determining who should participate and to what extent. (...) [T]he higher the controversy around a project, the more SH [Stakeholders] must be closely involved with decision-making. (Pi Environmental Consulting, 2005, p. 23)

In contrast, Bonsucro was not exposed to similar levels of criticism during its formation phase. The situation somewhat changed when sugarcane became a feedstock for the world's growing demand for biofuels. As a result, the industry was increasingly associated with the controversial topics of the biofuels debate (Friends of the Earth, 2010). However, Bonsucro was created as a food crop initiative and only later entered the biofuels certification market.⁵ A background research on media coverage and NGO reports confirmed the low level of political activism during the organization's formation phase. It produced only one report of the European Corporate Observatory in which the 'little known Better Sugarcane Initiative' was critically mentioned (Corporate Europe Observatory, 2008).

Isomorphic pressures

The isomorphism argument expects that sustainability MSIs will converge towards a set commonly accepted core norms and that institutional variation will disappear over time (Dingwerth & Pattberg, 2009). Indeed, isomorphic pressures were found to be in operation in the cases studied. They manifested themselves in two principal ways: emerging transnational norms of 'good private governance' and mimetic processes between the target organizations and other sustainability MSIs. However, the overall isomorphic effect remained limited as the empirical analysis reveals.

As transnational private governance has become an important source of regulation in the global economy, various meta-standards for 'good private governance' have emerged. Founded in 2002, the ISEAL Alliance is the primary meta-standard organization in the field of transnational sustainability governance. Its most widely referenced code is the *Code of Good Practice for Setting Social and Environmental Standards*. First released in 2004, its core principles include norms of inclusiveness of participation, expert-based effectiveness, and procedural fairness. There is clear evidence that ISEAL served as an important point of reference for all three organizations. For example, in one of their first meetings the founders of the RSB noted the need to 'discuss with ISEAL to ensure that we don't make governance mistakes at the beginning that compromises legitimacy later' (RSB, 2006, p. 2). In 2008, the RSB formally adopted the ISEAL Code of Good Practice and applied for membership. Bonsucro joined the ISEAL Alliance the same year. The RTRS never formally became a member of ISEAL. However, its founders closely followed ISEAL guidelines and procedures in setting up their standard-setting process.⁶

This shows that ISEAL's meta-standard regime worked in the way anticipated by the isomorphism argument. However, a deeper analysis revealed that its overall isomorphic effect remained

limited. One design feature that can be directly traced back to ISEAL's influence is the consultation mechanisms adopted by all three organizations. These mechanisms allow external stakeholders to comment on the standard documents during specified periods. In addition, so-called stakeholder outreach meetings were held by all three organizations. The feedback from these consultations was taken into account as the programmes revised and finalized their standards. However, consultation is different from participation and there was no formal obligation to incorporate the feedback received through these processes. In fact, one observer described them as mainly 'ceremonial in character'.⁷ While ISEAL exercised isomorphic pressures, its norms remained vague enough to allow variation to persist. This became apparent in the cases of the RSB and Bonsucro. Both are full members of the ISEAL Alliance but continue to vary significantly in their level of stakeholder inclusion.

Mimetic processes were the second type of isomorphic pressures observed in the case studies. When designing their organizations, the founders of the RSB, RTRS, and Bonsucro did not start from scratch but began to imitate the features of more advanced MSIs in other industry sectors. In this way, they hoped to avoid mistakes and to save time and resources. However, these processes did not make the three organizations converge towards a single model. Instead, they embarked on different institutional trajectories. One important reason why these processes resulted in only limited degrees of convergence between the RSB, RTRS, and Bonsucro was that their founders differed in their sources and only mimicked them selectively – that is, they adopted some features while discarding others (cf. Gulbrandsen, 2008a).

Institutional entrepreneurs

Processes of selective mimicry raise questions about the selection mechanism. How are these decisions made and by whom? Here, institutional entrepreneurs were discussed as a possible mechanism (Auld et al., 2007; Zietsma & McKnight, 2009). Lending support to this explanation, the empirical analysis revealed significant differences between the founders of the three MSIs. In this regard, the case of Bonsucro is very interesting and informative.

A leading figure in the formation of the programme was a senior executive from the World Wide Fund for Nature (WWF) in the United States – a chapter within the WWF network that is known for its business-oriented approach.⁸ As described by one of the interviewees, this person, '(...) had very clear ideas how to do this and he wrote a paper about the principles that we should use to set up this kind of initiative.'⁹ In this memo, the WWF executive criticized the open and deliberative approach of previous roundtables initiatives: 'While talk, discussion, or even consensus may be a means to an end, they are not a sufficient end in and of themselves to be worthy of WWF's time. The goals need to be agreed to before the first meeting' (WWF, 2004, p. 1). With regard to stakeholder inclusion, the memo instructed the founding group to identify the 'key leverage points for change' in the supply chain such as buyers, traders, and banks. The process should be driven by 'the players that bring sustained interest in the commodity to the table, and that bring considerable financial resources to the work of the group as well' (WWF, 2004, pp. 3–4).

In contrast, the memo warned not to involve producer or manufacturer associations early on in the process, as they were identified as the most conservative actors in the agricultural supply chain. Civil society organizations should also be selected using criteria such as their level of commitment and expertise. The memo made clear that there are many different stakeholders (NGOs and companies) that should not be 'invited to the table', because of a lack of expertise, commitment, or ideological opposition. In this regard, the memo stated: 'Wanting to be at the table is an insufficient reason to be there'. In essence, the WWF executive identified the intense internal politics of other

MSIs as a problem limiting their effectiveness. As a solution, he promoted the idea of a ‘science-based commodity discussion’, in which legitimacy is created through using science to build consensus among internal and external stakeholders (WWF, 2004, pp. 2–6).

In contrast, the founders of the RSB and RTRS followed the more traditional roundtable model, emphasizing inclusiveness of participation in the overall design of their organizations. As shown above, this was partly due to the high level of external criticism and contestation they faced. However, it also had something to do with the experiences and personal convictions of their founders. The case of the RSB illustrates this well. The founding group of the biofuels roundtable consisted of a handful of individuals from different backgrounds. Of particular importance was a member of the Energy Center of the École Polytechnique Fédérale de Lausanne (EPFL). This person organized, convened, and chaired the first roundtable meetings and developed the blueprints of the fledgling organization (EPFL, 2006). In an interview, he talked about his background, motivation, and experiences. Holding a master’s degree in applied ethics from the University of Zurich, he had been involved with multi-stakeholder processes in other areas before joining EPFL. Among other initiatives, he had been involved in the Partnering Against Corruption Initiative – a multi-stakeholder dialogue on transparency and corruption within the World Economic Forum. In the interview, he explained that he strongly believed that inclusiveness and transparency were of key importance in these processes, citing an old African saying as his *Leitmotiv*: ‘If you want to go fast, walk alone. If you want to go far, walk with others.’¹⁰

Institutional bargaining

Negotiations between interest groups within MSIs was identified as another mechanism through which decisions about institutional design are made (Abbott & Snidal, 2009; Schleifer, 2016).

In support of the existing secondary literature, the in-depth case study analysis revealed that institutional bargaining is an ubiquitous feature of multi-stakeholder governance. MSIs are deeply political and its participants constantly negotiate and renegotiate the formal and informal policies and structures of these arrangements, including their legitimation strategies. Much of the bargaining takes place ‘behind the scene’ of the public debate, and the interviews and analysis of meeting minutes allowed some insights into these processes. In this regard, evidence for various episodes of internal bargaining and politicking could be identified in all three cases, which, due to space limitations cannot be fully reproduced here. But, there were also differences between the three cases, notably in the intensity of the internal negotiations. In this regard, the RSB stood out. For a prolonged period of time, it was paralyzed by internal struggles over inclusiveness and the balance of power between stakeholder groups in the organization (Schleifer, 2016).

Somewhat paradoxically, the RSB’s open and participatory approach led to the inclusion of a group of stakeholders that soon challenged the roundtable’s legitimacy from within. During 2009, the RSB’s producer constituency increased rapidly. However, these companies joined the RSB at a time in which the organization’s governance structure had already been formalized, putting civil society actors in a strong position. Worried about the level of NGO influence in the RSB and that the resulting standard would be too complex and costly to implement, producers demanded that voting power should reflect actual participation. In an interview, their representative stated that: ‘We did not think it was fair that a chamber with thirty members had the same vote, which is one vote, as a chamber with four members’.¹¹ Because of that, producers complained that ‘there was a problem with representation of chambers in the RSB all along’ and that significant changes were needed (RSB, 2010a, p. 3). Not surprisingly, the civil society groups strongly disagreed with this assessment.

They pointed out that many NGOs are umbrella organizations, representing many members: ‘[J]ust having more members isn’t a fair measure either, since a single organization may represent more stakeholders in the field than another entire chamber has members (RSB, 2010b, p. 3).’

Eventually, these internal struggles led to a governance reform. The reform reduced the number of stakeholder chambers from eleven to seven. The new structure consisted of three civil society chambers, three industry chambers, and the former chamber 11 as a non-voting chamber. However, producers’ more far-reaching demands for more influence were not successful. Civil society actors in the RSB used their institutional power – they controlled the majority of votes in the governing board – to block a more fundamental revision of the internal stakeholder balance.¹²

Linking findings back to theory

Scholarly interest in the choice of legitimation strategies is growing (Gronau & Schmidtke, 2016). In the field of private governance, recent research has examined their context dependence, the evolution of democratic legitimation in organizational fields, as well as the interactions and trade-offs that determine the choice of legitimation strategies (Boström & Hallström, 2013; Dingwerth, 2017; Fransen, 2012; Glasbergen, 2013; Hatanaka & Konefal, 2017). The comparative analysis of three MSIs in the field of sustainability governance adds to our understanding of these processes. Drawing inductively from the case material three sets of insights are derived:

Making sense of complex environments

As noted by Fransen (2012), MSIs need to balance multiple institutional pressures. Normative and mimetic pressures in organizational fields are still important forces that shape institutional design choices in transnational sustainability governance (Loconto & Fouilleux, 2014). In this regard, the RSB, RTRS, and Bonsucro all used the standards of the focal meta-governance organization (the ISEAL Alliance) as a baseline for their legitimation regimes. This was a source of isomorphism between them, but not to a degree suggested by stronger versions of the organizational fields argument (Dingwerth & Pattberg, 2009). One reason for this is that MSIs’ receptiveness to normative and mimetic field dynamics were mediated by the strength of coercive political pressures they faced (see discussion below). Overall, the cases studied reveal that differences in coercive political pressures were a key driver behind the observed variation in legitimation strategies. However, unlike assumed by Quack (2010), the process did not follow a logic of demand and supply. External audiences (mostly environmental groups) did not demand democratic legitimation, but expressed fundamental opposition against biofuels and genetically modified soy. Consequently, the RSB’s and RTRS’ participation-based response resulted in a strategic misalignment between the nature of external demands and their legitimation regimes. These episodes from the history of the two MSIs thus reveal the limits of normative legitimation frames to generate support for private governance in deeply contested environments.

Understanding interactions between mechanisms

Existing research shows that the choice of legitimation strategies are the result of complex interactions between factors, both inside and outside of these arrangements (Boström & Hallström, 2013; Glasbergen, 2013). The case studies contain a number of clues to further advance our understanding of these issues. In his work on the Roundtable on Sustainable Palm Oil (RSPO), Glasbergen

shows how the criticism of NGOs on the outside of the RSPO strengthened the bargaining position of NGOs on the inside. In support of Glasbergen's observations, the extended case material included several episodes in which internal bargaining dynamics were influenced by the nature and strength of external pressures. Additionally, the case studies point to interaction effects between environmental pressures. In this regard, normative and mimetic pressures seem to unfold a stronger effect in highly contested environments. The cross-case comparison shows how, eager to avoid mistakes that could compromise their legitimacy, the founders of the RSB and RTRS carefully mimicked the design of 'successful' initiatives like the FSC and closely followed the rules of the ISEAL Alliance. In contrast, confronted with little contestation during its foundation period, Bonsucro was less receptive to the field's isomorphic pressures.

On continuity and change in multi-stakeholder governance

A longstanding debate in the literature on transnational private governance revolves around the question of whether MSIs converge towards a common model of 'good private governance' or whether diversity persists (and if so to what degree). Much of this debate has centred on field-level dynamics – in particular, the nature and strength of isomorphic processes, and how they have evolved over time (Dingwerth, 2017; Dingwerth & Pattberg, 2009; Fransen, Schalk, & Auld, 2018; Loconto & Fouilleux, 2014). In a recent article, Dingwerth (2017) argued that, as transnational private governance has become a pervasive phenomenon, democratic legitimation pressures have decreased. This would affect the choice of normative frames by new entrants into the field. With the RSB, RTRS, and Bonsucro all founded in the same time period (mid-2000s), this 'evolutionary effect' was largely held constant in the present analysis. And the development of these MSIs of the same 'generation' was characterized by a remarkable degree of path dependency.¹³ While changes occurred over time (e.g. new strategies were added), the basic orientation (and differences between MSIs) remained unchanged. The empirical analysis allowed insight into the micro-level processes at work. In this regard, the case of the RSB revealed how formalized institutional power was an important source of path dependency. Another factor is the 'stickiness' of organizational culture. For example, Bonsucro's notion of 'science-based commodity discussion', which came to determine the internal logic of the organization from a very early stage.

Conclusions

In the past, MSIs have often been praised for their potential to democratize the transnational governance process. However, a closer look at these arrangements reveals that they vary greatly in their designs and legitimation strategies. To shed some light on the issue, this article approached the issue from the vantage point of normative theory. But the objective was not to develop another argument about how MSIs ought to be designed. Instead, it investigated the choice of legitimation strategies in order to develop a better understanding of the reasons why these arrangements approximate or depart from normative ideals. The analysis advances our collective understanding of these processes and, in particular, how normative legitimacy and empirical legitimation dynamics intersect. Future research should continue in this trajectory. In the field of sustainability governance and beyond, we need a better understanding of the scope conditions, mechanisms of choice, and broader evolutionary dynamics that shape processes of democratic legitimation in private governance.

Notes

1. The ISEAL alliance is an umbrella organization of voluntary standard systems that defines meta-standards of good standard-setting practices.
2. Interview with a member of the Steering Committee, via phone, May 2012.
3. Interview with a member of the RSB Founding Steering Board, London, December 2011.
4. Interview with a member of the RSB Founding Steering Board, via phone, December 2011.
5. Interview with a member of the RTRS Organizing Committee, via phone, May 2013.
6. Interview with a member of the Bonsucro Steering Committee, via phone, May 2012.
7. Interview with the Coordinator of the RTRS's standard-setting process, via phone, May 2014.
8. Interview with a member of the Bonsucro Steering Committee, May 2012.
9. Interview with an executive of WWF Switzerland, May 2014.
10. Interview with the first coordinator of the RSB, London, July 2011.
11. Interview with a member of the RSB Founding Steering Board, via phone, December 2012.
12. Interview with a member of the RSB Founding Steering Board, via phone, November 2011.
13. See Auld (2014) and Bloomfield and Schleifer (2017) for a more detailed discussion on path dependency in transnational private sustainability governance.

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