

Regulating Globalisation

By Sylvain Maechler

The excesses of globalisation, including labour exploitation and environmental degradation in global industries, are often seen as the result of a lack of rules. Tim Bartley shows that these rules exist and overlap—they are just failing because they ignore the context in which they operate.

Reviewed: Tim Bartley, [Rules without Rights: Land, Labor, and Private Authority in the Global Economy](#), Oxford, Oxford University Press, 2018.

Tim Bartley's latest book¹ deeps into the reality of globalisation. It explores the rules that govern this endless expansion of capitalism across the globe, their implementation, their failure, and proposes avenues to make these rules better able to meet the challenges of this 21st century. *Rules without Rights* focuses on the implementation of labour and forestry standards in two Asian countries: China and Indonesia. It builds on a meticulous investigation that easily brings the reader to the core argument: the rules that govern the globalisation of production are failing because they ignore the context in which they operate. By treating the world as homogeneous, these rules cannot grasp local complexities, neither effectively exert their effects. Tim Bartley shows that globalisation has by no means wiped out the State, which remains

¹ Tim Bartley is Professor of Sociology at the Washington University in St. Louis. His research focuses on transnational governance, labour standards and environmental justice.

a central actor in the regulation of capitalism—including in its transnational dimension.

Rules without Rights is part of a large range of scholarship produced since the early 2000s on the shift from a public to a private authority in global governance. These debates were (and still are) mainly driven by scholars in international political economy—a subfield of international relations that studies the power dimension underpinning global economic relations—and sociology (Bartley’s academic field). Susan Strange from an international political economy perspective² and Saskia Sassen with a sociological view³ were one of the firsts to critically examine this supposedly privatisation of the international order, which materialises—among many other things—with rules no longer only produced by States but also by so-called multi-stakeholder organisations, involving non-governmental organisations (NGOs) and businesses, scientists and governments. It results in a so-called “hybrid” forms of authority.⁴

The Retreat of the State?

In contrast to a large range of studies in transnational governance that suggests that the excesses of globalisation are the result of a lack of rules⁵—considering domestic governance as “empty spaces” in which private rules can easily fill a gap—Bartley argues that these spaces rather are overburdened with overlapping domestic and transnational rules. Bartley therefore rejects the assumption of the retreat of the

² Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy*, New York, Cambridge University Press, 1996.

³ Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages*, Princeton, Princeton University Press, 2006.

⁴ Jean-Christophe Graz, *The Power of Standards: Hybrid Authority and the Globalisation of Services*, Cambridge: Cambridge University Press, 2019.

⁵ Kenneth Abbott, Duncan Snidal, Strengthening International Regulation through Transnational New Governance: Overcoming the Orchestration Deficit, *Vanderbilt Journal of Transnational Law*, n°42, 2009, p. 501-78.

State and the clear domination of one authority over another,⁶ but rather underlines a pluralisation of authority. Transnational governance does not fill empty spaces, but overlaps on existing regulatory frameworks. A relatively close argument has been put forward by Béatrice Hibou. She explains that bureaucratisation and its corollary, standardisation, promoted by the new public management paradigm, is not the result of a privatisation of public spheres, but rather reflects the reorganisation of the state in conjunction with the private sector.⁷

Bartley's book follows similar assumptions to explain how both private and public rules interact, offering a convincing argument regarding the importance of the State at the age of an ever-deeper globalisation. To answer these questions, Tim Bartley uses both qualitative and quantitative methods, as well as rich ethnographic and documentary sources, and 145 interviews with professionals of transnational private regulation.

The World's Global Network

It is very difficult to know the origin of each of the components of our coffee table, and the working conditions in which it was produced. This opacity is sustained by what a large range of researchers in sociology, political science and international relations call "global production networks". Bartley points out that these networks represent the infrastructure of transnational governance. They coordinate the production of goods between the different brands at the top of the supply chain (so-called "lead firms") and their many suppliers. It is worth noting that the recent COVID-19 pandemic shown us the fragility and immense interdependence of these networks, with all its geopolitical but also socioeconomical consequences.

⁶ Clair Cutler, Virginie Haufler, Tony Porter (dir.), *Private Authority and International Affairs*, Albany, SUNY Press, 1999.

⁷ Béatrice Hibou, *La bureaucratisation du monde à l'ère néolibérale*, La Découverte, 2012 ; Béatrice Hibou, *The Bureaucratization of the World in the Neoliberal Era: An International and Comparative Perspective*, New York, Palgrave Macmillan, 2015.

Since the 2000s, this model has spread across economic spheres, and one in five workers is involved in global production networks. Companies like Nike no longer own factories. They are no longer producers, but coordinators of global production networks that rely on independent factories spread across the globe. However, a number of scandals linked in particular to the working conditions in these factories have raised the question of the responsibility and accountability of these brands, as well as the need to govern global production networks with rules, standards or transnational private regulations. Although brands do not legally own the factory, they retain a disproportionate power over the entire network and its participants, allowing them both to influence prices and to impose the rules they choose. For instance, contracts between suppliers and brands regularly stipulate that the former must be ISO 14001 certified, a recognised guarantee of quality in terms of environmental management. As this is the case for the International Organization for Standardization's standards, brands are often involved at all stages of these rules, from their development to their implementation, that require a control and surveillance over the whole global production network.

Transnational Governance in Practice

The book builds on a comparative analysis of four cases including two so-called "classical" factors of production in political economy, land and labour, and two countries, China and Indonesia. Bartley first examines the implementation of forestry regulations and more specifically the ESC standard (Forest Stewardship Council) that looks at both social and environmental dimensions of forestry industries. This standard was developed in 1993 at the instigation of World Wide Fund for Nature (WWF) and has gradually established itself as the universal standard in this field. He then explores the implementation of labour regulations through the SA8000 standard also developed in the early 1990s. This transnational rule for fair and decent work followed several scandals such as child labour—forcing brands to be concerned about working conditions in their suppliers' factories. Bartley focuses on those who have the difficult task of implementing these standards on the ground: the professionals of transnational private regulation. They include private auditors paid by companies, as well as trade union or NGO employees targeting the "good" implementation of the rules.

Bartley rather shows that these 'qualified auditors' in charge of certifying factories (controlling the proper application of the rules) often face situations of conflict between domestic and private rules. And when these two regimes compete or overlap, domestic rules often impose. For instance, the FSC standard requires companies to respect the customary rights of local communities. However, the Indonesian Government gives rights to companies without recognising the claims of these communities. The FSC standard cannot, therefore be implemented, especially in a democratic country where activists and social movements inspect and if necessary challenge the proper implementation of private rules. Auditors cannot then ignore any potential violations of the rule.

The choice of these two countries is not trivial. If the local context did not matter, rules would apply in a similar way either in a democratic regime like Indonesia or in an authoritarian one like China. But Bartley shows that it is usually easier to apply such standards in authoritarian rather than in democratic regime:

[A]uthoritarian governance contains, absorbs, or represses contention, it can make it easier for companies to get certified to a high standard, since auditors may not even see the underlying conflicts. (p. 33)

This does not mean that authoritarian regimes are better able to meet the core normative objective of the standards. But they can more easily meet the formal and sometimes low requirements of auditors—which often distance themselves from the original purpose of the standard when being confronted with local realities. Rules are indeed often reinterpreted by auditors according to these realities. The absence of organised civil society and thus contestation makes it easier for factories to be certified. Private rules thus fail in their attempt to homogenise the world. Bartley characterises this schizophrenia as the “hope of transcendence” of transnational private regulations. Such a hope sometimes leads to abuses such as corruption of auditors or falsification of working hours records. Auditors frequently turn a blind eye to these practices, and such phenomena are all the more prevalent in authoritarian regimes.

Rethinking Transnational Governance

Private rules have not entirely missed their target, and some of the standards' objective have been met. Concrete and more transformative effects have however been very slight as private rules have not been able to escape from their hope of transcendence or homogenisation, leaving the auditors with the difficult task of adapting the rules to local contexts directly on the ground. While it would have been interesting to know more about the personal trajectory of these auditors, Bartley unfortunately does not deep into these elements. The book also deals only too succinctly with the content of these rules, which is often out of step with the various local realities. However, Tim Bartley stresses the importance of NGOs and trade unions' participation in the standardisation process. He points out that civil society is less involved in the development of labour standards than in their environmental counterpart. Such non-involvement may partly explain the greater failure of labour standards than environmental standards. Indeed, environmental NGOs would be prompter to accept the neo-liberal logic of such regulations:

International environmental NGOs have typically been willing to work with market-based approaches, whether because they have accepted the "compromise of (neo-)liberal environmentalism" or because they hope to build markets for alternative production models. (p. 73)

In his last chapter, Bartley proposes a scheme for new a transnational governance conscious of the place in which it operates. His proposition essentially consists in strengthening domestic/local ownership of transnational rules:

Rather than hoping to transcend the local context or fill in empty spaces, the practice of transnational governance would then mean grappling with contested meanings of law, supporting local enforcement, and bolstering the power of domestic advocates. (p. 28)

But to do so, brands must move away from the current logic of flexibility and cost reduction. The final and more normative proposal of the book aims at adopting a long-term logic and partnership between brands and their local partners:

These contradictions might be resolved if brands embraced a slower, more stable, more patient style of sourcing. (p. 255)

However, such an injunction to slow down the unbridled pace of globalisation requires a complete reshape of not only mentalities, but also of the performance measurement indicators of globalisation. We must no longer focus solely on economic dimensions of globalisation, but also on its environmental, social and relational counterparts. It is thus not only necessary to pluralise the different levels of governance, but also to pluralise measurement indicators—although such new ways of measuring progress will inevitably face resistances.⁸ An interesting avenue for further research would therefore be to combine studies on transnational governance with the recent research agenda on degrowth,⁹ in order to think today about the rules that will govern tomorrow the so-called “post-growth” world.

Finally, this book is an important contribution for researchers in transnational governance, in both sociology and international relations. It offers a convincing argument on the importance of the State that is still in position to influence the implementation of private rules. Bartley shows that the lack of rules does not explain the many failures of globalisation. Rather, these failures are due to too many rules and a lack of coordination between the different levels of governance. This book is also of great interest for professionals of transnational private regulations, as there are often in the frontline working on their impossible hope of transcendence.

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⁸ Matthias Schmelzer, *The Hegemony of Growth: The OECD and the Making of the Economic Growth Paradigm*, Cambridge, Cambridge University Press, 2016. (Reviewed in La vie des idées by Marieke Louis, see: <https://laviedesidees.fr/Aux-origines-de-la-croissance.html>)

⁹ Eloi Laurent, *Sortir de la croissance : Mode d'emploi*, Paris, Actes Sud, 2019.

Tim Jackson, *Prosperity without growth: The transition to a sustainable economy*, London, Sustainable Development Commission, 2019.