Accountability-by-proxy in transnational non-state governance

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A prominent feature of global politics in recent years is the proliferation of advocacy campaigns, social certification schemes and other non-state governance initiatives that aim to mobilize publics in rich countries on behalf of disadvantaged groups in poor countries. Such initiatives sometimes lead to policy interventions that are not welcomed by their supposed beneficiaries.[1] We investigate this phenomenon as it emerges in a particular context: the activities of non-state governance arrangements operating at transnational scales.

We use the generic term "non-state governance arrangement" (NGA) to highlight two important areas of broad consensus in the literature: first, governance can in principle be provided without the involvement of state actors; second, coherent governance functions can be performed not only by single organizations, but also by separate organizations linked in networks or other cooperative "arrangements" (Koenig-Archibugi 2006). As documented in a number of studies,[2] transnational NGAs are increasingly common in a range of policy domains. Some of them are aimed at producing benefits that are widely spread across the world's population, for instance in relation to sustainable forestry and other environmental commons. By contrast, the policies of other NGAs are mainly directed towards specific groups of beneficiaries. This is often the case in the domain of labour standards, where a range of private schemes has emerged over the past twenty years to respond to consumer demand for "decent" working conditions in developing countries.

To what extent are labour-standards NGAs affected by the problem of putative beneficiaries who object to what those NGAs do? In this paper, we examine three prominent NGAs – Fair Trade organizations, the Rugmark certification scheme, and the Fair Labor Association – and show that an important background condition for the emergence of this problem can be found in all three. That is: there is no clear agreement among the typical members of different categories of stakeholders (mainly workers and their families, activists, and consumers) on the question of which policy instruments are most effective in achieving the NGAs' professed goal of improving the lives of beneficiaries in poorer countries. Despite this common background condition, the NGAs under examination differ considerably in the extent to which beneficiaries approve of the policy instruments that are actually employed.

In a nutshell, we argue that in the presence of disagreements between stakeholder groups over the choice of policy instruments, the mix of policy instruments employed by an NGA will be importantly influenced by the distinctive configuration of accountability relationships of that NGA. Our focus on the accountability *of* NGAs is somewhat unusual, since they are more commonly studied as mechanisms *through* which other actors – notably transnational companies or international organizations – can be held accountable for their social impacts. However, it is important to subject mechanisms of NGA accountability to systematic study, because they play a major role in determining whose policy instrument preferences are implemented and, ultimately, what NGAs are able to achieve. Not surprisingly, then, the accountability of NGAs themselves is coming under increased scrutiny from scholars concerned with the effectiveness and legitimacy of private governance in world politics.[3]

We argue that a crucial dimension of variation in NGA accountability structures is based on a distinction between accountability arrangements in which policy makers are held directly accountable to those most affected by their decisions (which we refer to as "beneficiary accountability"), and arrangements in which an actor exercises accountability on behalf of other actors and is not itself accountable to them. Following Rubenstein (2007), we may call such latter situations "surrogate accountability", or "accountability by proxy".

In such cases of proxy accountability, activists and consumers in the global north see themselves as holding both companies and NGAs accountable "on behalf of" workers and affected communities, because the latter are not powerful enough to control the behaviour of those companies themselves. Acting in this role, consumers provide or withdraw support depending on whether they believe that the NGA lives up to particular standards in relation to the most directly affected groups. Likewise, labour rights and human rights activists of various kinds may also wield significant influence, again claiming to speak on behalf of the NGA's "beneficiaries".[4]

We show that different patterns of influence generated as a result of proxy as opposed to beneficiary accountability mechanisms "matter", because they influence which policy instruments get chosen by NGA managers. Specifically, we focus on choices between what we elaborate below as "allocative" versus "regulative" instruments, as well as major variants therein.

The mix of policy instruments used by an NGA is not caused by any single factor, but is the result of complex configurations of conditions, of which the balance between proxy and beneficiary accountability is only one. With reference to governmental actors, Linder and Peters (1989) group the causes of variation in choice of policy instruments in four classes: systemic variables, organizational variables, problem-specific variables and individual-level variables. All four types of variables, combined in various ways, contribute to explaining instrument choice not only in governments but also in NGAs. In this paper we aim the spotlight on the difference made by organizational variables, and specifically accountability mechanisms. We do this by discussing three cases where systemic, problem-specific and individual-level conditions are broadly similar (although by no means identical): Rugmark, the Fair Trade system and the Fair Labor Association (FLA).

The systemic context for all three cases includes the absence of strong national and international public institutions for regulating working conditions in developing countries. It also includes the emergence of a social norm, which advocacy networks have promoted with increasing success from the late 1980s, according to which the consumers of goods are somehow responsible for preventing the exploitation of the workers and communities that produce those goods, regardless of whether they are citizens of the same state or not (Segerlund 2010). Problem-specific conditions are also similar, as the three NGAs examined address the regulation of working conditions in global supply chains where consumers and producers are connected not through a single company but through a plurality of entities linked by more or less flexible and volatile contractual arrangements (Gereffi and Korzeniewicz 1994). While individual-level variables are more difficult to measure, we can identify at least one important similarity across our cases: managers with a primary background in activism interact with managers with a primary background in business to produce hybrid normative and cognitive orientations that socialize individuals into balancing commercial and social logics.

In what follows, we first develop a theoretical account of the mechanisms through which accountability structures affect instrument choices (section 1) and then apply that account to the three NGAs (Section 2). Analysis of the Rugmark certification program draws on interviews and focus groups with 60 parents in carpet-producing villages in the Indian carpet belt, and interviews with 59 Rugmark staff, government officials, staff of international organizations and NGOs, teachers and carpet exporters, all with direct involvement in child labour policies relating to India. Analysis of Fair Trade draws on interviews and focus groups with 204 individuals from 58 producer, corporate and non-profit organizations involved with the fair trade coffee sector in Central America (mainly Nicaragua), the United States and the UK. Analysis of the Fair Labor Association draws on around 70 interviews conducted in Guatemala and Washington DC, involving workers, companies, NGOs and FLA staff and Board members. Interview material was supplemented with other primary and secondary sources.

1. From Accountability to Instrument Choice: Unravelling the Causal Mechanisms

In this section, we clarify our conceptualization of the "dependent variable": types of policy instruments (section 1.1). Then we present the building blocks of our explanation of policy instrument choice. First, we define the different categories of proxies who participate in the "proxy accountability arrangements" in which we are interested: specifically "distant" proxies and "solidaristic" proxies (section 1.2). Second, we explain how different accountability structures influence the weight that the views of those three groups have in guiding the managers' choices of instrument (section 1.3). Third, we address the question of preference discrepancy between typical beneficiaries, typical distant proxies and typical solidaristic proxies (section 1.4). Figure 1 summarizes our explanation of policy instrument choice.

1.1 Types of Policy Instruments

Both state and non-state governance arrangements usually employ a *mix* of policies to pursue their economic, social or environmental objectives. The public policy literature has identified a wide range of policy instruments: for instance, a 1964 study on *Economic Policy in Our Time* listed 63 different economic policy instruments, such as subsidies to enterprises, taxes on property, government guarantees on loans, devaluations, and price controls (Kirschen et al. 1964). Various general typologies have been proposed, but a substantial number of scholars have converged in grouping instruments into three large families, called respectively regulatory, financial and informational (de Bruijn and Hufen 1998), or regulations ("sticks"), economic means ("carrots") and information/exhortation ("sermons") (Vedung 1998). In this paper, we focus on the first two families, which we will refer to as “regulative” and “allocative” respectively. To be sure, they do not exhaust the range of instruments used by policy makers, but between them they encompass a large portion of the activities of the NGAs considered in this paper.

We define *regulative* instruments as those aimed at restricting the range of possible courses of action available to those being regulated by attaching sanctions to some courses of action. By contrast, *allocative* instruments aim to expand the range of possible courses of action by providing resources (broadly defined) that can be employed for a range of purposes. Regulative instruments thus include the formulation of rules that prescribe or proscribe certain courses of action, as well as the monitoring of compliance with those rules, certification of compliance to interested parties, adjudication of disputes, and application of sanctions in cases of non-compliance.

Allocative instruments can take a variety of forms, depending amongst other things on what kind of resources are provided: money, credit, insurance, schooling, technical and professional training, organizational skill transfer, and health care are the most relevant resources in the context of the governance initiatives addressed in this paper. Narrowly defined, an NGA uses an allocative instrument when it collects resources and channels them to beneficiaries. We call this “direct allocation” in order to distinguish it from situations in which an NGA requires its members/affiliates to transfer resources to beneficiaries. We will refer to such requirements as “indirect allocation”, even though they are usually framed in regulative terms.

1.2. Types of Proxies

One important difference between categories of proxies is the extent to which they are *detached* or *engaged* from the life experiences of beneficiaries. While a minimum level of engagement is in any case necessary to be a proxy, some proxies invest considerable time and energy to learn about how beneficiaries perceive their own situation and to establish solidaristic linkages with them. Another distinguishing feature concerns the organization of proxies and whether any mechanism for collective action is available to them. On the one hand, some proxies exercise accountability in an *atomistic* way, typically by making on-the-spot purchasing decisions on the basis of dispersed information gathered from the media or other sources (including labels). On the other hand, other proxies are *organized* and "represented" by formal organizations or structured networks of activists, which act as conduits of information and negotiation. Engagement and organization are logically distinct features of proxies, but in practice they are often associated: engaged proxies are more likely to create the conditions for organized collective action, which in turn promotes engagement. In the cases we examine here, proxies tend to cluster in two groups: organized and engaged (which for simplicity we refer to as "solidaristic" proxies), and atomistic and detached (which we refer to as "distant" proxies).

1.3 Accountability Structures and Managers' Choice of Instruments

Virtually all NGAs in the labour standard area are dependent on consumer support for their continuing existence. But they differ in the extent to which this kind of market accountability is complemented by accountability directly to beneficiaries. In other words, the empirically most important distinction is between “pure” proxy accountability systems and “hybrid” systems combining proxy and beneficiary accountability.

How then do these different accountability structures influence the policy instrument choices made by NGA managers? The influence of distant proxies operates mostly through market mechanisms: consumers may refrain from buying products certified by the NGA or made by companies certified by the NGA, which in turn may endanger the financial viability of the NGA itself. Just as consumers use information provided by NGAs to hold companies accountable, consumers can use information provided by various sources (the media, activist groups, etc) to hold NGAs accountable.[5] To be sure, informational asymmetries make the “market for labour standards” (Elliot and Freeman 2003) highly imperfect, but nevertheless NGA managers are almost always anxious to gain and retain consumer confidence as well as visibility for their “brands”. This is especially the case to the extent that labour-standard NGAs are in a competitive relationship with one another (Fransen 2011). By contrast, the sources of influence used by solidaristic proxies and beneficiaries are more varied, and include non-financial forms of sanctioning.

Although these institutional variables relating to information flows and sanctioning capacity are *necessary* conditions for accountability structures to influence policy instrument choices, they are not sufficient conditions. Such influence will also depend on the responsiveness of policy-makers to input from stakeholders, which, depending on the context, may mean to be motivationally sensitive to the consequences of losing reputation or office, cognitively able to engage in the learning and deliberation demanded by communicative forms of accountability, and other personal and interpersonal conditions.

1.4 Different Preferences Concerning Policy Instruments

If the preferences of (distant and solidaristic) proxies with regard to instrument choice were always fully aligned with the preferences of beneficiaries, the presence or absence of beneficiary accountability mechanisms alongside proxy accountability mechanisms would make no difference in terms of the policy instruments that are actually chosen. However, the policy instruments preferred by *typical* beneficiaries are at least sometimes different from those preferred by *typical* distant proxies and those preferred by *typical* solidaristic proxies. Specifically, our cases suggest that (1) typical beneficiaries and solidaristic proxies tend to support more complex combinations of instruments, while typical distant proxies are satisfied by more simple instruments; (2) the policy mix preferred by typical beneficiaries, and some solidaristic proxies, is more oriented towards allocation and less toward regulation than the mix that appeals to typical distant proxies.

It would exceed the scope of this paper to explain when and why we should observe such differences, but there are reasons to believe that they are not simply a contingent feature of our cases but a more general and systematic phenomenon – we mention these here as promising directions for research.

One reason why distant proxies may be more supportive of regulative instruments than beneficiaries is because they may privilege negative duties over positive duties.[6] That is, they may believe that economic relationships linking consumers and businesses to producers in other countries generate negative duties (not to harm other people) but not positive duties (to assist them, or provide them with goods). For instance, some consumers may want to avoid any personal implication in child labour (supporting regulative instruments to try and achieve this) but at the same time accept no personal responsibility for providing the resources necessary to improve children's welfare, therefore de-prioritizing allocative instruments.

Another reason why distant proxies may look favourably to regulative instruments is that they may consider them a more cost-effective way to improve the welfare of workers and communities.[7] Regardless of whether available evidence supports such a belief, this explanation ultimately hinges on what instruments different stakeholders believe are "effective" or not.

This leads us to a further explanation, which emphasises different understandings of causality and associated perceptions of fit between problems and solutions. Problems such as child labour, poor working conditions, or salaries at or below subsistence levels, can be explained either by placing greater stress on the role of personal dispositions (greedy employers, corrupt labour inspectors, selfish, myopic or gullible parents, etc) or by emphasizing situational constraints (poverty, low productivity, lack of education opportunities, etc). Social psychologists call the former type of explanation "dispositional" and the latter "situational". A dispositional explanation assumes that the context presents actors with a range of options and that they make the "wrong" choice. If choice is seen as the problem, then the most appropriate solution is likely to be restriction of the range of possible courses of action by employing a regulative instrument. On the other hand, a situational explanation assumes that the context leaves certain actors with limited choice. If constraints are seen as the problem, the most appropriate solution is likely to be expansion of the range of possible courses of action by providing relevant resources – in other words, by employing an allocative instrument.

Social psychologists have found that dispositional explanation is the “default” mode and tends to dominate social inferences when individuals are either unable or unwilling to devote sufficient resources (attention, time, energy, etc.) to pursue situational corrections (Gilbert 1989). It can be conjectured that, since consumers are less able and/or willing to make such an effort, they are less likely to perform situational adjustments than beneficiaries, and thus more likely to favour regulatory instruments. Solidaristic proxies, on the other hand, differ from typical consumers in that they have a stronger motivation (because of their engagement) as well as better opportunities (because of their organization) to invest time and attention in analyzing the problem, and therefore are more likely to perform situational adjustments and support allocative instruments.

2. Accountability and Instrument Choice in Three Labour-standards NGAs

In this section we illustrate how the causal processes outlined above have played out across three NGAs addressing labour conditions in export sectors of developing countries. These cases display significant variation both with regard to their mix of policy instruments and with regard to their accountability structures: we show how the former are affected by the latter.

2.1 Rugmark

Rugmark is a non-state market-based certification mechanism, which focuses on the labelling of carpets and is supported by a governance structure that spans developing and developed countries. It consists of distinct organizations that work under a common umbrella, Rugmark International. Until the recent and on-going re-structuring, three member organizations were located in carpet exporting countries – India, Nepal and Pakistan – and three were located in importing countries – Germany, USA and United Kingdom. The following discussion focuses on operations in India, where Rugmark activities started, over the 1995-2005 period.

Rugmark Instruments. Rugmark uses both regulative and allocative instruments. The regulative dimension includes the creation as well as the enforcement of rules. Rugmark rules consist of substantive rules concerning the use of child labour in carpet production and procedural rules concerning registration, inspection and deregistration in case of non-compliance. Applicants for a license to use the Rugmark label undertake a commitment that carpets bearing the label have been manufactured without the involvement of children under 14 years of age, as mandated by Indian legislation. Work by children belonging to the loom owners' family is permitted under the condition that they attend school regularly. Licensees are also obliged to pay at least the official minimum wages to the loom-owners. Compliance with Rugmark rules is monitored by an inspection team and, if inspectors repeatedly find illegal child labour in looms, the delinquent exporters lose the permission to use of the label.

Rugmark India's allocative dimension involves the running of a centre for the rehabilitation of former bonded child labourers and six non-residential primary schools for children in carpet weaving areas. Rugmark provides no compensation to families for the loss of income from child work and no alternative income opportunities (except some training for women in carpet weaving). In the 1997-2002 period, Rugmark India spent about half of its license fee income on administration and monitoring and the other half for social programs (Dietz 2003: 64), but the identity of Rugmark is still much more linked to its regulative than its allocative functions.

Stakeholder Preferences Concerning Policy Instruments. We consider the preferences of three groups of stakeholders: the beneficiaries of Rugmark activities, specifically the parents of children likely to work in carpet manufacturing; consumers (i.e. prospective buyers of carpets made in the areas covered by Rugmark), who may act as distant proxies; and the NGOs that supported the creation and later operation of Rugmark, who we classify as solidaristic proxies. Undoubtedly there are major differences of opinion *within* the three groups. But what concerns us here is whether there is any evidence of a systematic difference between what could be considered the *typical* preferences of parents, of consumers, and of supporting NGOs. Interviews conducted by one of this paper's authors with parents of (former) child labourers in areas with the highest concentration of Rugmark-certified looms provided a relatively unambiguous picture of what they desired from initiatives aimed at reducing child labour.[8] On the one hand, they desired schools with no teacher absenteeism and no discrimination on grounds of poverty and caste, as well as the provision of food, clothes, shoes and books to children attending schools, without the need to pay fees. On the other hand, they desired better employment opportunities for adults and financial help for the purchase of farming animals. These responses coincide with the findings of a research team from the Institute for Human Development, which collected information on a sample of 5545 workers in Rugmark-registered looms, looms registered in other labelling schemes, and unregistered looms (19.21 per cent were child workers). The research team found that for the villagers an improvement of school attendance depended on the establishment of schools at an accessible distance, regular teacher attendance, improved teacher-pupil ratios and the provision of mid-day meals (Sharma et al. 2000, 66). Financial and indirect costs of schooling were also shown to play an important role in the choices of parents. “They opined that sending their children to school meant a double liability for them - foregoing income from weaving or the labour input of the child on the one hand and direct costs incurred on schooling on the other. […] The parents in the sample villages were of the opinion that their family income cannot sustain schooling for a long time and hence, their children are required to work with them either as a full time or as a part time worker” (Sharma et al. 2000, 66). Parents of (former) child workers thus express a clear preference for allocative instruments, specifically those that improve the proximity, affordability and quality of schooling, and provide forms of income replacement. They also support some regulative measures, specifically disciplinary interventions to improve teacher performance, but this does not seem to be their main concern.

By contrast, they often express scepticism or opposition to regulative measures such as prohibition and monitoring of child labour. In the focus groups conducted by the IHR team with parents in villages with labelled looms, they “complained of restrictions on preventing children from working. According to them, interventions without taking care of their woes and means of livelihood did not offer a sustainable solution, and children would continue to work either openly or covertly" (Sharma et al. 2000, 67). Similarly, a team surveying 623 households with children working in the carpet industry and 319 households without children working in the carpet industry, spread in 27 villages in Uttar Pradesh, found that "NGOs working with government agencies for better enforcement are not well regarded by the villagers" (Srivastava and Raj 2002: 111).

Does this differ from consumer preferences, especially those that are revealed in on-the-spot purchasing decisions? We are not aware of surveys or experiments that directly capture relative preferences for different types of instruments; hence we have to rely on more indirect evidence. Evidence from two experimental studies – one in the laboratory and one in the field - is informative. Rode et al. (2008) conducted an experiment (in Spain) with 162 students who acted as price-setting producers and consumers, with producers being described as international firms with production facilities in regions where child labour was prevalent. Consumers were told that only one in three producers complied with the conditions of an internationally recognized NGO fighting child labour, and provided with details of Rugmark's activities and the conditions necessary for the use of its label. In repeated market interactions among the experimental subjects, the certified producer attained an overall market share of 26 percent, despite the fact that its prices were usually higher than those posted by the non-certified producers. Evidence from a field experiment points to similar conclusions (Kimeldorf et al. 2006). These findings provide indirect evidence that, when consumers are exposed to information about Rugmark's approach to child labour, a substantial proportion of them support it. Of course, this conclusion would be on more solid ground if experimental subjects had been given the choice between supporting different combinations of regulative and allocative measures. It is possible that some of them may have regarded the current Rugmark mix as flawed, yet "better than nothing." But the available evidence indicates that consumers assess regulative measures more positively than parents of actual or potential child labourers and want to support initiatives that spend at least part of the price premium on activities such as the inspection of production sites.

We now consider the position of what we regard as solidaristic proxies, i.e. the NGOs that supported the creation of Rugmark in the early 1990s and have continued to support its operations in subsequent years. In Germany, the most prominent organizations are Misereor (the development aid charity of Germany's Catholic bishops); Brot für die Welt (a development aid charity supported by Germany's protestant churches); terre des hommes; and UNICEF Germany (a private-law charity). In the US, Rugmark was supported by International Labor Rights Fund (ILRF) and the Child Labor Coalition (an NGO network coordinated by the National Consumers League). In the UK, Rugmark was supported by Anti-Slavery International. On the whole, they supported the regulative focus of Rugmark while the initiative was being discussed and designed between 1991 and 1994, and they have continued to support this focus in the past sixteen years. They have also promoted Rugmark's allocative interventions alongside the inspection and certification system.

Accountability Structures. The preceding discussion has shown that Rugmark's policy mix does not coincide with the preference of beneficiaries, while it is supported by distant and solidaristic proxies. This outcome is largely a result of the accountability structures of Rugmark. As pointed out by a Rugmark manager, "the whole idea of Rugmark is to have the market dictate the terms" (author interview). As with other forms of accountability, market accountability combines the provision of information by decision-makers to accountability holders and the possibility that the latter will impose sanctions on the former. A key function of the Rugmark system is to supply information to consumers about the conditions under which a particular carpet has been produced. Rugmark's effort to reach out to consumers in Western countries corresponds to their ability to "sanction" Rugmark by refraining from purchasing Rugmark-labelled carpets. Importers play a crucial role in mediating between consumers – as potential distant proxies – and Rugmark as an organization. Importers weigh the costs and benefits of Rugmark membership according to economic and perhaps other criteria. In making their decision to join or leave Rugmark, importers consider both the extent to which their prospective customers (and intermediate retailers) are likely to value a child-labour certification and the credibility of the certification itself. In principle exporters in producing countries may join or leave Rugmark independently from requests by importers, but in practice exporters will do as important importers expect them to. Rugmark organizations critically depend on the fees paid by importers and exporters for the use of the label.

Rugmark depends financially not only on consumers as "distant proxies", but also on supporting charities as "solidaristic proxies". In principle those external organizations can impose sanctions on Rugmark by withdrawing sponsorship and support, or by publicly criticizing Rugmark. Given their record of support for Rugmark, any such criticism would be particularly damaging. Rugmark Germany is not financially self-sustaining but depends on financial support from the German government through the German Agency for

Technical Cooperation (GTZ), as well as other agencies and charities (Dietz 2003). Similarly, the Rugmark Foundation U.S.A, which promotes and protects the Rugmark trademark in the US market, depends importantly on grants and gifts.

The provision of information to direct and solidaristic proxies and the ability of the latter to sanction Rugmark managers stand in stark contrast to the minimal or non-existent role of the primary stakeholders, i.e. the children and their families, in the accountability structures of Rugmark. There is no evidence of a sustained program of information sharing to explain Rugmark's aims to carpet weavers. The IHD survey team, which targeted villages with a high concentration of Rugmark looms, found that "villagers had little or no idea of the labelling program initiated for tackling the problem of child labour in the carpet industry. Even the adult weavers on label-registered looms viewed these as another set of Labour Department inspections. Also, most villagers expressed complete ignorance about the welfare activities of the labelling programmes" (Sharma et al. et al. 2000, 49). Similarly, a German evaluation team found that Rugmark India "almost exclusively partner with their business groups (exporters/manufacturers registered with them). There is little or no partnership with the civil society or the target groups, children and their communities, in the institutional setting and planning of [the organization…] Rugmark India never attempted to develop partnerships with civil society groups, local government bodies… nor with their beneficiaries" (Dietz 2003: 60). Researchers working in the carpet belt have noted that the families of working children tend to see the inspectors as outside forces encroaching on their means of livelihood, rather than an organization that owes them accountability.

In conclusion, Rugmark is characterized by the following constellation: there is a divergence between the typical beneficiaries, who have a clear preference for allocative instruments, and the typical distant proxies, who tend to support a regulative certification that no child labour has been used in the production of goods. Rugmark organizations are financially dependent on solidaristic proxies and especially distant proxies, and virtually all information flows are directed towards those groups. In Rugmark's accountability structure, beneficiaries play no role – neither as participants in two-way flows of communication and deliberation nor as actors capable of sanctioning decision-makers. The result of this constellation is a significant disconnect between the instrument mix typically preferred by beneficiaries and the mix chosen by Rugmark managers.

2.2 Fair Trade

We next consider the fair trade system, focusing primarily on the certified system organized within the Fairtrade Labelling Organization (FLO). The FLO was created in 1997 by "national initiatives" based in consumer countries. Each national initiative continues to control licensing of the Fairtrade mark within their country (Nicholls and Opal 2005).

Fair Trade Instruments. The mix of instruments used within the fair trade system has evolved significantly as the system has developed. Prior to the establishment of certification standards, the fair trade system operated primarily as an allocative system, in which the strategic emphasis was on enabling resource transfers, capacity building and broader processes of social development. Regulative functions, to the extent they were carried out, tended to be coordinated more informally via solidaristic networks of fair trade activists engaged primarily in performing allocative functions. Formal certification systems were only later created by “National Initiatives” – alternative trading organizations operating within consuming countries in North America and Europe – who then formed an overarching international body, the Fairtrade Labelling Organization (FLO). Increasing volumes of fair trade coffee are now traded within the framework of this formal certification system, though more informal networks of fair trading continue.

Regulative instruments now play an important role within the FLO system, taking the form of standard-setting, auditing and certification functions. Within the FLO system’s overarching governance strategy, the role of these regulative instruments can best be understood as means of enabling fair trade managers to exercise *indirect* control over decision making processes further down the supply chain, by specifying and then monitoring standards. The content of the standards then becomes in effect the steering mechanism through which this indirect control is exercised as a basis for performing regulative and/or allocative functions. Standards may then be defined in a way that will enable them to operate as instruments of *direct regulative control* (designed to constrain the choices of the direct subject of the regulation), or as instruments of *indirect allocative control* (requiring the direct subject of the regulation to engage in allocative activities that will in turn expand the choices of a third set of actors – the real targets of the governance instrument).

Fairtrade standards are multi-dimensional, and in practice are used in both these ways, encompassing requirements designed to operate both as direct regulative instruments, and indirect allocative instruments. Standards that operate as direct regulative instruments include producer standards concerning working conditions, child labour and the environment. Indirect allocative instruments include those trading standards requiring provision of a "fair" minimum price and social premium, provision of pre-financing if requested by the producer group and a commitment to long-term trading relationships, and producer standards requiring the democratic governance of producer organizations. Although Fairtrade standards encompass both regulative and allocative dimensions, the latter play a greater *strategic* role in defining the purpose of the organization than is the case for Rugmark. This strategic emphasis is reflected in the framing through which the meaning of Fairtrade certification is both internally conceptualized and externally represented. Moreover, the fair trade system encompasses a much broader range of allocative instruments than is the case in Rugmark – contributing not only to the allocation of financial and material resources (in the form of a "fair price" and social premium), but also more intangible resources in the form of enhanced knowledge and experience concerning production, trading, managerial and community organizing activities. These intangible resources are expected to be generated by, amongst other things, the requirement that Fairtrade products are purchased on a long term basis from democratically governed worker or producer organizations. Many "alternative trade organizations" within the fair trade system also provide direct training and learning programs for worker and producer organizations to further facilitate the transfer of intangible resources.

<u>Stakeholder Preferences Concerning Policy Instruments</u>. Beneficiaries within the fair trade system encompass both workers and smallholder producers, the mix of which varies in relation to different certified products. Both in interviews conducted as part of this

research and as documented in other research, worker and producer groups are typically strongly supportive of allocative instruments (Bacon 2005). They are also very much in favour of the use of regulative instruments as means of promoting indirect allocative functions that require fair trade buyers to comply with minimum price, pre-financing and long term purchasing obligations. Moreover, beneficiaries tend to recognize the value of a broad range of allocative instruments, including intangible and tangible forms of resource transfer. Because beneficiaries bear the cost of regulative functions rather directly in the form of certification fees, most have a preference for limiting the costliness of such processes. However, most seem to at least broadly concur with the view that the existence of a regulative process has some value as a means of strengthening the effectiveness of indirect allocative processes and assuring consumers that such functions have been effectively discharged.

There are significant differences between preferences of beneficiaries and those of consumers, who operate as *distant proxies* within the fair trade system. Consumer surveys addressing issues of instrument choice, albeit usually indirectly, tend to support the idea that consumers can recognize the value of both regulatory and allocative mechanisms, usually with a small predisposition towards regulative mechanisms. For instance, in 2006 a random-sample national poll in the US found that the percentage of respondents who are willing to pay more for clothing made in “safe” working conditions (a typical regulative issue) is roughly 10 per cent higher than the percentage of respondents willing to accept a comparable price increase for “Fair-Trade” coffee that guarantees a “living wage” to producers in addition to “fair and safe” working conditions (Hertel et al. 2009). Particularly relevant for our argument are those surveys finding that “consumers are more willing to penalize firms for making products under poor conditions than to reward firms for making products made under good conditions” (Elliott and Freeman 2003: 46, cf. 33-35; see also Folkes and Kamins 1999). Companies therefore have a stronger incentive to invest resources in the inspection of production sites to minimize negative publicity than to charge higher prices and allocate resources to workers and their communities.

The proposition that consumers more readily recognize the value of regulative instruments than allocative instruments is at least indirectly supported by evidence that consumers tend to give disproportionate weight to assessments of the system’s regulative effectiveness in forming overall judgments about fair trade’s performance as a governance arrangement. There appears to be a general tendency for consumers to respond negatively to publicity that characterizes the fair trade system as failing in “policing” functions associated with the enforcement of regulatory standards (Wilson 2010). Direct evidence regarding the capacity of consumers to differentiate between allocative instruments on the basis of the particular resources they provide (and the contextual appropriateness of these) is scarce, though in interviews with one of the authors many fair trade managers reported recurring frustration in their efforts to develop “messaging” that might enable consumers to more readily differentiate the value of intangible allocative mechanisms provided through the fair trade system.

The capacity to differentiate between these variants of allocative mechanisms appears much stronger in the case of *solidaristic proxies*, who also play an important role within the fair trade system. Solidaristic proxies are in this case a range of alternative trade organizations, church, student and community groups participating in the fair trade movement (Jaffee 2007; Smith and Barrientos 2005). In contrast to distant proxies, solidaristic proxies appear to have instrument preferences that are more closely aligned with those of beneficiaries, emphasising direct and indirect allocative mechanisms and distinguishing to a much greater extent between allocative mechanisms of different kinds.

Accountability Structures. We have seen that the policy mix implemented by the Fair Trade system is significantly more aligned with beneficiary preferences than in the case of Rugmark. This greater alignment is due in part to the distinctive accountability relationships found in the FLO system. To the extent that the FLO system operates essentially as a market-based model of social certification, consumers wield a significant degree of structural power within the fair trade system, as within Rugmark. Therefore, even though consumers do not have any formal role within the FLO governance structure, their influence over managerial decisions is significant. Furthermore, Fairtrade's market-based accountability processes enable major corporate buyers of Fairtrade certified products to wield increasing influence over managerial decision making. In contrast to Rugmark, however, governance and accountability arrangements within FLO assign significant direct control to beneficiaries. Although the majority of positions on the FLO Board are still held by fair trade stakeholders from consuming rather than producing countries, representatives of Fairtrade certified producer organizations hold four out of 13 positions on the FLO Board. Moreover, producer organizations have some direct representation on FLO's Standards Committee, the body to which FLO's standard-setting functions are delegated. This formal representation of beneficiaries, and the concomitant ability to communicate directly with representatives of solidaristic proxies, was crucial in enabling producer representatives to strengthen the allocative dimension of the FLO system, notably by securing the increase of the minimum price for coffee and the social premium paid to producer groups against the initial opposition of some managers of Fair Trade organizations in consuming countries (Reinicke 2010).

In conclusion, the FLO system of fair trade is characterized by a significant divergence between the instrument preferences of beneficiaries and those of consumers, with beneficiaries placing a stronger emphasis than consumers on allocative instruments, and demonstrating greater appreciation for allocative instruments involving "intangible" forms of resource transfer. Like Rugmark, fair trade managers are importantly influenced by market based accountability structures that enable consumers to exercise structural power over managers. However in contrast to Rugmark, beneficiaries possess significant forms of direct control over managerial instrument choices via their direct representation on the FLO standard-setting committee and the FLO Board. Solidaristic proxies also play an important role in countering the influence of distant proxies, via their role in facilitating processes of learning through which managerial choices are, over time, able to be brought into closer alignment with beneficiary preferences.

2.3 Fair Labor Association

The Fair Labor Association (FLA) is a US-based voluntary governance arrangement in which a number of high profile apparel and sportswear companies work together with universities and NGOs to promote compliance with core international labour standards within their supply chains. The FLA was established in 1999 as a direct product of the 'anti-sweatshop' campaigns that emerged in the US during the 1990s.

FLA instruments. FLA managers rely predominantly on regulative instruments. Designated standards are codified within the FLA Workplace Code of Conduct, and these are supported by more informal guidelines relating to Code implementation. Monitoring of the Code within individual factories is then carried out in part by individual participating companies, and in part via external monitoring visits managed by FLA staff (who plan and schedule these visits, and accredit and hire external monitors). Formally, the FLA's enforcement mechanism has the power to exclude non-compliant companies from the Association, though in practice consequences of non-compliance also depend importantly on how a range of external actors (employees, consumers, shareholders, regulators, business partners, and so on) interpret and respond to the 'de-legitimizing' signal sent by such exclusion.

In the FLA's early years, such regulative instruments tended to operate in the absence of significant support from auxiliary allocative instruments. Over time, in response to the persistent failings of audit-based, 'policing' approaches, there has been some increase in the willingness of managers to combine regulative mechanisms with allocative instruments. One such change has involved increased emphasis by FLA managers on policies designed to expand the capacities of company managers to comply more reliably (and at lower cost) with designated regulative standards by combining technical assistance with support for processes of ideational influence and learning. In most cases, financial resource allocation remains limited, with most support offered in the form of technical assistance and advice.

Allocative mechanisms involving the transfer of resources (material or intangible) to workers remain underdeveloped within the FLA. This is true both of freestanding (albeit indirect) allocative mechanisms in the form of regulative requirements for payment of living wages, and of auxiliary allocative mechanisms designed to support the effectiveness of regulative processes by enabling worker organizations more effectively to organize in the workplace, and/or participate in processes of monitoring and remediation.

Stakeholder preferences concerning policy instruments. Consumers in the garment and sportswear sectors have repeatedly demonstrated a readiness to respond more strongly to governance problems framed with reference to corporate 'abuse' in far off 'sweatshops' than to frames recognizing more complex causes of poor sweatshop conditions. Correspondingly, consumers have tended to expect the use of regulative instruments focused on regulating corporate conduct as means of addressing such problems.

Factory workers in the facilities supplying FLA participating companies and licensees (the major beneficiaries in the FLA) are also generally in favour of regulatory mechanisms, at least to the extent that they are effective: 'We would like the brands to … make the firms comply with the codes of conduct, because I can only presume that this is why they exist, not just so they can be tucked away doing nothing' (author interview with one Guatemalan factory worker). However, in contrast to distant proxies, workers themselves tend to emphasise the need for regulative processes to be underpinned by allocative instruments that directly support worker organization and participation, both in monitoring and audit processes, and in workplace decision making more broadly. In explaining their reasons for supporting such instruments, workers often identify a range of complex contextual factors that undermine the effectiveness of simple regulative instruments – for example the power of business interests, the weakness or capture of labour ministries, a wider history and climate of union repression or weak rule of law. Such factors in turn underpin conditions such as a fear of civic organizing, a lack of confidence in state institutions and so on. Similarly, many workers identify complex situational factors as being primarily responsible for problems of underage workers in factories. According to one organization in Guatemala: 'This problem of underage workers isn't about decrees or laws, rather it is a political and structural economic problem. As long as this doesn't improve, they will keep working … People have to survive' (author interview). Accordingly, and in contrast to distant proxies who tend not to engage with the complexities of such situational constraints, workers tend to readily identify the value of underpinning regulative processes in allocative mechanisms that transfer resources to workers themselves, thereby helping to counter the severe social power asymmetries in which labour rights violations are so often embedded. Workers also commonly emphasize the importance of (indirect) allocative mechanisms in the form of living wages.

In general, the instrument preferences of solidaristic proxies have been closely aligned with those of beneficiaries. In this case, the most important categories of *solidaristic proxies* are student groups that seek to influence the University members of the FLA, as well as a range of other groups in both the United States and many producing country locations involved in labour and human rights organizing and advocacy. Like workers, such solidaristic proxies have stressed the importance of allocative mechanisms such as payment of living wages and support for worker organizing.

Accountability structures. Accountability arrangements once again play an important role in shaping managerial instrument choices, by helping to shape the distribution of influence over managerial decision making between these differing stakeholder groups. As in the previous two cases, the FLA embodies important elements of market-based accountability. The structural influence of consumers over managerial choices is exercised much more indirectly in this case than in the other two, being mediated through the preferences of corporate participants in the FLA. FLA managers tend to leave public communication strategies largely to the discretion of individual companies, who in turn focus their energies on directly engaging the activist groups who are perceived to pose the greatest direct risk to corporate brands. Nevertheless, companies (and in turn FLA managers) remain importantly constrained by the recognition that if the FLA is to serve the political/market risk insurance function that they wish it to, companies must ultimately be able to justify the FLA's chosen instrument mix in terms that consumers will accept.

Like Rugmark, but in contrast to the fair trade system, beneficiaries are able to exercise very little direct control over managers. First, structures of beneficiary representation within the FLA are very weak. Moreover, beneficiaries have limited ability to sanction the FLA (and/or participating companies) for Code violations, or indeed for any of its other decisions that significantly affect them. The FLA's accountability to workers is further constrained by the limited knowledge possessed by many regarding the substance of FLA decisions, the procedures through which these decisions are made, and in many cases the very existence and purpose of the Association.

Rather than giving direct control to beneficiaries, control within the FLA's formal governance structures is dominated by corporate and university members (and to a lesser extent, solidaristic proxies). The FLA Board, which is responsible for setting the Association's strategic direction and overseeing its activities, is structured so that control is shared equally between companies, universities and NGOs. Under these conditions, the goal of seeking strengthened alignment between managerial instrument choices and preferences of beneficiaries has relied importantly on the involvement of solidaristic proxies. To some extent solidaristic proxies have been able to exert influence directly through the Board, either via individual NGO Board members, or via indirect leverage wielded by campus based student activists over University managers. More often, however, the influence of solidaristic proxies has been exercised via their contributions to facilitating processes of feedback and learning among managers. There is some evidence that such learning processes involving solidaristic proxies played an important role in driving key elements of the FLA's Charter reforms in 2001-2002 (Chung, 2004: 173). It is also likely that pressure from activists, including student groups, on companies and universities strengthened the bargaining power of those NGOs inside the organization negotiating directly with companies. As a result of the 2002 charter changes, some changes to auditing processes were introduced that helped strengthen regulative processes – most notably in the form of increased transparency surrounding audit processes. Nevertheless, the influence of solidaristic proxies has in many cases proved insufficient to shift managerial choices towards some of the more overtly allocative instruments that beneficiaries and solidaristic proxies had advocated. Of particular note, FLA managers continued to resist demands for 'living wages' and for the FLA to carry out programmes to train workers.

In conclusion, the FLA shares in common with the two governance arrangements examined above a significant divergence between the instrument preferences of beneficiaries and those of consumers: unlike beneficiaries, consumers tend to favour regulative mechanisms, and show little recognition of the distinctive value of instrument choices that combine regulative mechanisms with a range of supporting allocative mechanisms. As in the previous two cases, the FLA embodies important elements of market-based accountability, though the structural influence of consumers over managerial choices is exercised much more indirectly in this case, being mediated through the preferences of corporate participants in the FLA. Like Rugmark, but in contrast to the Fairtrade system, beneficiaries have very little direct control over managers. Under these conditions, solidaristic proxies – whose instrument preferences appear well aligned with those of beneficiaries – have played an important role in challenging and somewhat countering the influence of both consumers and companies, in part via their indirect forms of leverage over members of the FLA Board, but also as a result of their contributions to facilitating processes of learning among NGA managers.

Conclusion

The evidence presented in this paper suggests that we have good cause for being concerned about the phenomenon of proxy accountability in global private governance arrangements – not only because of potential objections to such arrangements on democratic grounds, but also because of potential consequences for the propensity of different governance arrangements to live up to the hopes and expectations of intended beneficiaries.

In addition to demonstrating in general terms that proxy accountability relationships "matter" with respect to managerial processes of instrument choice, our analysis has also suggested that the extent to which proxy accountability arrangements lead instrument choices to diverge from those preferred by beneficiaries varies significantly between cases, depending in part on whether the proxies involved are what we called "distant" or "solidaristic" proxies. Market-based accountability systems in which consumers act as proxy accountability holders were shown to be particularly prone to generating policy instrument choices deviating significantly from those preferred by beneficiaries. The consequences of proxy arrangements were also shown to depend importantly on whether proxy accountability relationships operate alone, or in a mixed system alongside direct beneficiary accountability.

As noted above, policy instrument choice is likely to be influenced by a variety of factors, and further research on a larger number of cases is needed to more fully theorize the role of proxy and beneficiary accountability mechanisms in influencing policy choice, For instance such research could consider the hypothesis that the presence of beneficiary accountability mechanisms in labour-standards NGAs is a *sufficient* condition, by itself or in combination with other conditions, for an emphasis on allocative instruments within a complex policy mix. Such research would need to use techniques that highlight not only the causal role of individual conditions but also how they interact in complex configurations. Fuzzy-set Qualitative Comparative Analysis (Ragin 2000) may be a particularly suitable complement to process tracing, because it can uncover, even for a relatively limited number of cases, how various causal conditions interact in producing an outcome, and not only their separate contributions.

Nevertheless, the analysis presented in this paper has suggested that the ability of proxy accountability holders to make themselves redundant in the medium and long term by aiding the progressive empowerment of beneficiaries is *at best* contingent on a number of factors. This implies that designers of non-state governance arrangements are well advised not to rely exclusively on proxy accountability mechanisms, but rather to work actively to strengthen the direct involvement and influence of beneficiaries in the management of global non-state governance arrangements.

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[1] For a selection of studies that document such cases see Bissel (2001), Dionne et al. (2009), Hertel (2006), and Khan et al. (2007).

[2] See for instance Ronit and Schneider (1999), Knill and Lehmkuhl (2002), O'Rourke (2003), Pattberg (2005), Kerwer (2005), Bartley (2007), Stone (2008), Vogel (2008), Hassel (2008), Dingwerth and Pattberg (2009).

[3] See for instance Keohane (2003), Benner et al. (2004), Kerwer (2005), Chan and Pattberg (2008), Dingwerth (2008), Auld and Gulbrandsen (2010), Fransen (2011), Héritier and Lehmkuhl 2011).

[4] In the remainder of the paper, groups that are identified as beneficiaries by the NGAs will be referred to simply as 'beneficiaries', bracketing the question of whether they actually benefit or not.

[5]

[6] We are grateful to an anonymous reviewer for pointing out this possibility.

[7] We are grateful to an anonymous reviewer for pointing out this possibility.

[8] We assume that parent preferences are proxies for children preferences. For supportive evidence see Bhelotra (2004) (on child labor in Pakistan) and Schluter and Wahba (2010).