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When Institutions Fail: Legitimacy, (De)legitimation, and the Failure of Private Governance Systems

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Abstract

Why do institutions fail? With a focus on non-state market-driven governance, this paper explores the failures of the Flower Label Program and the Marine Aquarium Council. To date, research on private governance has tended to focus on the most robust and 'successful' cases of non-state institution-building. While it makes sense to study the most developed systems, we posit that much can be learned by examining failed institutions and an analysis of these 'non-cases' is long overdue. In developing our argument about institutional failure, we draw on previous efforts examining the legitimation dynamics surrounding private forestry governance. The central argument of our framework is that processes of delegitimation can lead to institutional failure if they deprive private governance systems of key resources and competencies that they require to attain their stated goals. We show that poorly executed legitimation strategies in combination with inhospitable institutional environments are important factors causing delegitimation and ultimately institutional failure.

Keywords

Private governance, transnational regulation, legitimacy, legitimation, institutional failure.

Introduction

Not only do sustainability issues transcend geographic borders, but the production and consumption decisions driving these issues are also often transnational in nature. Through the collaboration and contestation between business and civil society actors, private governance institutions are being developed to govern these transnational spaces.

The bulk of studies on transnational private governance have focused on the forestry sector. In fact, as recently as 2008, some scholars were noting that there have been more studies on forestry and forestry codes than on all other industries combined (Vogel, 2008: 275). Of course, the focus on forestry was easily justified as it remains the sector with the most developed private governance institutions.

While it makes sense to study these well-advanced arrangements, we posit that much can be learned by studying failed systems and an analysis of these 'non-cases' is long overdue. Many have failed in the past and it is important to understand the causal mechanisms leading to failure and to draw lessons that can be applied to current and future initiatives. One example of private governance failure is the PAN Parks Foundation; an initiative started by the Worldwide Fund for Nature (WWF) and the Dutch travel company Molecaten to certify nature parks in Europe (Rossberg, 2014). Likewise, in Sweden, retailers, trade unions, and NGOs came very close to reaching an agreement on voluntary labor standards for the apparel industry – called Dress Code – before it collapsed when trade unions dropped out (Fransen, 2012). Other failed cases include the systems examined in this study, namely, the Flower Label Program (FLP) and the Marine Aquarium Council (MAC).

In developing our argument about institutional failure, we draw from research on legitimacy and legitimation (Bernstein, 2011; Bernstein & Cashore, 2007; Bexell, 2014; Cashore, 2002; Fransen, 2012; Glasbergen, 2013; Schouten & Glasbergen, 2011). In particular, our approach is informed by previous efforts examining the legitimation dynamics surrounding non-state market-driven governance (NSMD) in the forestry sector (Bernstein & Cashore, 2007; Cashore, 2002; Cashore, Auld, & Newsom, 2003, 2004; Cashore, Egan, Auld, & Newsom, 2007). To complement those studies focused on how relatively successful institutions gained legitimacy, we seek to explore processes of delegitimation – a concept that, to date, remains under-researched. The central argument underpinning our framework is that processes of delegitimation can lead to institutional failure if they deprive NSMD systems of key resources and competencies that they require to attain their stated goals. We examine this explanation for private governance failure through an in-depth analysis and comparison of two understudied cases – the FLP and the MAC. Both of these systems were operational for a time, but eventually failed in terms of achieving their goals as outlined in their founding principles and, ultimately, did not survive as organizations. We show that poorly executed legitimation strategies in combination with inhospitable institutional environments were important factors causing delegitimation and ultimately institutional failure in these cases.

We proceed by establishing a conceptual framework through which to explore private governance failure before examining the legitimation strategies and institutional environments of the FLP and MAC. We attempt to link theory to evidence throughout and conclude with some implications for how we understand the link between delegitimation and institutional failure, offering suggestions for future research based on our findings.

Theorizing (De)legitimation and Private Governance Failure

The legitimacy of private governance institutions has been studied from different angles. One important line of research is normative in its orientation (Bäckstrand, 2006; Dingwerth, 2007; Schaller, 2007). The common thread running through these works is that they theorize or evaluate the legitimacy of private governance institutions using a normative ideal of democratic governance. Drawing on political theory (Dryzek, 2000), several authors rely on the notion of deliberative democracy as a model for conceptualizing legitimate private governance (Bäckstrand, 2006; Dingwerth, 2007). Also, Fritz Sharpf's (1999) distinction between input and output legitimacy has been used as an evaluative framework (Schaller, 2007). While it is important to establish what (democratic) legitimacy could mean in the context of private governance and whether or not real-world institutions live up to these criteria, these works say little about how NSMD systems can gain (or lose) legitimacy in the eyes of their core audiences.

This, on the other hand, is the main focus of legitimation research that has its roots in sociology and organizational theory (Suchman, 1995). From this perspective, legitimacy is seen as a relational concept. It is granted or denied by an institution's audiences in a dynamic process of legitimation (Bernstein, 2011; Bernstein & Cashore, 2007; Bexell, 2014; Fransen, 2012; Glasbergen, 2013; Schouten & Glasbergen, 2011). In the words of Steven Bernstein (2011: 19): 'legitimacy results from the interaction of the community of actors affected by the regulatory institution (…) that prevail[s] in the relevant issue area'. While normative criteria may play a role in these processes, Bernstein notes that legitimation is context specific. This means that these interactions can create varying legitimacy requirements across different issue areas.

In our attempt to understand processes of delegitimation and institutional failure, we draw on this second perspective. To further nuance our investigation, we distinguish between two types of legitimacy – pragmatic and moral.[1] Pragmatic legitimacy, according to Suchman (1995), is granted by an audience based on self-interested calculations of how it impacts their material well-being. In this way, the concept finds some common ground with March and Olsen's (1998) idea of legitimacy based on the 'logic of consequence'. Moral legitimacy, on the other hand, is granted based on an audience's normative idea as to whether supporting the organization is 'the right thing to do' (Suchman, 1995: 579). This dimension of Suchman's typology is broadly aligned with March and Olsen's (1998) 'logic of appropriateness', which is not based solely of rational self-interest (see also Cashore et al., 2003: 228).

This distinction is an important one as it not only sheds light on the process through which core audiences might grant legitimacy to an NSMD system, but also highlights the implications of these types of legitimacy on organizational activities (Cashore, 2002; Suchman, 1995). In the cases we explore below, we find that pragmatic concerns (e.g. cost considerations) were of key importance for economic actors, whereas NGOs were more likely to grant their support if NSMD governance corresponded to their moral values and convictions. Interestingly, in many situations, there seems to be a trade-off between the two and NSMD systems must navigate the precarious waters between pragmatic and moral legitimacy, as straying too far in one direction risks losing the audience in the other.

In developing our argument about institutional failure, we draw on previous efforts examining the legitimation dynamics surrounding private governance in the forestry sector (Bernstein & Cashore, 2007; Cashore, 2002; Cashore et al., 2003). The logic we deploy is straightforward. NSMD systems need to be seen as legitimate in the eyes of their core audiences in order to be successful. In the cases at hand, these are the targets of regulation (supply-side and demand-side economic actors) as well as the social and environmental NGOs and state actors with major stake in the marine ornamentals and cut flowers industries. We posit that the loss of pragmatic and/or moral support (delegitimation) from one or more of these core audiences can cause institutional failure, which we define as the inability of

1 Here we are following the work of Cashore, Auld, and Newsom (2003) in both using Suchman's typology and in altering it slightly. Suchman includes a third type of legitimacy – cognitive legitimacy – which is a legitimacy stemming from 'taken for grantedness' or, in other words, 'for things to be otherwise is literally unthinkable' (Suchman, 1995: 583). Again following the lead of Cashore, Auld and Newsom (2003: 228), we find no instances of this type of legitimacy in our cases and, therefore, leave this dimension aside for the purposes of our study.

NSMD systems to attain their stated goals (Underdal & Young, 2004). More precisely, we expect institutional failure to happen if processes of delegitimation deprive NSMD systems of key resources and competencies, which they require to be successful in the way defined above.

The link between delegitimation and institutional failure is very clear when we consider the first category of actors – the targets of regulation. Unlike public regulation, private governance is voluntary and a necessary condition for its success is the support and participation of key business groups. If these groups decide to withhold or withdraw their support from an NSMD system, it will fail in its central objective to regulate their behavior. But also NGOs and state actors may control important resources and competencies which NSMD systems need in order to be successful. NGOs, for example, possess moral authority. Their support brings credibility and independence, which private governance systems require to generate trust among consumers and other primary and secondary audiences. Furthermore, state actors and their agents may possess technical expertise and other competencies and resources critical for the development and smooth running of an NSMD system. Finally, all of the actor groups discussed above control material resources without which private governance systems, as organizations that have to rent offices and pay employees, cannot function effectively.

Building on and extending the work that has been done on private forestry governance, we offer a two-part explanation of institutional failure – one is actor-centered, focused on the legitimation strategies and interactions of NSMD system initiators with their core audiences; the second is structural, based on the political-economic environment in which these interactions take place. The underlying assumption is that institutional failure can result from poorly executed legitimation strategies, inhospitable environments, or a combination of the two. The main contribution of our framework is to create a theoretical link between processes of delegitimation and institutional failure and to unravel the causal mechanisms at work. Our secondary contribution is empirical. While existing research on legitimation in private governance is skewed towards relatively successful institutions (Bernstein & Cashore, 2007; Cashore, 2002; Cashore et al., 2003; Glasbergen, 2013; Schouten & Glasbergen, 2011), we extend the analysis to the truly failed NSMD systems in the marine ornamentals and cut flower industries. By doing so, this article increases the universe of cases and range of outcomes studied. This creates a comparative perspective and will allow for a better understanding of (de)legitimation in private governance in future research.

The first explanation we consider refers to the legitimation strategies deployed by the initiators and close supporters of NSMD governance. We base our analysis on the work of Suchman (1995), which has been adapted by Cashore (2002) and Cashore, Auld and Newsom (2003) to explain how NSMD systems – in particular, forestry certifications – have managed to gain rule-making authority. According to this model, legitimation strategies can be categorized as manipulating, conforming, or informing. Each type of 'achievement strategy' emphasizes the active pursuit of legitimation by NSMD initiators, whether it be conforming to audience needs, manipulating audience incentives, or informing audiences of the relevant issues (see Table 1). Using this model, Cashore and his collaborators posit that the success of NSMD systems depends, at least in part, on the effectiveness of these strategies in gaining the necessary legitimacy to underpin rule making authority. We extend this argument to explain NSMD failure – NSMD systems fail when these strategies are not deployed effectively.

Table 1: Legitimation Strategies

Conforming	Manipulating	Informing
Strategies to conform to core audiences' pragmatic and/or moral demands.	Strategies to manipulate core audiences' pragmatic and/or moral preferences (very difficult to manipulate moral preferences).	Strategies to inform core audiences about the pragmatic and/or moral value of supporting NSMD governance.

Table adapted from Suchman 1995; Cashore 2002.

Structural variables form our second set of explanatory factors. They refer to the characteristics of the political-economic environment in which NSMD system are being institutionalized. The general idea is that NSMD systems can fail due to an inhospitable environment that inhibits their initiators and close supporters from executing their legitimation strategies effectively. Adapted from Cashore et al. (2003), our framework includes factors related to the specific industry and firm structure, the political salience of the issue itself, and the existence and character of any competing NSMD systems. Some of the key arguments referring to the political-economic environment are summarized in Table 2.

Table 2: Important structural variables

Degree of fragmentation	**Industry/firm characteristics**	**Political salience**	**Competitive pressures**
The benefit of certification decreases with firm size. In relative terms, smaller firms face higher search and information costs and implementation costs than larger firms. This makes it more difficult for NSMD systems in highly fragmented industries to conform to firms' pragmatic demands.	NSMD systems and their supporters often use manipulation strategies (e.g. naming and shaming campaigns) to gain pragmatic support from economic actors. These strategies are more likely to be effective in industries that are consumer facing and in which brands play a major role.	Industries or issue areas that have a low priority on the public agenda are inhospitable environments. In these environments, it is more difficult to convince core audiences of the value/importance of NSMD governance. Therefore, informing strategies are less likely to be effective.	Industries or issue areas in which competition from other NSMD systems is strong are inhospitable environments. If competitor programs offer more preferable conditions to core audiences then conforming strategies are more difficult to deploy.

Summing up the above discussion, the central argument of our framework is that processes of delegitimation can lead to institutional failure if they deprive NSMD systems of key resources and competencies that they require to attain their stated goals. We hypothesize that poorly executed legitimation strategies in combination with inhospitable institutional environments are important factors causing delegitimation, which we understand as a loss of pragmatic and/or moral support from a private governance system's core audiences.

In the following, we explore and illustrate this argument through two in-depth case studies. The rationale behind our case selection is to apply the framework to two key areas of private governance – private labor governance and private environmental governance. In this way, we hope to explore causal relationships that are not context-specific and that help us gain more general insights into processes of delegitimation and private governance failure. The first case study is the institutional failure of the FLP, a multi-stakeholder initiative developed to improve the working conditions of farm workers in the international cut flower industry. The second case study looks at the collapse of the MAC, a multi-stakeholder initiative created to mitigate the environmental impact of the international trade in ornamental fish and coral. While King, Keohane, Verba (1994: 129-149) warn against selecting cases on the dependent variable, in particular cases with similar outcomes, we justify this choice with the existing bias toward successful institutions in the literature. In this regard, our cases complement previous studies on legitimation dynamics in private governance, creating a comparative perspective to be exploited in future research.

The analytical approach we have taken is exploratory in character and combines deductive with inductive reasoning. This means that our empirical work was guided by the two sets of explanatory factors discussed above. However, our goal was not simply to verify or falsify these mechanisms, but to inductively learn from our cases in order to develop and improve our understanding of delegitimation dynamics and private governance failure. For the empirical analysis, we draw on 14 semi-structured interviews. The interviews targeted economic actors, NGOs, and private governance managers in the ornamental fish and cut flower industries. In 2014, 8 people were interviewed about the FLP and 6 people were interviewed about the MAC. The information from the interviews was triangulated with primary documents (meeting minutes, background documents, and websites) and media reports.

Case Study 1: Flower Label Program

The international trade in cut flowers is booming. In 2011, the European Union (EU), the world's largest market for flower products, imported 314,975 tons of cut flowers and cut foliage, worth 1.2 billion Euros. The majority of the EU's flower imports are produced in developing countries in Africa and South America. Currently, the top five foreign producer countries for the European market are in order of market share: Kenya (30%), Ecuador (11.8%), Ethiopia (10.7%), Colombia (9.5%), and Israel (8.6%) (European Commission, 2012). Compared to other cash crops such as coffee, tea, or cotton, cut flowers are a relatively new agricultural export commodity. Only in the past thirty years has the production and export of cut flowers become an important source of income for countries in the global south. For example, in Kenya flower production now accounts for 1.6% of GDP and is one of the top foreign exchange earners for the country (Kenya Flower Council, 2015).

While the production and export of cut flowers has become an important pillar of the agriculture dominated economies of Kenya, Ecuador, Columbia and other developing countries, the industry has long had a reputation of poor working conditions. Like other agriculture sectors, cut flower production is a highly labor intensive industry. It is estimated that in Kenya alone 500,000 people (including 90,000 flower farm workers) depend on the floriculture sector for their livelihoods (Kenya Flower Council, 2015). However, the working conditions of flower workers in Africa and South America often violate international labor standards, as reports from NGOs, the media, and trade unions have documented in detail (e.g. Pesticides Action Network, 2008; The Guardian, 2001). Common abuses of workers' rights in the industry include low wages, excessive overtime work, and poor health and safety conditions (e.g. exposure to toxic pesticides).

The FLP was created to improve the labor conditions of cut flower workers. The program developed principles and criteria for better working conditions and operated a certification system to implement its code of conduct in the industry's global supply chain. After the FLP was launched in 1999, the program scaled-up quickly and at its height there were fifty-four certified farms in six countries, employing more than 13,000 cut flower workers (FLP, 2011). However, in 2011, the FLP was dismantled after more than 10 years of activity. What has caused this institutional failure? The following section explores this question by applying the framework developed above to the case of the FLP. In a first step, the legitimation strategies of the initiators of the FLP and its close supporters are examined. This is followed by an analysis of the political-economic environment in which these strategies were deployed.

Legitimation Strategies

The empirical analysis revealed how labor rights NGOs successfully used manipulation strategies to create the ground for NSMD governance in the cut flower industry. These manipulation strategies manifested itself in form of direct targeting of demand-side industry actors in Europe. Through this strategy, FLP initiators attempted to manipulate market incentives to achieve demand for certification and, ultimately, to generate pragmatic support for NSMD governance among key industry actors. Additionally, this type of action helped to create an environment conducive to future legitimation strategies by establishing and reinforcing the political salience of the issue for the various stakeholder groups.

When reports about poor working conditions in the floriculture industry in Ecuador and Colombia started circulating within the international human rights community in the early 1990s, NGOs and trade unions across Europe launched naming and shaming campaigns. Led by the human rights organization FIAN (Food First Information and Action Network), the evangelical aid organization

Bread for the World, and the children's interest group Terre des Hommes, a strong campaigning network formed in Germany. Together with other NGOs, they launched the so-called "Blumenkampagne" (flower campaign) in 1990/1991. The campaign put pressure on traders and their lead industry association, the BGI (Union of German Flower Wholesalers and Importers), to improve the working conditions in the flower farms supplying the German market. To put pressure on the industry, campaigners took advantage of the high turnover 'flower profit days', like Valentine's Day and Mother's Day, for their awareness raising activities. Similar activities were organized by NGOs in other European countries such as the Netherlands and the United Kingdom.

This manipulation strategy had the intended effect of generating pragmatic support for NSMD governance from key players in the cut flower industry. In the mid-1990s, a pan-European coalition of NGOs, trade unions, and industry representatives was formed with the goal of developing a set of criteria for better working conditions in the cut flower industry. Released in 1998, the so-called International Code of Conduct for the Production of Cut Flowers (ICC) comprised ten principles 'to guarantee that flowers have been produced under socially and environmentally sustainable conditions' (ICC, 1998). Under strong pressure from local NGOs, the German flower industry even went a step further. In 1995, the BGI and the German Florist Association (FDF) approached the German Technical Cooperation Agency (GTZ) and the German Ministry of Development (BMZ) for financial and technical assistance and launched a forerunner program of the FLP (GTZ, 2004). Some of the NGOs of flower campaign were involved in conducting pilot projects in Ecuador and Columbia and in 1999 a decision was made to launch the FLP as a multi-stakeholder process.

Based on the ICC, the coalition of NGOs, wholesalers, and trade unions developed a standard, designed a certification system, and established the FLP as a formal organization in May 2003, with a permanent secretariat in Cologne. The FLP membership was organized in four stakeholder chambers (NGOs, trade unions, traders, and producers), which met once a year in the form of a General Assembly. According to the statutes of the FLP, the General Annual Meeting was the highest decision-making body. But effectively decision-making was concentrated in the FLP Board, which, reflecting the multi-stakeholder structure of the General Meeting, also controlled the FLP Secretariat. A so-called Certification Committee was in charge of the certification process (e.g. accreditation of auditors, assessment of audit reports). On the ground, the work of the FLP was supported by a local coordinator for South America and one for East Africa, the program's two target regions (FLP, 2008). During the first year of the program's existence, the FLP's membership base expanded quickly. By December 2004, the number of producer members had reached fifty-one. Whereas most certified farms were located in Ecuador, also producers from Kenya, Zimbabwe, Tanzania, and South Africa joined the FLP – a testament to the perceived pragmatic legitimacy of the nascent program (FLP, 2011).

Supporters of the FLP mobilized informing strategies to further enhance the pragmatic and moral legitimacy of the program. A study conducted by the GTZ argued that it had drastically improved the labor and living conditions of more than 12,000 flower workers on FLP-certified farms when compared to the situation at the beginning of the 1990s. However, some of the problems that later contributed to the failure of the FLP, such as the reluctance of the BGI and FDF to promote the label and producer concerns about the costs and benefits of FLP certification, were already visible at this stage. In light of these issues, the GTZ report concluded on a cautionary note, pointing out that 'the FLP can only function with the cooperation of the different partners: commerce, producers, NGOs and unions. It is therefore important that all the interest groups continually show an active interest in the FLP' (GTZ, 2004).

In the first few years of the program's existence, the FLP's civil society members put much effort and resources in promoting the label among German consumers. They organized events and published reports and promoted the program in the media (FIAN, 2006). But a major problem preventing the label's success on the German market was the lack of support from florists. They saw little value in the FLP. To the contrary, they feared that FLP certification could harm their business by creating unwanted attention around labor standard issues in the industry.

There was a lot of skepticism and resistance at the retail end and the BGI and FDF did little to address these concerns. In the interviews, the Coordinator of the FLP secretariat and the NGO and trade union representatives accused the two industry associations of free-riding. They complained that the BGI and FDF had not shown enough commitment and had failed to promote the label in the industry.[2] As a consequence of these demand-side problems, the label reached only a small market share of approximately 3 to 4 percent in Germany (Merkur Online, 2011). In sum, the founding members of the FLP were unable to deploy an effective information strategy and, in particular, to convince demand-side economic actors of the pragmatic value of NSMD governance in the sector.

Another major problem for the FLP was to conform to and reconcile the (conflicting) pragmatic and moral demands of its core audiences. This proved to be increasingly difficult and eventually led to the failure of the program in 2011. A conflict, which existed from the very beginning, revolved around the distribution of costs between supply-side and demand-side economic actors. On the one hand, producers in the FLP demanded a price premium for certified flowers and the introduction of a quota system, obliging traders to buy fixed quantities of certified flowers. Traders, on the other hand, argued that the FLP code of conduct was a minimum standard, and that you 'should not pay someone for not violating basic human rights'.[3] The refusal of demand-side companies to agree to a price premium and quota system led to great frustration among producer groups in the FLP. They felt that they had to bear most of the costs arising from certification, without receiving any tangible benefits in return. Under the FLP system, they had to pay a membership fee of US $1000. Additionally, flower farms had to pay US $100 per hectare of land, to a maximum of US $2500 per farm (GTZ, 2004). But different from many organic farming and fair trade initiatives, they did not receive a price premium for their certified products. In their view, this eroded the pragmatic legitimacy of the FLP. This frustration increased when wholesalers and florists failed to promote the label in Germany. Problematic for the FLP, this led to bad payment behavior of its producer constituency, threatening the organization's resource base.[4]

Another major conflict evolved around trade union rights on FLP certified farms. This conflict developed into a major institutional crisis, leading NGOs and trade unions to question the moral legitimacy of the program and, along with the continuing erosion of its pragmatic legitimacy, this eventually led to its failure. For some time, the civil society-controlled Certification Committee had complained about the state of trade union rights on many of the FLP certified farms. Up until then, the FLP had accepted the existence of so-called workers councils as an equivalent to trade union representation. However, the Certification Committee felt that this had only been a transitional measure, and that it was now time for FLP certified producers to fully implement this component of the standard.[5] Already frustrated about the conflict over price premiums and quotas, producers in the FLP were outraged about the NGOs tough stance on trade union rights. In particular in Ecuador, where many of the FLP certified farms were located, industry-union relationships were very contentious and accepting trade union representation on their farms constituted a 'no go' for many owners. At the Annual Meeting of Members in 2011, the conflict over trade union rights escalated, and a large group of producers declared their withdrawal from the organization or were de-certified for their failure to bring their operations into compliance.

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2 Interviews with NGO and trade union representatives, and the Coordinator of the FLP Secretariat, via phone, May and June 2014.

3 Interview with the Coordinator of the FLP Secretariat, via phone, June 2014.

4 Interview with the Coordinator of the FLP Secretariat, via phone, June 2014.

5 Trade union rights are covered under Principle 1 of the FLP Standard. See FLP (2005) for the full version of the standard.

By December 2011, only 19 of 54 FLP-certified farms were left (FLP, 2011). For the FLP, this meant financial ruin. In response, NGOs and trade unions also pulled out of the FLP, arguing that they had lost confidence in the program and that without proper controls the label would be meaningless and could be misused to make unsubstantiated claims.[6] One NGO representative explained:

> 'When we started the FLP in the late 1990s certification was fairly new and we believed that we could make a difference with this. But we became increasingly disillusioned and frustrated about producers and traders not living up to their commitments.'[7]

Following the collapse of the FLP at the end of 2011, the remaining traders and florists made an attempt to revive and consolidate the program (FLP, 2012). However, delegitimized through the withdrawal of its producer and civil society constituencies and lacking a solid financial basis, these efforts failed as well.

The Political-Economic Environment

Through the in-depth analysis political-environmental factors were identified to have contributed to the institutional failure of the FLP. In particular, a highly fragmented industry and strong competitive pressures from other certification schemes made it very difficult for the FLP and its initiators to deploy their legitimation strategies effectively.

The cut flower industry consists of different market segments. On a very general level, a distinction can be made between the supply chain for the fast moving retail sector and the supply chain for florists. The level of corporate concentration is relatively high in the retail segment. Large flower farms with a farm size of 2,000 hectares and more, many of which located in Kenya, produce the cut flowers for the big retail companies like Aldi, REWE, and EDEKA. (Kenya Flower Council, 2015). On the other hand, the degree of fragmentation is significantly higher in the florist supply chain, both on the supply and demand side. One of the major producing countries supplying the German florist market is Ecuador. Most businesses in Ecuador are family-owned and the average farm size is 2 hectares. The demand-side is also highly fragmented. In Germany, there are more than 14,000 individual florists who buy their flowers from more than 2,000 local wholesalers (Volksbanken Raiffeisenbanken, 2013: 2). Another difference between the two market segments is that supermarkets specialize in mono-bouquets, whereas florists mostly sell individual bouquets. This means that the variety of flowers handled by florists is significantly higher when compared to the retailers.[8]

With the industry associations of the German wholesalers and florists as founding members, the FLP's main focus was on the florist segment. This was a challenging environment for a certification system like the FLP. The high level of fragmentation at the supply-side made the certification process time consuming and resource intensive. At the same time, flower farmers faced high implementation costs and without offering them tangible benefits it was difficult to maintain their support. Also, the complexities of the demand side posed a problem to the FLP. As mentioned above, there are thousands of individual florists in Germany and the variety of products handled in their shops is large. In this environment, the FLP had problems developing an effective labeling strategy and, fearing to tarnish their non-certified products, many florists resisted the idea of an on-product label altogether.[9] In sum, the high level of fragmentation in this market segment made it very difficult for the FLP to win the pragmatic support of both supply and demand side economic actors.

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6 FIAN published a detailed press release, describing the reasons for its withdrawal from the FLP (in German) (FIAN, 2012).

7 Interview with an NGO representative, via phone, June 2014. The quote was translated by the author.

8 Interview with a German flower wholesaler, via phone, June 2014.

9 Interview with the Coordinator of the FLP Secretariat, via phone, June 2014.

Another factor that has contributed to the institutional failure of the FLP was competition from other certification systems. In the mid-2000s, several competitor schemes entered the European certification market and the FLP's core market in Germany. One important scheme was the Fairtrade Labelling Organization (FLO), which began certifying roses in 2004. Unlike the FLP system, the FLO operates on the basis of a price premium. This means that FLO-certified flowers are sold at a higher price to the end consumer and this extra revenue goes to the benefit of the producer (FLO, 2015). With its price premium system and focus on selected products, the FLO was a very attractive model for the large Kenyan flower farms supplying the European retail sector. Also, the FLP had tried to expand its activities in this quickly growing market segment, but soon found itself outcompeted by the FLO.[10]

The competitive pressures on the FLP increased further with the creation of Fair Flowers Fair Plants (FFFP) in 2005. More international in its outlook, the FFFP was initiated by Union Fleur, the international trade association of the flower industry. Unlike the FLP, the FFFP does not operate its own certification system, but uses benchmarking to recognize existing standards and labels. Backed by the powerful Dutch flower industry,[11] the FFFP quickly developed into a major competitor for the FLP on the German market as well. For several years, the FLP tried to reach a 'memorandum of understanding' with the FFFP which would have established a close partnership between the two programs. In particular, the German wholesalers and florists within the FLP strongly pushed for such an agreement. However, the negotiations failed, mainly due to the opposition from the FLP's NGO constituency. In particular, FIAN was highly critical of the FFFP system, which it perceived to be dominated by Dutch industry interests. Disappointed about the failure to reach an agreement, the BGI, one of the founding members of the FLP, left the organization in 2007 and joined the FFFP instead.[12] This last episode demonstrates how competitive pressures increased the tensions between NGOs and economic actors. For the FLP, it was not possible to find a common ground between the conflicting positions.

Case Study 2: Marine Aquarium Council

The trade in ornamental fish and coral for private hobbyists and public aquariums has grown from its modest beginnings in the 1950s to an industry trading an estimated US $200-300 million annually (Gopakumar, 2004; Larkin & Degner, 2001; Shuman, Hodgson, & Ambrose, 2004). More than 95 percent of species supplying the marine aquarium industry are wild harvested and their collection and sale constitute a major livelihood strategy for many living in small fishing villages in Southeast Asia (Auld, Cashore, Balboa, Bozzi, & Renckens, 2010; Gopakumar, 2004; Wabnitz, Taylor, Green, & Razak, 2003). The industry is composed of collectors, exporters, importers, retailers, and consumers. While this is a global industry, the vast majority of fish are collected in the Philippines and Indonesia and the largest retail market is the United States (US).

Irresponsible collection practices have been implicated in coral reef destruction. Negative impacts of the trade include stress and bleaching of coral due to the widespread use of cyanide to capture fish, the breaking apart of coral to access fish that are hiding, the overfishing of particular target species, the targeting of species not suitable to aquariums, and the extremely high post-harvest mortality of collected specimens, which in the 1980s was up to about 65% of organisms harvested (Gopakumar, 2008: 74-75; Shuman et al., 2004: 341).

The MAC was created to certify practices in the collection and trade of live fish from reef to retail. While certainly not the most significant threat facing coral reefs worldwide, the creators of the MAC saw the potential for not just ensuring a sustainable marine ornamentals trade, but the opportunity to

[10] Interview with the Coordinator of the FLP Secretariat, via phone, June 2014.

[11] With a market share of over 50 percent, the Dutch flower industry dominates the European trade with flower products (European Commission, 2012).

use the industry and the certification to ‘create an anchor for broad coral reef protection’ (Bunting, 2001: 5). The initiative ran from 1998 until 2010, when it collapsed. Why did this institution fail? Following the framework developed above, we begin with the legitimation strategies of its creators and supporters before turning to the political-economic environment in which these strategies were implemented.

Legitimation Strategies

The empirical investigation showed that the WWF, the principle founding organization behind the MAC, utilized manipulation strategies to lay the groundwork for NSMD governance in the marine ornamentals trade. These strategies focused on the demand-side of the supply chain, which mostly consists of wholesalers, retailers, hobbyists, and public aquariums. The idea was to establish a demand for certified marine organisms, thereby creating a market incentive for certified fish and, in so doing, creating a demand for the NSMD system itself. This demand would be based on the pragmatic legitimacy of the MAC system as it would offer suppliers an incentive to become certified, namely, accessing this new market. Additionally, we see evidence of a longer-term strategy by the MAC initiators. They wanted to use the marine ornamentals trade to create incentives for broader marine ecosystem conservation based on the economic returns from these new markets, while also informing the public and key stakeholders of the issues associated with coral reefs and the moral legitimacy of programs designed to protect them.

While it was never going to be easy, those spearheading MAC had good reason to believe it could succeed. Unofficial and official surveys amongst importers, retailers and hobbyists showed both general support for a certification and a willingness to pay (Shuman et al., 2004: 343). Furthermore, there were no competing certification programs, poor practices (like the use of cyanide) were linked to poor quality fish, industry actors were concerned about the image of the industry, and there was a potential future price premium available for collectors. Taken together, there seemed to be a positive enabling environment, based on pragmatic appeal, for MAC certification to establish itself and improve the trade.

The MAC initiators set to work, utilizing informing strategies to enhance both the pragmatic and moral legitimacy that seemed available for such an initiative. Forming cross-sectoral coalitions at regional conferences and workshops, the organizers defined the parameters of the guidelines and rolled out the standards and rationale behind them in industry publications and at industry gatherings.

Discussions began in 1997 and, through funds from the US Agency for International Development, the David and Lucile Packard Foundation and the John D. and Catherine T. MacArthur Foundation, MAC was officially launched in 1998. Drawing participants from industry and civil society, they quickly formed an Interim Board, hired an Executive Director, and released the MAC eco-label in 2001.

At MAC headquarters in Honolulu, Hawaii, a number of multi-stakeholder workshops were held and collection and handling guidelines were drafted. These guidelines addressed three main aspects of the wild harvest of marine ornamentals: 1) Ecosystem and Fishery Management; 2) Collection, Fishing, and Holding; and 3) Handling, Husbandry, and Transport. With representatives of both conservation organizations and industry present, the MAC architects could negotiate between the pragmatic and moral demands underpinning the granting of legitimacy from both sectors – conforming to the realities of industry while informing delegates of the need and mechanisms with which they will be tackling the issue.

However, these informing and conforming strategies suffered from a fatal flaw – a lack of information and input from supply-side stakeholders. Based on the interviews, there was a feeling amongst stakeholders that MAC was too US-centered – the standards themselves were developed in

Honolulu without enough input from stakeholders on the ground in the source countries. [12] Those who were charged with implementing the standards report that collectors felt there was too much paperwork and the requirements were too complex.[13] So while the MAC creators appeared to find some success in finding a balance between pragmatic and moral legitimacy amongst civil society and demand-side economic actors, the practitioners working at the supply-side were largely absent from the process.

Despite these design flaws, MAC began rolling out the pilot stages of the initiative in the South Pacific and expanded from there. At its height, MAC involved some 2600 stakeholders from over 60 countries (Gopakumar, 2004, 2008) and gained recognition from the ISEAL alliance, a certifier of certifications (ISEAL, 2015). But even these numbers were dwarfed by the sheer magnitude of the task. For example, in the early 2000s, it only claimed 63 members of the estimated 7,000 collectors in the Philippines (Alencastro, 2004; Bunting, 2001). And these vast numbers of practitioners simply represent the collection node in this complex and diffuse commodity chain. As it was conceived, MAC needed to certify both products and practices, everybody from collection to handling to transport to retail.

In order to achieve these goals, MAC and its supporters decided to pursue what could be regarded as a conforming strategy: to build capacity to fulfill MAC requirements at the source sites. Instead of changing the standards developed largely at the demand end of the supply chain (i.e. conforming the standards to meet the reality on the ground), the MAC initiators decided to help the supply-side stakeholders conform to this demand. Toward this end, MAC obtained funding from the Global Environment Facility, implemented by the International Finance Corporation (IFC). In partnership with the Reef Check Foundation and the Conservation and Community Investment Forum, MAC led a five-year (2005-2009) initiative called the Marine Aquarium Market Transformation Initiative (MAMTI).

The idea behind MAMTI was to build capacity in the source countries to meet the requirements of the MAC standards, to establish a baseline and monitor the coral reefs for stocks and health, to establish no-take zones and facilitate reef restoration, and increase participation and awareness of stakeholders at both ends of the marine ornamentals supply chain (Bellamy & Winsby, 2008: 2). The targets of the project were ambitious, including: 1) transforming at least 17% of the worldwide marine aquarium industry (21% of the industry in the Philippines and Indonesia), which they claimed would provide the critical mass to make MAC successful and sustainable; 2) establishing marine management areas, which needed baselines to be established and managed, and; 3) increasing awareness of the benefits of harvesting marine ornamentals in a manner that conserves global biodiversity at both ends of the supply chain.

MAC achieved some of its targets through the MAMTI project, including establishing some collection areas and training a number of collectors in sustainable techniques. However, an interview with a former MAC field manager revealed an additional problem with the MAC strategy. While MAC was successfully training and certifying individual suppliers, the industry is composed of already established trade chains. To ensure traceability requires an unbroken chain from reef to retail and those industry actors certified did not always match up with these established trade chains, meaning their certification did not always result in a certified product being available at the demand end of the supply chain.[14]

On 30 April 2008, a Mid-Term Review of MAMTI, commissioned by the IFC, arrived in Washington. The report documents a few successes and a large number of failings. It recommended

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12 Interview with an NGO representative, via phone, June 2013.

13 Interview with former MAC field manager, via phone, June 2014.

14 Interview with a MAC field manager, via phone, July 2014.

that funding be cut as it seemed unlikely the project could meet its goals. The IFC cancelled the grant to MAC and terminated the project. While MAC continued in some capacity for a couple years beyond this, by 2010 the money had stopped coming in and the focus became stabilizing the financial situation for the purpose of closing up shop.[15]

The Political-Economic Environment

The empirical investigation revealed environmental factors that created an inhospitable environment for the MAC creators and their close supporters. Specifically, the highly fragmented nature of the industry and the lack of political salience of the issue undercut the legitimation efforts of the MAC initiators from the very beginning.

Those working on the MAC initiative faced many challenges when attempting to establish a chain of custody from reef to retail in the ornamental fish trade, many of which stemmed from the nature of the industry itself. As mentioned, this is a very diffuse industry with thousands of individual collectors who would need to be certified. But this was not the only challenge. The supply chain becomes very long once we consider the goals of MAC, which was to certify not only the practices and products at the source, but also the transport and handling of the organisms all the way to the retail node. As such, in order for a product to be MAC-certified, every stage in the supply chain must be certified – and the products travelling through these various stages must be kept verifiably separate from those products falling outside the initiative.

This verification proved to be extremely difficult and skepticism was rife amongst buyers, many of whom expressed concerns over mixing of certified and non-certified fish by exporters and importers (McCollum, 2007: 29). Despite the advancements in chemical testing to establish where the organisms originated and whether cyanide was used to capture them, the tests kill the fish, remain costly, and the accuracy has been questioned on scientific grounds (Auld et al., 2010: 18). Furthermore, the science of coral reefs is still not well understood. Baselines needed to be established and high levels of skepticism from buyers about the effective assessment of ecosystem impacts were also reported (Alencastro, 2004). Part of this stems from the limited ability to monitor the stocks and environment. Another challenge is determining the exact source of reef or stock degradation. There are many potential drivers of reef damage – over-fishing for food, destructive fishing practices, pollution and climate change, to name but a few. Thus, it becomes difficult to attribute successes and failures to specific practices and, importantly, brings the ability to push reef conservation through the certification of the relatively benign ornamental fish industry into question.

Whether the inherent challenges of certifying this industry could be overcome through deft management remains an open question, but there is no doubt that the industry and market environment was a challenging one. Based on the mid-term review of the IFC, past studies and interviews with key stakeholders, the combination of market fragmentation and an inability or unwillingness to adapt contributed to MAC's demise.

While the innovators behind MAC used the experiences of the more advanced Forest Stewardship Council (FSC) and Marine Stewardship Council models, clearly the ornamental fish industry required a customized approach. While the FSC could potentially provide a good a template for learning, there are significant differences between the industries, including a lack of big companies in the ornamentals trade, which means the industry as a whole was much more fragmented at every node. The retail companies at the demand-side of the chain were smaller and therefore had less individual leverage, to say nothing of the thousands of individual collectors that dominate the supply-side of the chain, approximately 80 percent of whom are roving collectors (more on this below), which meant

[15] Interview with a member of MAC Board of Directors, via phone, May 2014.

MAC was unable to certify them based on its original model.[16] This begs the question of whether the conforming strategy of capacity building was really the best choice for MAC.

While the speed at which the certification progressed is certainly impressive, it may have been too fast. In addition to the need for more industry data, there was significant capacity building that needed to take place in the source countries themselves. The baselines were not in place and there were too few performance indicators to convince buyers, suppliers, and funders alike. This compromised the reliability of MAC standards and the overall initiative in the eyes of many stakeholders (Bellamy & Winsby, 2008; McCollum, 2007: 29).

While the project could have potentially made inroads in a more contained and regulated jurisdiction, such as Hawaii or Fiji, MAC management decided to roll it out in the much more complex environments of the Philippines and Indonesia. There are good reasons to concentrate on these source countries: combined they constitute 80 percent of the supply of fish. However, it proved to be too soon to get the certification the critical mass it needed to establish itself and its products.[17] Different strategies are needed in different countries, and Indonesia and the Philippines were perhaps the most difficult to tackle. For example, while reefs in the US and Australia are highly regulated by government agencies and Fijian reefs generally fall under a customary marine tenure system putting local families or villages in control of protection (Wood, 2001), Indonesia's government agencies lack the capacity to enforce existing regulations and the country's free access laws make local protection schemes difficult (CCIF, 2001; Shuman et al., 2004).

Perhaps the greatest hurdle was that, as mentioned previously, 80 percent of these collectors were 'roving' collectors and the scheme, as it was planned, could only certify 'resident' collectors. As management estimated MAC would need about 21 percent of the collectors in these countries (17 percent of collectors worldwide) to buy in to achieve the critical mass needed to sustain the organization, this was never achievable as the project was planned (Bellamy & Winsby, 2008). Some key stakeholders feel that this was the most critical error of MAC management; they bit off more than they could chew and if they had begun with a more contained and controlled environment in which to establish some successes, they could have then taken these successes to other stakeholders and slowly expanded from there.[18] In other words, it would appear that under these very challenging conditions the capacity building strategy of MAC was ill conceived. Instead, perhaps either a conforming strategy to adapt the guidelines to match the realities on the ground in the Philippines and Indonesia, or perhaps switching venues and launching the program in the US or South Pacific where some baselines and enforcement capacity were already established may have proven more effective.[19] Perhaps such a change could have garnered enough pragmatic legitimacy to build upon and, ultimately, may have saved the MAC.

Despite having some success in gaining the tacit support of stakeholders at the demand end of the supply chain, there was never a convincing argument underpinning the pragmatic legitimacy of the system. One important difference between this case and the FLP – as well as between this case and 'successful' cases of NSMD systems in different industries – is that the political salience of the issue was comparatively low. Even though some of its supporters cited a 'Nemo effect', emanating from the interest stoked by the Disney movie 'Finding Nemo', it was never clear that this was ever enough to compel market actors to give preference to, yet alone pay a premium for, certified marine organisms.[20]

[16] Interview with a member of MAC Board of Directors, via phone, May and June 2014.

[17] Interview with member of MAC Board of Directors, via phone, May and June 2014.

[18] Interview with a member of MAC Board of Directors, via phone, May and June 2014; Interview with a MAC manager, via phone, June 2014.

[19] The strategy of switching venues is somewhat similar to a legitimizing strategy Suchman (Suchman, 1995: 591) has called 'environment selection'.

[20] Interview with a MAC manager, via phone, June 2014.

Unlike the FLP case, there was never a sustained campaign targeting the industry and so public pressure was negligible.

Such pressure could have proven beneficial for the MAC given the lack of certainty regarding market incentives. Connecting back to the industry environment, there seems to have been a lack of knowledge about the industry from the beginning – at least in terms of the key indicators necessary to ensure the successful implementation of a sustainable certification. According to a number of observers, and reported on by the key funding agency backing the initiative, there was never sufficient 'hard data' that buyers were willing to pay the premium that a sustainable MAC demanded (Bellamy & Winsby, 2008). Without this information, it becomes very difficult to convince stakeholders to grant the system the pragmatic legitimacy it needs to succeed. Additionally, the costs were clearly too high for stakeholders in the source countries to cover and so MAC needed industry to absorb these additional fees. Furthermore, the numbers needed to create the market incentives necessary to both change industry practices and sustain a self-financing NSMD system were uncertain and probably ambitious (Bellamy & Winsby, 2008).

Without any real political pressure on either the demand-side or supply-side stakeholders, the MAC could not garner the pragmatic legitimacy from these audiences that it needed to survive. Faced with a complex industry and a lack of political interest, efforts to reform the organization appear to have failed and the MAC website went silent in January 2010.

Conclusion

In attempting to explain private governance failure, we drew upon past work examining how relatively successful NSMD systems have gained rule-making authority in the forestry sector. Applying these insights to the failed cases of the marine ornamentals and cut flower industries, we hypothesized that processes of delegitimation (a lack of pragmatic and/or moral support from core audiences) can lead to institutional failure if they deprive NSMD systems of key resources and competencies that they require to attain their stated goals.

Our framework offered a two-part explanation of how NSMD programs might fail at gaining and maintaining legitimacy. The first involved whether the legitimation strategies by the initiators and supporters of the scheme were effectively deployed toward this end. The second was whether the external environment was conducive to the strategies chosen. Our findings lend initial support to our framework.

In the case studies above, each system deployed legitimation strategies aimed at gaining and maintaining both pragmatic and moral legitimacy. The initiators of both NSMD systems began with manipulation strategies aimed at creating incentives to join their respective schemes. However, in the cut flower industry, the strategies were much more public and political, which helped create an enabling environment for the future FLP by reinforcing the political salience of the issues facing the industry. This political salience, as hypothesized by Cashore, Auld and Newsom (2003), created a strong incentive for industry actors to help create and participate in NSMD governance.

Likewise, supporters from both programs deployed a combination of informing and conforming strategies. While the FLP achieved some success in bringing a diverse set of actors to a tentative agreement, cracks were beginning to show quite early. The MAC, on the other hand, held a series of meetings in the US where representation from the many and diffuse stakeholders was lacking. This can help explain why the expectations never truly aligned with the realities on the ground. While both schemes achieved a certain measure of success in gaining both pragmatic and moral legitimacy, ultimately, they struggled to maintain either and eventually failed.

In particular, the deployment of effective conforming strategies proved difficult for the initiators and close supporters of the FLP and MAC. There appears to be a balance that must be reached between moral and pragmatic legitimacy. This often, but not always, reflects the balance that an NSMD scheme must reach between the demands of civil society and industry actors. As Cashore (Cashore, 2002: 519) has noted, 'those granting moral legitimacy act as a brake on what NSMD governance systems can do – or not do – to achieve pragmatic legitimacy (…)'. In the cases explored above, there seems to have indeed been a tense negotiation between achieving pragmatic and moral legitimacy. In the FLP case, it split the stakeholders, depriving the program of key resources and ultimately leading to its demise. In the MAC case, program initiators failed to include suppliers in the negotiations and then attempted to help them conform to the standards, a capacity building exercise that proved slow and costly. The result was a loss of funding and eventual failure.

A big part of this failure can also be explained by the structure of the institutional environments in which these NSMD schemes operated. In both cases, we found that the highly fragmented nature of the marine ornamentals and cut flower industries posed a challenge to NSMD governance in these sectors. It made certification time consuming and costly; economic actors are less likely to grant pragmatic support in these environments.

In addition, each case encountered a unique set of environmental challenges that impacted the effectiveness of the legitimation strategies employed. Arguably, the most important environmental factor undermining the FLP was the emergence of competitor schemes. These competitor schemes challenged the FLP on both pragmatic and moral grounds, leading to a deterioration of its legitimacy and eventual loss of support from both industry and civil society. In the MAC case, the lack of political salience was a problem. With little political pressure on either demand-side or supply-side economic actors, the MAC could not garner the pragmatic legitimacy from these audiences that it needed to survive.

As a first step toward understanding the relationship between delegitimation and institutional failure, this study is necessarily exploratory in character. Future research in this area should now build off these modest insights, possibly setting up structured comparisons between relatively more successful cases and those that have failed, testing the various dimensions of these mechanisms in more detail moving forward.

References

Alencastro, L. (2004). Hobbyists' Preferences for Marine Ornamental Fish: A Discrete Choice Analysis of Source, Price, Guarantee, and Ecolabeling Attributes, unbublished manuscript, University of Florida.

Auld, Graeme, Cashore, Benjamin, Balboa, Cristina, Bozzi, Laura, & Renckens, Stefan. (2010). Can Technological Innovation Improve Private Regulation in the Global Economy? *Business and Politics (Special Issue)*, *12*(3), Article 9.

Bäckstrand, Karin. (2006). Democratizing Global Environmental Governance? Stakeholder Democracy after the World Summit on Sustainable Development. *European Journal of International Relations, 12*(4), 467-498.

Bellamy, J, & Winsby, M. (2008). Mid-Term Review of the IFC/GEF Project 'Marine Aquarium Market Transformation Initiative (MAMTI), International Finance Corporation, Washington, DC [now offline, available from authors upon request].

Bernstein, Steven. (2011). Legitimacy in Intergovernmental and Non-State Global Governance. *Review of International Political Economy, 18*(1), 17-51.

Bernstein, Steven, & Cashore, Benjamin. (2007). Can Non-State Global Governance Be Legitimate? An Analytical Framework. *Regulation & Governance, 1*(4), 347-371.

Bexell, Magdalena. (2014). Global Governance, Legitimacy and (De)Legitimation. *Globalizations, 11*(3), 289-299.

Bunting, B. (2001). Buy a Fish, Buy a Coral, Save a Reef: The Importance of Economic Incentives to Sustain Conservation, paper presented at the Marine Ornamentals Converence, November 2001, Lake Bunena Vista, FL.

Cashore, Benjamin. (2002). Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (NSMD) Governance Systems Gain Rule-Making Authority. *Governance, 15*(4), 503-529.

Cashore, Benjamin, Auld, Graeme, & Newsom, Deanna. (2003). Forest Certification (Eco-Labeling) Programs and Their Policy-Making Authority: Explaining Divergence Among North American and European Case Studies. *Forest Policy and Economics, 5*(3), 225-247.

Cashore, Benjamin, Auld, Graeme, & Newsom, Deanna. (2004). *Governing through Markets: Forest Certification and the Emergence of Non-State Authority*. New Haven, CT: Yale University Press.

Cashore, Benjamin, Egan, Elizabeth, Auld, Graeme, & Newsom, Deanna. (2007). Revising Theories of Nonstate Market-Driven (NSMD) Governance: Lessons from the Finnish Forest Certification Experience. *Global Environmental Politics, 7*(1), 1-44.

CCIF. (2001). Analysis of Destructive Reef Fishing Practices in the Indo-Pacific, October 2001. [Last accessed 10 April 2015.] Available from URL: http://www.cciforum.org/pdfs/Destructive_Practices.pdf.

Dingwerth, Klaus. (2007). *The New Transnationalism: Transnational Governance and Democratic Legitimacy*. Houndsmills: Palgrave Macmillan.

Dryzek, John. (2000). *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*. Oxford: Oxford University Press.

European Commission. (2012). Flowers and Ornamental Plants, 10 October, 2012 [Last accessed 10 Apr 2015.] Available from URL: http://ec.europa.eu/agriculture/fruit-and-vegetables/product-reports/flowers/statistics-2012_en.pdf.

FIAN. (2006). Bluehende Zukunft? Verletzung von Kinderrechten durch die Blumenindustrie, Cologne, December 2006 [Last accessed 10 Apr 2015.] Available from URL: http://www.fian.de/fileadmin/user_upload/dokumente/shop/Blumen/fian_doku_kinderarbeit.pdf.

FIAN. (2012). Stellungnahme von FIAN Deutschland zum Austritt aus dem Flower Label Program, 3 January, 2012 [Last accessed 10 Apr 2015.] Available from URL: http://www.vamos-muenster.de/vamos/html/arbeit/veranstaltungen/documents/FIAN_Stellungnahme_FLP_Austritt.pdf.

FLO. (2015). Finlay Flowers, Oserian and Ravine Roses [Last accessed 10 Apr 2015.] Available from URL: http://www.fairtrade.org.uk/producers/flowers/finlay_flowers_oserian_ravine_roses_kenya.aspx.

FLP. (2005). FLP Stanard, Version 2, accepted by FLP Board, 26 June, 2005 [Last accessed 10 Apr 2015.] Available from URL: http://www.fairflowers.de/fileadmin/flp.de/pdf/FLP_PautasIngles%20low.pdf.

FLP. (2008). Articles of the Association, 30 April, 2008 [Last accessed 10 Apr 2015.] Available from URL: http://www.fairflowers.de/uploads/media/Statutes_FLP_Version3.pdf.

FLP. (2011). FLP Certified Producers [now offline, available upon request from authors].

FLP. (2012). FLP vorübergehend konsolidiert - Das FLP-Büro ist jetzt wieder erreichbar, 4 January, 2012 [now offline, available upon request from authors].

Fransen, Luc W. (2012). Multi-stakeholder Governance and Voluntary Programme Interactions: Legitimation Politics in the Institutional Design of Corporate Social Responsibility *Socio-Economic Review, 10*(1), 163-192.

Glasbergen, Pieter. (2013). Legitimation of Certifying Partnerships in the Global Market Place. *Environmental Policy and Governance, 23*(6), 354-367.

Gopakumar, G. (2004). Marine Ornamental Animals: Collection, Culture, and Conservation. *Fishing Chimes, 24*(9), 10-17.

Gopakumar, G. (2008). Resource Analysis, Trade Potential and Conservation Management of Marine Ornamentals of India. In K. B. Madhusoodana, M. R. Boopendranath, K. Ravindran, B. Saira & N. A. Gopalakrishnan (Eds.), *Ornamental Fish: Breeding, Farming and Trade*, pp. 64-79. Department of Fisheries, Government of Kerala, Thiruvananthapuram.

GTZ. (2004). Study of Flower Label Program, December 2004 [Last accessed 10 Apr 2015.] Available from URL: http://www.fairflowers.de/fileadmin/flp.de/Redaktion/Dokumente/Studien/FLP_Study_GTZingles.pdf.

ICC. (1998). International Code of Conduct for the Production of Cut-Flowers, August 1998 [Last accessed 10 Apr 2015.] Available from URL: http://www1.umn.edu/humanrts/links/flowerscode.html.

ISEAL. (2015). About us [Last accessed 10 Apr 2015.] Available from URL: http://www.isealalliance.org/.

Kenya Flower Council. (2015). The Flower Industry in Kenya [Last accessed 10 Apr 2015.] Available from URL: http://www.kenyaflowercouncil.org/index.php/89-the-flower-industry-in-kenya.

King, Gary, Keohane, Robert O., & Verba, Sidney (1994). *Designing Social Inquiry: Scientific Inference in Qualitative Research*. Princeton, NJ: Princeton University Press.

Larkin, S L, & Degner, R L. (2001). The U.S. Wholesale Market for Marine Ornamentals. *Aquarium Science and Conservation, 3*, 13-24.

March, James G., & Olsen, Johan P. (1998). The Institutional Dynamics of International Political Orders. *International Organization, 52*(4), 943-969.

McCollum, B A. (2007). Consumer Perspectives on the 'Web of Causality' within the Marine Aquarium Fish Trade. *SPC Live Reef Fish Information Bulletin*(17), 20-30.

Merkur Online. (2011). Sag mir, woher die Blumen sind, May 6, 2011 [Last accessed 10 Apr 2015.] Available from URL: http://www.fairflowers.de/fileadmin/flp.de/Redaktion/Dokumente/Studien/FLP_Study_GTZingles.pdf.

Pesticides Action Network. (2008). Poor Conditions for Women Working in African Horticulture [Last accessed 10 Apr 2015.] Available from URL: http://www.pan-uk.org/pestnews/Issue/pn80/pn80p20-22.pdf.

Rossberg, M A E. (2014). Panparks Foundation 'In Liquidation'. European Wilderness Society [Last accessed 10 Apr 2015.] Available at URL: http://wilderness-society.org/panparks-foundation-in-liquidation.

Schaller, Susanne. (2007). The Democratic Legitimacy of Private Governance: An Analysis of the Ethical Trading Initiative, INEF Report 91/2007, Institute for Development and Peace, University Duisburg-Essen, Duisburg.

Scharpf, Fritz W. (1999). *Governing in Europe : Effective and Democratic?* Oxford: Oxford University Press.

Schouten, Greetje, & Glasbergen, Pieter. (2011). Creating Legitimacy in Global Private Governance: The Case of the Roundtable on Sustainable Palm Oil. *Ecological Economics, 70*(11), 1891-1899.

Shuman, G S, Hodgson, G, & Ambrose, R F. (2004). Managing the Marine Aquarium Trade: Is Eco-Certification the Answer? *Environmental Conservation, 31*(4), 339-348.

Suchman, Mark C. (1995). Managing Legitimacy: Strategic and Institutional Approaches. *The Academy of Management Review, 20*(3), 571-610.

The Guardian. (2001). Deadly Blooms, 29 August, 2001.

Underdal, Arild, & Young, Oran R. (Eds.). (2004). *Regime Consequences: Methodological Challenges and Research Strategies*. Dordrecht: Kluwer Academic Publishers.

Vogel, David. (2008). Private Global Business Regulation. *The Annual Review of Political Science, 11*, 261-282.

Volksbanken Raiffeisenbanken. (2013). Branchen Spezial: Einzelhandel mit Blumen und Pflanzen [Last accessed 10 Apr 2015.] Available from URL: https://www.volksbank-stuttgart.de/content/dam/f0054-0/pdf/wir_ueber_uns/newsletter/36.pdf.

Wabnitz, C, Taylor, M, Green, E, & Razak, T. (2003). From Ocean to Aquarium: The Global Trade in Marine Ornamental Species, UNEP-WCMC Report [Last accessed 10 Apr 2015.] Available at URL: http://www.unep.org/pdf/from_ocean_to_aquarium_report.pdf.

Wood, E. (2001). Global Advances in Conservation and Management of Marine Ornamental Resources. *Aquarium Sciences and Conservation, 3*, 65-77.

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