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Grounding the Politics of Transnational Private Governance: Introduction to the Special Section

Jean-Christophe Graz

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ABSTRACT

With a focus on the concept of grounding, this special section argues that the politics of transnational private governance should be understood in the double meaning of, on the one hand, its local implementation and, on the other hand, practices of political contestation and translation. The concept of grounding thus allows for a localised focus on practices used by actors in transnational private governance. By doing so, we hope to make three contributions to the current debate. The first is to never lose sight that governance is first and foremost about politics; the second is to provide a conceptual framework making more explicit the intrinsic limits of transnational private governance efforts; the third is about the form of power exercised by transnational private regulatory initiatives in global production networks. This introduction provides historiographical and conceptual background to this special section, which brings in scholars across social sciences, including political science, sociology, law and philosophy. It introduces the contributions from research communities that usually remain separate in their analysis of standards used in global production networks in the domain of labour, environment, and human rights.

KEYWORDS

Private regulation; global production networks; voluntary sustainability standards; labour standards; corporate codes of conducts

Transnational private governance is about politics, not just solving problems arising from market externalities in a globalised political economy. It relies on guidelines, codes of conducts, and standards issued by multinational corporations, multi-stakeholder initiatives and international organisations of all kinds, such as the Rainforest Alliance standard, the ISO 26000 Guidance on social responsibility, or the UN Guiding Principles on Business and Human Rights. While they become increasingly embedded in economic, social and political institutions at national and transnational levels, such instruments are still made up of practices localised in the many sites of global production networks. The proliferation of guidelines, codes of conducts and standards continue to stimulate enduring debates on whether they work or do not work in practice and, ultimately, on the effectiveness, the implications and the legitimacy of transnational private governance.

To be fair, studies aiming at honing the theoretical and analytical underpinnings of transnational private governance have mushroomed over the last decade. Moreover, we can expect a new generation of scholarship on the ensuing transformations resulting from the Covid-19 pandemic and scores of structural effects that will last for decades. So far, rational institutionalist accounts have

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detailed how transnational private governance sets standards, gives access to a multiplicity of state and non-state actors in setting standards, creates innovative designs to monitor expected processes and outcomes, uses incentives supposed to improve suppliers' compliance, provides training and certification for business in organising global production networks, and ultimately reorganises the relations between state and market actors (Potoski and Prakash 2009, Levi-Faur 2011, Marques and Eberlein 2020). A number of studies have also theorised, among other things, the interactions of organisations involved in such mechanisms (Eberlein *et al.* 2014, Malets and Quack 2017, Wood *et al.* 2019), formal and informal roles of intermediaries between regulators and their so-called targets (Abbott *et al.* 2017, Brès *et al.* 2019), orchestration and designs (Abbott *et al.* 2015). From a more critical institutional and sociological perspective, authors have stressed the political construction of such markets and pointed out the broader framework of capitalism and its constraining environment. Recent studies have laid particular emphasis on power inequalities between stakeholders, exclusion of actors, the preponderance of managerialism over empowerment, and potential tensions between public and private standards (Fransen 2012, Fransen and Burgoon 2017, Bartley 2018, Ponte 2019, Graz *et al.* 2020).

New Political Economy published a few years ago a symposium on the political economy of governance in a 'global value chain world'. It stressed the need to move beyond the firm-centric approach of the literature on global value chains, to conceptualise more systematically how the concentration of power in global value chains impinges on global economic governance, and to address the normative implications of such uneven distributional mechanisms on the prospects of improving social outcomes (Mayer *et al.* 2017, pp. 130–1). The contributions shed light, particularly, on the centrality of politics, state agency and power in what Mayer and Phillips (2017) call 'outsourced governance', on the importance of contextualising governance to take into account the fact that global value chains 'help produce the "local" landscape they traverse' (Bair 2017, p. 82), and on the importance for future research to be 'cast at the supply chain and firm, rather than at the country or industry level' (Mosley 2017, p. 153).

With a focus on the grounding of politics in transnational private governance, the articles included in this collection aim at advancing such theoretical endeavours. In the wake of studies in political economy advancing a critical and pluralist perspective (Hay and Smith 2018, p. 22), they take stock of the shared consensus that transnational private governance remains prominent in global production networks despite its many flaws (Amengual and Kuruvilla 2020, p. 810). This special section brings together leading junior and senior scholars who build on the concept of grounding to take a critical stand on the politics of transnational private governance with distinct focus on the levels of formation and implementation, as well as the generative force of practices involved.

This introduction starts with some conceptual clarification aimed at structuring the discussion on grounding the politics of transnational private governance. It then examines the implications of the concept of grounding for future research on transnational private governance. At each step, it builds on the articles included in this special section to spell out how the concept of grounding may advance debates on the politics of transnational private governance.

What Is Grounding?

Many companies and private regulatory initiatives can no longer use labour, environment and human rights standards as mere window dressing. They are expected to report and provide reliable accounts of policies actually implemented *on the ground*. This is one reason why a number of global governance studies have taken a so-called local turn. They assume that outcomes in local communities and production sites, such as farms and firms embedded in global production networks, do matter (McCarthy 2012, Distelhorst *et al.* 2015, Amengual and Chirot 2016, Bartley and Egels-Zandén 2016, Mayer *et al.* 2017).

Grounding should also be understood as a political action in which agents have the capacity to act against an expected flow of events. By analogy, this characterisation brings to mind an emergency government order, a Court action or a CEO decision to have a whole aircraft fleet grounded when a major event justifies such a decision, as it happened with the bankruptcy of Swissair in 2001, the technical failure of the Boeing 737-max in March 2019 after two aircraft crashed within five months killing all passengers and crew aboard, and on a hugely different scale with the measures adopted worldwide to fight the Covid-19 pandemic. When it comes to transnational private governance, this presumes taking seriously the actual or potential dissenting voice and collective action of workers, environmentalists, human rights advocates and others. While questions of legitimacy and accountability in transnational private regulation have been discussed for some time (see for instance: Black 2008; and for a recent reformulation: Zürn 2018), the focus here is rather on the many ways in which concrete practices shape power configurations between public and private actors. This brings to the fore a renewed interest in power and agency in transnational private governance and its close relation with global production networks (Merk 2015, Bartley and Egels-Zandén 2016, Schulze-Cleven 2017, Zajak *et al.* 2017, Coe and Yeung 2019, Ponte 2019, Graz *et al.* 2020).

This special section thus aims at providing insights on two distinct yet closely related dimensions: the concept of grounding helps appraise transnational private governance as (1) localised politics and (2) politics generated by concrete practices. This is what we will look at more closely now.

First, what we will designate here as *Grounding 1* encompasses the localised politics of transnational private governance. This incites authors to identify factors that support or limit labour, environmental and human rights standards on the ground. This dimension of grounding allows us to draw attention to the fact that transnational standards are socially and historically constructed. With such emphasis on the micro-local level, we focus on the role of contexts, institutions and culture in setting and implementing the voluntary sustainability standards brought into play in the politics of transnational private governance.

This helps analyse standards set or used by actors as encountering the viscosity of socio-historical contexts which, for instance, keep track of previous experience of industrial relations and actions. Standards are thus viewed as embedded in local structures at firm and farm level, and in their direct environment in the community and domestic governance institutions. In contrast to many corporate social responsibility initiatives and large strands of regulation and governance studies, standards in the area of labour, human rights and environment cannot be understood as a simple top-down implementation from the standards setter and user to the norm addressee (the 'target' as often named in the literature) via all sorts of intermediaries (auditors, certifiers, etc.). Instead, we follow Berger and Esguerra who argue,

[n]orms do not exist independently of the people who are governed by them. Their meaning depends, at least partially, on the context in which they are invoked. At the same time, norms also point beyond these contexts and thereby link different people across various places. (Berger and Esguerra 2017, p. 1)

Besides the geographical context, local institutions such as industrial relations and labour law interact with transnational standards on the ground (Amengual and Chirot 2016, Bartley and Egels-Zandén 2016, Oka 2016). This can include informal linkages between state officials and civil society organisations, particular features of public and private interactions and embedded state capacities in a variety of governance spheres (Amengual 2016, Fransen and Burgoon 2017, Cashore *et al.* forthcoming). Grounding standards also faces a variety of work, management and human resources cultures (Helfen and Fichter 2013, Helfen and Sydow 2013).

Many studies in transnational private governance address implementation issues and look at how actors manoeuvre within a specific market structure of global production networks to push standards all along the chain. Such a perspective underlines the limits of what Sneyd (2014) describes as an 'inside-out perspective' focused on individual or a group of transnational private regulatory initiatives and their transformative nature on the industry in which they were launched. An inverted 'outside-in' perspective embraces the structures of the global political economy in which global

production networks operate in relation to the broader world order. This encompasses the political contestations that shape particular markets 'on the ground'. As seen above, this includes issues related to the ability of multinational corporation to drive the agenda and outcomes of transnational private governance, the contested legitimacy of standards and the limits of their implementation.

For instance, in this special section, Tim Bartley (2021) aims at conceptualising the distinct trajectories of power struggles related to private regulation to show the importance of 'taking the substance and grounded practices of transnational private regulation seriously'. Power struggles are seen as ubiquitous, but depend greatly on the nature of the rules concerned, the way compliance is constructed on-the-ground, and on the consent of the state in the location of lead firms' suppliers. The local context and institutions are thus utterly important in identifying challenges and limitations in the implementation of transnational private governance. In their contribution on voluntary sustainability standards in the Honduran coffee sector, Tomas Dietz and Janina Grabs (2021) show that implementation has its limitations on the ground due to a lack of incentives for farmers to improve compliance, especially when issues of scaling up are involved. Another example is the analysis of Christian Scheper and Johanna Gördemann (2021) on the importance of the contextual factors likely to enable or constrain the reinsurance industry. Large infrastructure projects such as dams depend on the additional protection against risk provided by global reinsurers, but in the same time on the distinct competences and background knowledge used on the ground. A final example is the way Stepan Wood (2021) draws in his article on Shiri Pasternak's study of Canadian Indigenous people's presence on and relationships with the land. Conflicts over the normative grounds for authority are, from this view, highly localised. Moreover, Stepan Wood shows that it is not only the implementation of global standards such as the ISO 26000 Guidance on social responsibility that need be *grounded* in local environments, but also the processes used to set them in the first place. Drawing on the example of the Colombian organisations involved in the development of ISO 26000 and the position taken by the Colombian standardisation body in ISO negotiations, here again Stepan Wood emphasises the importance of a local audience to build and constantly renegotiate the legitimization of global standards.

In brief, Grounding 1 entails localising standards and taking account of the context, issues of culture and institutions with the aim of studying the challenges and limitations of transnational private governance. We thus fully agree with Bartley when he reminds us that it is hard to observe the performance of standards from '10'000 feet up' (Bartley 2018, p. 4).

The second dimension of grounding of which this special section seeks further understanding with regard to the politics of transnational private governance focuses on practices. Here we follow Adler and Pouliot (2011, p. 5) in conceiving practices as 'patterned actions that are embedded in particular organised contexts and, as such, are articulated into specific types of action and are socially developed through learning and training'. What we call *Grounding 2* describes patterns of interactions in specific contexts that can take many different forms. By emphasising that practices are a necessary part of any account of world politics, Pouliot (2016, p. 10) points out that 'practices are socially productive, that is to say, they are a generative force in and of themselves'.

This prompts us to situate the politics of transnational private governance in relation with the practice turn in the field of international relations. This includes a variety of studies and theoretical approaches that encompass in one way or another a performative understanding of the world (Bueger and Gadinger 2018). Be that as it may, the concept of practice allows for transcending the dichotomy between a purely materialistic or discursive understanding of politics. Neither an expression of material interest only, nor a constructivist or poststructuralist enactment of meaning and text, practices refer, as Adler and Pouliot (2011, p. 4) point out, to 'socially meaningful patterns of action, which, ... simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world'. From this view, the politics of transnational private governance involves performance to be understood in the tradition of the interactionist sociology:

'all the activity of a given participant [to a face-to-face interaction] on a given occasion [...] serves to influence in any way any of the other participant' (Goffman 1956, p. 8). Through their practices, social agents produce patterned regularities in their continuous processes of doing something likely to be recognised socially.

Against this backdrop, it is important to conceive the politics of transnational private governance as constituted through distinct practices. Here we are particularly interested in how actors ground voluntary sustainability standards through practices of translation and/or contestation. We assume that there is no one to one implementation of standards into a local context. The point here is that distinct practices prevail according to each case studied, but practices of translation or contestation provide a fruitful heuristic for grounding the politics of transnational private governance.

Translation describes 'simultaneous processes of transportation and transformation' (Berger and Esguerra 2017, p. 1). When standards travel, their meaning can change, just as they can change their political and social context. Scholarship on translation not only allows to give grounding or what it calls 'local context' primacy in examining how transnational standard travel from one place (standards-setting) to another (implementation site). It also focuses on specific sets of practices sustaining such translation processes. Among them, bureaucratic paperwork is given a special place. For transnational standards in the area of environment, human rights and labour, this chimes particularly well with the way the extensive documentation generated by standard-setting, implementation and compliance mediates between different actors and contexts when enacted in practice (Berger 2017, p. 24ff, Hull 2012). For instance, delving into the detailed procedures of due diligence by reinsurance companies in the domain of human rights, Christian Scheper and Johanna Gördemann (2021) show in this special section how bureaucratic practices can easily be turned into a slick corporate risk assessment exercise. Such an analysis focused on the form that rights take in social settings explicitly claims a middle ground between structural practices theories drawing on Bourdieu and analyses of micro dynamics emphasised by actor network theory. For his part, Stepan Wood (2021) highlights that translation is also likely to occur between local communities of practices themselves. In the domain of voluntary sustainability standards used in the agri-food value chain, Thomas Dietz and Janina Grabs (2021) also shed light on the translation of transnational private governance undertaken by a range of actors: standard-setting organisations may adapt their own standards and their outreach strategies; certifiers organise small-scale farmers into certifiable groups and have a say in ultimately assessing their compliance; and finally, smallholder farmers often struggle in implementing the required practices. Such construction of any compliance to standards via translation practices also takes place in the different incentives used by firms and private regulators to accommodate state power. As Tim Bartley (2021) shows in his contribution, the power of the state at the point of implementation, far from being transcended, is routinely accommodated in the construction of compliance.

Besides translation practices, contestation can take place during the development of a norm or in the process of diffusion or localisation (Lantis 2017). Actors such as workers, governments, business can oppose transnational standards and organise protests, exit certain standards schemes or create competitive regulatory frameworks. This practice of contestation allows us to focus on the role of agency as a contesting force in grounding transnational standards. This also echoes Wiener's (2014) analysis of contestation in norm localisation processes.

Basically, the practice of contestation aims at rejecting standards or changing them so radically that power imbalances between actors can be inverted. For instance, Stepan Wood (2021) fleshes this out in his analysis of the relationship between legitimacy and contestation. In his view, global standards can gain legitimacy by becoming grounded in local values and priorities; conversely, they can be delegitimised by running aground upon local opposition and peculiarities. More generally, Tim Bartley's (2021) piece starts from the assumption that contestation and power struggles are central to transnational private governance relying on rules not necessarily having the backing of the state; if contestation is ubiquitous, it is then all the more important to distinguish between power

struggles trajectories according to the particular contents of the rules used in transnational private governance.

The Politics of Transnational Private Governance and its Limits

In a nutshell, the concept of grounding allows for a localised focus on practices used by actors in transnational private governance. In other words, grounding the politics of transnational private governance supposes getting to grips with actual processes beyond implementation issues, and more particularly those resulting from translation and contestation practices. By doing so, we hope to make three contributions to the current debate on transnational private governance. The first is to never lose sight that governance is first and foremost about politics; the second is to provide a conceptual framework making more explicit the intrinsic limits of transnational private governance efforts; the third is about the form of power exercised by transnational private regulatory initiatives in global production networks. In the remainder of this section, I'll briefly outline each of these contributions.

First, the concept of grounding implies to pay special attention to the politics of transnational private governance. The notion of governance has gained currency over several decades to analyse various forms of political reorganisation that put traditional governmental and intergovernmental decision making at a distance. One of the greatest benefits of such hybrid form of power is that it support the exercise of authority without full control of sovereign rights (Graz 2019, p. 28ff). At the same time, the rise of governance has prompted strong criticism for supporting sustained depoliticisation of key regulatory issues in domains such as monetary, environmental and social policies. It therefore comes as no surprise that the relationship between the broader shift towards governance policies and the declining interest and engagement in politics driven by neoliberal discourse, policies and institutions is a matter of scholarly and political debate (Hay 2007, Wood 2016, Rotha *et al.* 2017, Louis and Maertens 2021). An emphasis on politics prompts us to engage with the re-politicisation of transnational private governance and regulation often too easily concealed by problem-solving approaches overly focused on coordination issues. We see much of the discussion around orchestration (Abbott *et al.* 2015), closing gaps (Oka 2010, Crane *et al.* 2019), or regulatory intermediaries (Abbott *et al.* 2017, Brès *et al.* 2019) as caring a risk of conveying much the same lapse into depoliticisation by removing or displacing the potential for choice, collective agency, and deliberation. Talking about politics is thus not so much about solving problems in the organisation of a global market and its negative externalities, as questioning what may otherwise be taken for granted or perceived to be necessary in global production networks. As Hay points out in what has become a classic on (de)politicisation, 'issues are politicized when they become the subject of deliberation, decision making, and human agency where previously they were not' (Hay 2007, p. 198).

That is why, for instance, Christian Scheper and Johanna Gördemann (2021) show in their contribution that the corporate role in the politics of human rights goes well beyond questions of norm compliance and risk-based management in underwriting large projects with complex reinsurance policies. This is also true of the distinct trajectories of transnational private governance unpacked by Tim Bartley (2021) in order to understand how corporate power can be contested in an environment crowded with governance initiatives, themselves vying for accommodating state power. One of the trajectories is explicitly called the 'politics of grounding', in the sense that rules with high political salience are likely to be seen as an infringement on national sovereignty and clash with pre-existing production regimes. For his part, Stepan Wood (2021) explicitly frames the standard-setting phase of transnational private governance as being fully part of legitimation politics. As we will see below, such emphasis on the politics of transnational private governance encourages taking the concepts of power and contestation seriously.

Second, the concept of grounding allows to account for the limits in setting, implementing and legitimising transnational private governance, with a distinct focus on localised practices of

translation and contestation. Grounding the politics of transnational private governance sheds light on the viscous interactions likely to limit the ways in which transnational private governance is designed, implemented and ultimately viewed as legitimate. The argument on the limits of transnational private governance has been made elsewhere: 'transnational private governance is something of an abuse of language as it is neither fully transnational, nor entirely private or excluding governments in its logic of action and power' (Graz and Nölke 2008, p. 10). Here, we more specifically focus on how political contestation, a lack of resources, incentives or awareness regarding standards may shape markets in their own way on-the-ground – of the shop floor, on the land, in the office and their direct environment. For instance, Thomas Dietz and Janina Grabs (2021) show in their article on voluntary sustainability standards in the Honduran coffee sector that their implementation faces strong limitations on the ground, as commercially successful standards show little impact, while stricter schemes create high entry barriers and unresolved opportunity costs. As a result, no scheme has managed to grow substantially. In the same vein, Tim Bartley (2021) shows in his paper that the promises of transnational private regulatory initiatives are still heavily limited by their dependence on lead firms and brands. Another example is provided by the strong limitations that Stepan Wood (2021) sees in the processes of setting international standards such as ISO 26000 on social responsibility in Colombia: their legitimation 'does not need deep local roots' and can leave aside 'actors that work and identify most closely with those harmed by the problems at which transnational private governance is aimed'.

Finally, the concept of grounding is closely linked to the exercise of power and its various types. As the contributors to this special section show in various ways, grounding the politics of transnational private governance presumes conceptualising power as a disposition and a relation, rather than a resource or an outcome. Power is indeed neither a thing (a resource), nor an event (actualised as an outcome), but a disposition to affect a course of action (Morris 1987). Moreover, as Guzzini (2009, p. 7) points out, 'the conditions under which dispositions can be translated into effects are dependent on social relations'. Such dispositional and relational understanding of power emphasises the variety of contexts in which agents are likely or unlikely to actualise their ability to produce an effect. This is all the more the case considering the diffusion of power implied in private regulatory initiatives and, more broadly, the ambiguity implied by such transnational hybrid authority in contemporary capitalism. Such ambiguity confers authority not only on new actors, but also a wide range of new issues across sovereign spaces (Graz 2019). In the same time, as seen above, the power of voluntary sustainability standards to shape markets face strong limitations on-the-ground. In his contribution, Tim Bartley (2021) takes a critical look at how private regulation is saturated with corporate power and, at the same time, contested along distinct trajectories depending on the particular content of the standard-setting project. For Thomas Dietz and Janina Grabs (2021), beyond institutional and material resources per se, the ability to make use of them all along the global production networks is paramount for both the implementation and the enforcement of voluntary sustainable standards on-the-ground. In their critique of the private governance of human rights, Christian Scheper and Johanna Gördemann (2021) emphasise the shift from a the institutional power of rights-holders to the performative power of firms in charge of defining the value assigned to a potential breach of such rights as a business risks. As Stepan Wood (2021) points out in this special section, local legitimation and delegitimation of standard-setting authorities eventually reflect power struggles over the normative grounds for authority. In brief, with the concept of grounding, we aim at providing an innovative account of significant limits that the translation, implementation and legitimation of transnational private governance will inherently face in any power plays that take patterns of localised practices seriously.

To conclude, contributors to this special section probe in a number of ways how the concept of grounding bears upon the politics of transnational private governance. Considering the plurality of theories they draw on for their argument, it would be presumptuous to claim that the concept of grounding advances a single theoretical agenda for future research. Yet it does advance debates on the importance of localised practices in the politics, the limits and the forms of power that

transnational private governance faces in shaping markets across global production networks. This conceptual framework paves the way for future theoretical and empirical studies in transnational private governance. Although Amengual and Kuruville (2020, p. 810, 815) recently pointed out the ‘challenge of doing grounded research on private regulation [and analysing] the inner workings of private regulation and its institutional context’, future research has much to gain from a focus on the localised practices in which power struggles shape the politics of transnational private governance and its limits. As LeBaron (2020, p. 15,18) points out with the case of the continuing failure of labour governance, ‘on-the-ground-effectiveness is seldom analysed’ and to do so we need to ‘shift the debate on governance effectiveness from technical considerations to questions of politics’. In this regard, we will clearly have to find innovative ways of designing field research in the new normal of the Covid-19 pandemic world. While a rich tradition of scholarship now exists on labour and environmental standards in global production networks, recent work has also focused on human rights standards. Yet few attempts have been made so far to discuss those three core standards on environment, labour and human rights together. The width and significance of sectors examined by our contributors also help provide a promising basis for future empirical studies. Some of them, such as coffee, and forestry, are well known and can be assessed against a relatively large body of scholarship; others, such as infrastructure projects and insurance, are still little known among scholars of transnational private governance and clearly open promising empirical terrains.

Ultimately, grounding the politics of transnational private governance in localised practices has also implications regarding the disciplinary fields of future research. As Adler and Pouliot (2011, p. 6) underline, ‘taking international practices seriously is precisely to bring those scholarly debates [on disciplinary boundaries] “down” to the ground of world politics in order to empirically scrutinise the processes whereby certain competent performances produce effects of a world political nature’. In the same vein, Best stresses that far from being caught up in narrow disciplinary or theoretical straightjackets, the practice turn shores up everyday approaches in international political economy with a focus on the ‘how of global governance’ and ‘how actors and practices become connected around concrete problems and strategies’ (Best 2014, p. 20 & 24). While transnational private governance studies commonly draw on geography and sociology, this also supposes to take the decompartmentalisation of political economy studies seriously. One avenue among others is to better reach across studies in international political economy and international political sociology in order to develop what could be called a ‘socio-political economy of the globe’. As pointed out elsewhere (Graz *et al.* 2019, p. 590), this would not only provide a way to overcome such divide. It also helps to bridge micro-practices to macro-structures and to create ‘reflexive spaces for more holistic, embodied and contextualised conceptual innovation.’ It is our hope that grounding the politics of transnational private governance will forge such new avenues of enquiry.

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