Causal Mechanisms in the Global Regulation of Labor

The “Market for Virtue” and the Curious Case of Transnational Associational Governance

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Justus Dreyling
Otto-Suhr-Institut für Politikwissenschaft
Arbeitsstelle für Internationale Politische Ökonomie
Ihnestraße 22
14195 Berlin

Phone: +49 - 30 - 838 56 460
Email: justus.dreyling@fu-berlin.de
Homepage: http://www.polsoz.fu-berlin.de/polwiss/forschung/oekonomie/ipoe

Abstract: In the late 1990s and early 2000s market-based transnational governance schemes have proliferated in the global regulation of labor. With Global Framework Agreements a small but growing number of governance schemes have emerged that rely on a different causal mechanism than the majority of regulation in the field. Global Framework Agreements can be characterized as associational governance schemes that rely on the institutionalization of trust between transnational corporations’ management and labor unions and their transnational associations, Global Union Federations. Two in-depth case studies of transnational corporations show how changes in the institutional environment enable union actors to create new transnational rules that facilitate cooperation and problem solving with management.
1 Introduction

Where states have been unable or unwilling to authoritatively regulate corporate conduct beyond their borders various non-state actors have taken over as private regulators. In addition to environmental damage, particularly human and labor rights violations have raised concern about transnational corporations (TNC) exploiting weak standards in developing countries. Civil society nongovernmental organizations (NGO) and other private actors have publicized bad corporate practices via the media in order to exert pressure on transnationally operating firms. As a consequence, in the late 1990s and early 2000s market-based transnational governance schemes have proliferated in the global regulation of labor. Such initiatives mainly rely on auditing to gather information about the compliance of lead companies and their suppliers. Certificates are applied to merchandises in order to signal to consumers that they have been produced responsibly (i.e. in accordance with fundamental environmental or labor standards).

With International or Global Framework Agreements (GFA), a small but growing number of transnational governance schemes have emerged that rely on a different causal mechanism (Hedström and Ylikoski 2010) than the majority of regulation in the field of labor regulation. What I call transnational associational governance relies on the institutionalization of trust between capital and labor in transnational settings. GFAs are negotiated and signed by the management of TNCs and transnational associations of labor unions, Global Union Federations. They mainly refer to the core labor standards as defined in the 1998 International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work1 and shall primarily enable workers to organize and bargain collectively. In contrast to other multi-stakeholder initiatives, GFAs do not only specify “principles, norms, rules and decision-making procedures” (Haufler 2000, 123) but aim at launching regular transnational social dialogue on global and local matters (Wills 2002, 677-678).

The notion that associations can be a factor in global governance is far from new. Yet the literature has focused on business associations lobbying governments and international regulators or their role in industry self-regulation (Cutler, Haufler, and Porter 1999, 12-13; Müller-Debus, Thauer, and Börzel 2009). Labor unions and their transnational associations, however, have received only scant attention in debates on transnational regulation (Koch-Baumgarten 2006, 211-212; see however Fichter, Stevis, and Helfen 2012; Niforou 2012). Although Global Union Federations and GFAs have been the subject of intensive research in labor studies (Croucher and Cotton 2009; Platzer and Müller 2011) they have been an uncommon topic outside the discipline.

I proceed as follows. In the first part, I show that GFAs can be understood as associational governance schemes relying on institutionalized trust and need to be distinguished from market-based certification. From the assumption that associational

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1 The four core labor standards of the ILO encompass three prohibitions (of forced and compulsory labor, child labor, and discrimination) and, most importantly regarding GFAs, the freedom of association and the right to bargain collectively.
governance builds on institutionalized trust emerges a puzzle. Why are GFAs recognized by TNCs, although they do not possess the necessary resources to challenge capital’s structural power? In parts three and four, I approach this puzzle in two ways. In part three, I sketch in a general sense how TNCs are institutionally embedded. I argue that uncertainty resulting from ambiguity and processes of institutional change enable labor actors to act as institutional entrepreneurs and participate in institution building. In the subsequent chapter, I carry out two case studies of two TNCs with GFAs to show in a more concrete fashion how associational governance emerges and works. These case studies draw on semi-structured expert interviews with labor and management representatives, which are part of a larger research project on GFAs conducted at Freie Universität Berlin by Michael Fichter, Markus Helfen and Jörg Sydow between 2009 and 2011. Research has been done both at headquarters level and, in a number of cases, in the form of field studies by associates in Brazil, India, Turkey, and the U.S.

2 Causal Mechanisms in the Global Regulation of Labor

Most certification schemes in the transnational regulation of labor rely on what Richard Locke, Matthew Amengual, and Akshay Mangla (2009, 322-325) have termed the “compliance model.” Proponents of the traditional compliance model assume that brand-named companies, usually those that operate on the consumer market, are the most powerful firms in their respective value chains. According to this view, change in practices can be brought about if pressure is applied on these companies via public campaigns as their brand value is vulnerable to reputational damage. In order to avoid negative repercussions brand-named companies subscribe to multi-stakeholder initiatives with NGOs. Such codes usually rely on audits to detect infractions at suppliers. Finally, if the costs of non-compliance are high enough, brand-named companies and their suppliers will either raise their standards or be driven out of the market. However, as Locke, Amengual, and Mangla (2009) and others (Gereffi, Garcia-Johnson, and Sasser 2001; Locke et al. 2007; Locke, Qin, and Brause 2007; O’Rourke 2003) show, this model is based on problematic assumptions about the power of brand-named companies, the quality of information gained in audits, and “the appropriate incentives required to change behavior and promote improvements in labor standards” (Locke, Amengual, and Mangla 2009, 320). First, Companies at the top of their value chains are not necessarily the most powerful. The distribution of power in production networks can be affected by highly asset-specific investments, the supplier or sub-contractor being a monopolist because of (intellectual or physical) property rights or simply a large(r) company with multiple contracts (Gereffi, Humphrey, and Sturgeon 2005). Second, monitoring by auditors poses a number of challenges. Because of a lack of training and time, auditors often neglect collective labor rights and concentrate on health and safety standards. substantive training and comprehensiveness, however, require significant expenditures, especially in large production networks. Yet firms can avoid these costs by shopping among a range of indiscernible standards (Fransen 2012; O’Rourke 2003). Third, the incentives of most certification schemes are flawed as they, at worst, hurt workers through the cancellation of contracts but rarely involve “root-cause analysis, joint
problem solving, information sharing, and the diffusion of best practices” (Locke, Amengual, and Mangla 2009, 321).

In addition, as highlighted by David Vogel (2005), the demand for corporate regulation is often overstated because of the CSR boom in the last 20 years. Where corporate behavior is regulated via the market place, “CSR is sustainable only if virtue pays off. The supply of corporate virtue is both made possible and constrained by the market” (Vogel 2005, 2-3). While customers and shareholders value CSR there is only a niche “market for virtue”, i.e. for products and services that put a premium on their virtuousness. The mass market is primarily dictated by the price mechanism and only a limited number of customers purchase more pricey goods and services because they are produced responsibly. Moreover, on the Japanese market and on Asian growth markets the demand for CSR is even lower than in the rest of the industrialized world (Vogel 2005, 94) and even in the U.S. collective labor rights such as freedom of association and the right to collective bargaining are highly contentious.

Limited demand for regulation and patchy institutional supply (in many cases characterized by a lack of reliable information and transparency) often result in regulatory capture, i.e. “the control of the regulatory process by those whom it is supposed to regulate [...] at the expense of society as a whole” (Mattli and Woods 2009, 12). Although not all certification schemes are held capture by corporate interests and some have triggered important changes, especially labor unions have become disgruntled with market-based regulation. They maintain that “the best monitors are the workers themselves” (Quinteros 2001). GFAs are a product of this debate. While some labor unions have joined civil society actors, such as advocacy NGOs or consumer groups, in multi-stakeholder initiatives, many today are critical of market-based regulation. Moreover, few early codes mention collective labor rights, which are most important to labor unions. As a consequence, the Global Union Federations developed GFAs as a tool to get recognition for themselves and their member organizations by codifying fundamental labor standards, most importantly freedom of association and the right to collective bargaining (Hammer 2005, 515-519; Wills 2002, 677-679).

In a nutshell, GFAs are non-legally binding memorandums of understanding between TNCs and Global Union Federations that commit the signatory companies to adhere to fundamental labor rights. GFAs vary widely in terms of scope, ranging from fundamental commitments to complex codes that stipulate conflict resolution mechanisms. There is at least tacitly a minimum consensus among most Global Union Fed-

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2 Of 233 codes of conducts studied in a 1999 OECD survey less than a third made reference to freedom of association and the right to collective bargaining (Organisation for Economic Co-operation and Development 1999; 2001, 10).
3 Technically, Global Union Federations were known as International Trade Secretariats until 2003 but for the sake of simplicity the former term will be used throughout.
4 However, not all Global Union Federations have adopted GFAs as their main policy instrument. The International Transport Workers’ Federation mainly relies on a highly effective form of border-crossing industrial action, which has resulted in the establishment of a de facto minimum wage in the shipping industry (Lillie 2005; Turnbull 2006).
erations concerning the contents of GFAs. The bottom line requirement is that GFAs include the core labor standards of the ILO (preferably exact references). Moreover, GFAs must apply to all subsidiaries globally, and contain “a strong and unequivocal commitment by the TNC that suppliers and sub-contractors adopt similar standards for their workers” (International Metalworkers’ Federation 2006, 1).

I argue that GFAs rely on a distinctive mode of governance, which I call associational governance. On one hand, transnational associational governance is distinct from market-based private or civil regulation of labor and environmental protection (Cashore, Auld, and Newsom 2004; Cutler, Haufler, and Porter 1999; Bartley 2007; Hall and Biersteker 2002; Vogel 2009). On the other it needs to be distinguished from those forms of private nonmarket rule-making, which have been identified by Tim Büthe and Walter Mattli (2011) with regard to technical standard setting by transnational peak organizations such as the International Organization for Standardization. Associational governance, by contrast, builds on institutionalized trust relationships between distinctive actors or sets of actors. GFAs are signed by transnational associations of labor unions, Global Union Federations, and TNCs on the assumption that this “joint policy instrument” contributes to the mutual interest of both parties. Signatory TNCs view GFAs as a means of diffusing practices and standards at their subsidiaries, suppliers, and sub-contractors in order to reduce the uncertainty that comes with the management of global production networks (Fichter, Helfen, and Sydow 2011). Drawing on work by Wolfgang Streeck and Philippe C. Schmitter (1985), I argue that GFAs come close to what they have identified as governance by associations or private interest governance. According to Schmitter and Streeck (1985, 129), private interest governance can be understood as “an attempt to utilize the collective self-interest of social groups to create a generally acceptable social order”. The concept has been developed against the historical backdrop of neo-corporatist systems that rely on concertation in social policy. While the allocation of fundamental labor norms in global production networks is less far reaching it nonetheless builds on cross-class cooperation based on institutionalized trust.\footnote{Tim Bartley (2007, 302) argues that certification associations such as Social Accountability International set standards for certifying firms and, thus, “represent a second order institution of impersonal trust—a watchdog of the watchdog.”}

Standard setting processes in global production networks are highly complex, taking place at all levels, local, national, and transnational and involving various actors (Coe, Dicken, and Hess 2009). GFAs are intended to contribute to problem solving between labor unions and local management as well as Global Union Federations and top management through “European-style social dialogue” (Fichter and Helfen 2011, 90; see also Schömann 2011, 29). In the process, GFAs provide sets of rules that structure these interactions.

I draw on Henry Farrell's (2009a; 2009b) theory of how institutions induce trust.\footnote{Farrell (2009, 42)’s account of trust draws on game theory, treating trust as an “external mechanisms of equilibrium selection.”} Trust can be understood “as a kind of expectation, grounded in reason, about whether another party or parties will cooperate in the future” (Farrell 2009a). The concept
needs to be distinguished from confidence, which is certainty about the cooperative intents of other parties. In trust relationships, however, defection always remains a possibility. Farrell argues that institutions provide two types of information that affect trust. First, institutions instantiate “information on how classes or types of actors are likely to behave” (Farrell 2009b, 47) in particular social situations. Institutions can be more or less precise but in general rules are abstract and require an act of application. They do not prescribe how a particular actor ought to behave in a specific situation but how a type of actor ought to behave in a particular type of situation. GFAs regulate that TNCs are to recognize labor unions in all of their operations but rarely include specifics on the exact conditions. A particular union organizer, thus, can reasonably expect that she will not be fired by the company’s local management but that she might also face some kind of opposition, depending on the local rules at the production facility.

Secondly, institutions affect trust “though the more specific information that they allow actors to convey to each other about particular actors’ past behavior and intentions” (Farrell 2009b, 51). Institutions that facilitate the spread of information about particular actors’ past acts of cooperation and defection allow other actors to draw conclusions on their trustworthiness. Thus, when GFAs promote the sharing of information reputational effects become important. Where early experiences are positive trust is more likely to develop. On one hand, this relates to institutionalized practices of communication between management and labor. On the other, such institutions can be the product of efforts of union network building around GFAs by Global Union Federations (Helfen and Fichter 2013).

In domestic settings trust is associated with informal institutions (Farrell 2009b, 57-60). Formal institutions are less ambiguous and enforceable by courts and thus induce confidence rather than trust. While the international setting has seen a proliferation of adjudicative bodies in recent years (Fischer-Lescano and Teubner 2006) many rules “lack explicit and agreed legal bindingness” (Raustiala and Slaughter 2002, 551). GFAs are equally lacking legal enforceability and are highly abstract, providing only a “framework” that needs to be applied and continuously renegotiated. Thus, although GFAs are formal in the sense that they are written down, functionally they are closer to informal institutions. More importantly, the implementation of GFAs relies on the institutionalization of further practices such as continuous dialogue.

3 Institutional Context
In this part, I discuss how associational governance could emerge at the transnational level. I argue that incremental changes and ruptures have enabled labor unions and Global Union Federations to “creatively recombine and extend the institutional principles at their disposal to devise new institutional solutions to their problems” (Djelic and Quack 2003, 18). Drawing on institutionalist theory, I show that processes of institutional change have opened a window for agency (Hall and Thelen 2009; Streeck and Thelen 2005; Mahoney and Thelen 2010). This approach is complemented by advances that highlight the role of ambiguity and power relations in
TNCs and their global production networks for institutional entrepreneurship (Coe, Dicken, and Hess 2009; Morgan and Kristensen 2006).

The discussion of certification schemes points to the institutional embeddedness of TNCs in their consumer markets. Here, informal rules, norms consumers hold about how they expect firms to treat their employees, constrain the behavior of TNCs and provide activists with some power to change or create institutions. In the case of associational governance it is not so much the institutions of consumer markets but the embeddedness of TNCs in national systems of industrial relations. Varieties of Capitalism and other comparative capitalisms frameworks predict “systematic differences in corporate strategy across nations” (Hall and Soskice 2001a, 33). These approaches assume that formal and informal institutions structure how firms resolve coordination problems with other firms, investors and also employees. Ideally, liberal market economies (such as the UK and the U.S.) are characterized by the predominance of market relationships. By contrast, firms and other actors in coordinated market economies (such as Germany) rely mainly on relational bargaining to solve collective action problems (Hall and Soskice 2001b). However, Varieties of Capitalism has neglected TNCs as a distinct type of firms (Crouch 2009, 92). Here, the institutional misfit between home country and host countries creates immense ambiguity with regard to the coordination with subsidiaries, suppliers, investors, and employees in other countries. This, in turn, opens up spaces for contestation and politicization, which can be used by local management to strengthen their position vis-à-vis headquarters but also other actors such as organized labor (Coe, Dicken, and Hess 2009; Cumbres, Nativel, and Routledge 2008; Morgan and Kristensen 2005). Global Union Federations can act as institutional entrepreneurs where they are either able to capitalize on existing trust relationships with management at headquarters or mobilize associational power. Associational power can be defined as “the various forms of power that result from the formation of collective organization of workers” (Wright 2000, 962; see also Silver 2003) and can be built up by transnational coordination.7

I now locate GFAs within the discourses on regulation and self-regulation of corporate conduct in the EU and the U.S. I argue that labor unions and Global Union Federations are employing GFAs in order to challenge existing CSR practices, which are mainly based on the neoliberal ideas of a self-regulating market. Ambiguity and uncertainty in a period of institutional change have enabled organized labor to engage in transnational institution building. While GFAs build on CSR and multi-stakeholder initiatives (and from the perspective of management are part of CSR

7 Moreover, Varieties of Capitalism and other comparative capitalisms approaches have to a certain degree undertheorized the role of globalized competition and that “firms operating in global networks tend to be shaped also by the nature of the market in which they compete” (Lane 2008, 234). The organization of global production networks in turn has important “results in different opportunities and constraints for labour agency in relation to advancing social regulation” (Riisgaard and Hammer 2011, 186, see also Bair and Paipacuer 2012; Miller 2011).
Debates on the social responsibility of business have historically been contested and have produced a number of conceptions and practices regarding business society relations (Matten and Moon 2008, 405-406). CSR reflects the cultural hegemony of a society and, thus, ideas about the relationship between politics and economy in a broader sense. As a consequence, answers to the question about “the legitimacy of stakeholder claims may differ widely across time and place” (Jackson and Apostolakou 2010, 373). Dirk Matten and Jeremy Moon (2008) argue that because of the lack of solidaristic institutions in liberal market economies firms have developed (explicit) CSR as a tool to deal with societal pressures to legitimize. Whereas coordinated market economies deal with these pressures through their welfare and industrial relations systems. Advancing the work of Matten and Moon (2008), Richard Marens (2012, 78) has argued that the emergence of CSR in the U.S. can be attributed to “the historical struggle and ultimate defeat of employee ‘stakeholders’ in both the corporation and the resulting academic discourse.” CSR can be characterized as a functional substitute for cross-class collaboration and compromise, which legitimized firms and capitalism as a whole in coordinated market economies (e.g. the social market economy of post-war West Germany). According to Marens (2012), the suppression of organized labor in the U.S. had a dialectical effect. On one hand, the autonomy of capital has provided corporate management with a high degree of discretionary power and political influence. On the other, capital bore the responsibility to accommodate class conflict and, beyond that, to achieve high productivity rates. The concept of CSR has entered the U.S. discourse being understood as voluntary contributions to the public good (most notably in the form of philanthropy) and has served as a tool to garner social acceptance without undermining the relative autonomy from organized labor. In the UK, CSR emerged in a similar context and much earlier than in the rest of Europe. Here, since the Thatcher era “CSR complements the deepening of market relations and has helped legitimate the erosion of institutionalized solidarity during the past 30 years” (Kindermann 2012, 31).

The U.S. conception of CSR dates back to the beginning of the 20th century, a period of labor unrest not only in the U.S., “but a major resurgence of interest in this dimension of corporate behavior took place […] during the 1960s and 1970s” (Vogel 2005, 6), which really took off in the 1990s. This resurgence can be linked to a growing awareness of environmental issues and social problems associated with the internationalization of firms, such as foreign direct investment in South Africa under apartheid (Seidman 2003). With regard to the regulation of labor practices, the main cause, however, was a wave of campaigns in the early 1990s publicizing sweatshop practices (most notably in the apparel industry). Companies directly or indirectly affected by these scandals initially reacted by developing unilateral codes of conduct. Yet activists were dissatisfied with this outcome and continued to challenge TNCs, which led to the emergence of multi-stakeholder certification schemes (Bartley 2007).
The unwillingness of governments to regulate labor internationally reinforced this pathway. Although market-based governance schemes began to emerge before, the ILO’s adoption of the Declaration on Fundamental Principles and Rights at Work in 1998 coupled with the launch of the UN Global Compact in 2000 can be characterized as a critical juncture. Change came about as a result of two challenges. Employers and governments had criticized the ILO for being unduly complex. The highly institutionalized conventions system was perceived to be out of proportion to the organization’s regulative ineffectiveness (Hassel 2008). This and the failure to introduce labor rights to the WTO regime led the ILO to pursue more soft law-oriented approaches (Drezner 2007, 82-83). The ILO established a hierarchical definition of fundamental labor rights and began to promote non-legal binding instruments (Abbott and Snidal 2000, 434). As a consequence, the ILO Declaration, which is addressed to states, became more and more of a meta-institution for corporate behavior.8 The aim, as then-United Nations general secretary Kofi Annan put it in an address at the 1998 World Economic Forum, was “to unite the power of markets with the authority of universal ideals” (United Nations 1998). This locked in the institutionalization of the ILO Declaration as a point of convergence for the private regulation of labor (Hassel 2008). Moreover, it facilitated the marketization of labor governance by refraining from sanctions and relying on business’s voluntariness. The conversion of the international labor rights institutions reflected the neoliberal zeitgeist that called for voluntary market-based solutions to deal with the social costs of globalization. Neoliberal ideas also paved the way for more shareholder-oriented conceptions and practices of CSR. This is reflected in the argument of a business case for CSR, which has been embraced by the academic community and business alike (Vogel 2005, 19-21).

Moreover, the 1990s marked the beginning of the proliferation of U.S.-style CSR in continental Europe. Because of liberalization and globalization business faced increasing pressure to legitimize. Moreover, isomorphic pulls from the organizational field have led European TNCs to adopt resurgent U.S.-style CSR (Matten and Moon 2008, 415-417). Despite initial efforts by the EU to standardize CSR firms have so far resisted these attempts (Kindermann 2013). However, both changes in international institutions and European corporate culture resulted in increasing uncertainty vis-à-vis established patterns of capital labor relations. On one hand, European coordinated market economies have displayed a tendency to change towards more liberal models of capitalism as a result of Europeanization and globalization (Jackson and Deeg 2012; Scharpf 2010) or institutional exhaustion (Streeck 2009), particularly in the sphere of industrial relations (Baccaro and Howell 2011). On the other, there has been a trend toward dualization, i.e. “the differential spread of market forces” (Theilen 2012, 147) across sectors within market economies. In some cases, the Global Union Federations could make strategic use of the ambiguity and uncertainty TNCs faced. They introduced GFAs as a tool that combined elements of CSR and industrial relations (Platzer and Müller 2011) and, thus, could also serve TNCs to deal with the

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8 The Global Compact and other business regulation initiatives reference the core labor standards of the ILO as rules for companies.
ambiguities—both inherent to global production networks and resulting from processes of institutional change.

However, because of Global Union Federations’ limited resources and the dominance of market-based regulation only a small number of companies have so far signed GFAs. It is not by accident that the majority of global framework agreements have been signed with TNCs headquartered in Western continental Europe, or, to put it in the language of Varieties of Capitalism, with firms based in coordinated market economies. Here, labor unions and management often have an established relationship, which some sought to preserve in the face of institutional change or even transfer to the transnational level (Fichter, Helfen, and Sydow 2011). Neither is it surprising that UK and U.S. firms have been reluctant to conclude global framework agreements. In liberal market economies employers do not cooperate with labor unions as extensively (if at all) and are even more biased toward self-regulation.

4 Case Studies
In what follows, two explorative case studies of TNCs with GFAs are carried out. After having brushed out the institutional context in the previous section in a more general sense, I study how GFAs have come into existence in these two particular cases. Moreover, I determine whether and how GFAs as transnational institutions induce trust, drawing on the two mechanisms identified by Farrell (2009a; 2009b). The two cases, Car Corporation and Security Corporation, have been chosen out of the larger sample of a research project on GFAs. By selecting these cases I have tried to maximize variance with regard to the institutional environments and structures of global production networks in order to learn more about the effects of embeddedness on transnational associational governance (Gerring 2007, 97-101). Car Corporation is a German car manufacturer with a limited number of subsidiaries, which cooperates extensively with labor at headquarters. By contrast, Security Corporation provides specialized security services and is one the largest employers of the world. In both cases, GFAs have to some degree facilitated cooperation by institutionalizing trust. However, the processes of institutional emergence vary significantly.

4.1 Car Corporation
Car Corporation is deeply embedded in the German system of industrial relations and the relationship with labor at headquarters can be characterized as social partnership. In this case, a preexisting trust relationship has facilitated both the negotiation of the GFA and its implementation. Here, labor actors have been able to combine domestic practices of industrial relations at headquarters and the transnational institutionalization of CSR to create new rules for problem solving in Car Corporation’s value chain.

In addition to codetermination (“Mitbestimmung”), the German dual system of interest representation is a prime example of how institutions induce trust. It is based on the dual structure of collective bargaining autonomy (“Tarifautonomie”) and works constitution (“Betriebsverfassung”) and establishes works councils as institutions of
workplace representation for employees. Works councils occupy an intermediary position between capital and labor as they share some prerogatives with management and have to communicate collective decisions to the workforce (Müller-Jentsch 1997, Chapter 16). Although the underlying institutions display a high degree of formality, in practice the power of works councils today depends on informal arrangements. The German system of industrial relations including sectoral collective bargaining has incrementally eroded since the 1990s. This can be attributed to increasing international competition, issues related to the German unification, and changes in the political economy as a whole (Baccaro and Howell 2011, 19). The existence of is grounded in common culture, shared understandings and path dependencies and sectoral factors (e.g. labor unions power). More generally, “an increasing dualism can be observed between the high-productivity export sector on one hand and the slow development of a service sector on the other” (Hassel 2007, 255).

Car Corporation has production sites in 19 countries including major growth markets in emerging economies. The largest presences, however, are in Germany and the U.S. Management has reacted to the mismatch between home and host country institutions by taking some of its employee-related practices to the transnational level (Fichter, Helfen, and Sydow 2011). This is reflected by the involvement of a non-German employee representative at the group works council since 1998 and the informal establishment of a world works council at around the same time. In 2002 the world works council was formally introduced some months prior to the conclusion of the GFA with the International Metalworkers’ Federation (IMF, now IndustriALL). Institutionalized employee representation is seen as part of Car Corporation’s business model and the GFA, as well, can be traced back to the facilitating role of its works council at headquarters. As one representative of the German metalworkers’ union IG Metall has noted this is not a unique characteristic of the Car Corporation case. In most cases of GFA negotiations with German companies from the metal and chemical industries works councils have played an important role:

> Where we don’t have a strong works council it’s difficult to do something. Naturally, we’re part of the process but in most cases works councils have been the proper negotiators (Interview, IG Metall representative).

As has been noted by Peter A. Hall and David Soskice (2001, 13) “thick” common knowledge can “lead participants to coordinate on one outcome, rather than another, when both are feasible in the presence of a specific set of formal institutions.” However, this institutionalized trust relationship is also very exclusive in so far as it only relates to works councils. As a consequence, the involvement of the Global Union Federation has posed difficulties: “The signature of the IMF has often been a red rag in negotiations” (Interview, IG Metall representative).

For this reason, Car Corporation’s works council is also largely in charge of the implementation of the agreement.

You’ve still got cases where […], at [Car Corporation] it still works like this, when the company works council is contacted, and it doesn’t matter whether he is addressed
in his function as German works council or chair of the world works council, writes a letter to management: “This and that have come to my attention and I ask you to take care of it and take corrective action.” There, to a certain extent, this still is the way to go (Interview, IMF representative).

However, although the works council at headquarters has a gatekeeper role the involvement of the world works council is crucial. The world works council has participated in the negotiation process and has been functionally coupled with the GFA since. It is crucial in performing the information dissemination function of institutions as it allows labor actors to communicate about corporate behavior and to engage in discussion with management. World works council and GFA are also means of labor actors within Car Corporation to strengthen their position vis-à-vis management, building on domestic institutions and an appropriation of the concept of CSR.

If we have such a thing as a world works council, in inverted commas, we should give it a working basis, in terms of contents, and the CSR topic presented itself as an opportunity (Interview, Car Corporation works council representative).

This has enabled labor at Car Corporation to widen the scope of the GFA to the production network. Car Corporation is generally seen as a good employer. Cooperative relationships with its workforce have existed before the conclusion of the GFA and most subsidiaries are highly unionized. The GFA was, thus, crafted as a regulatory scheme vis-à-vis Car Corporation’s suppliers: “That codex, in turn, in practice is not for us [the employees of Car Corporation]. It aims, and this has been the official policy of the IMF, at the suppliers” (Interview, Car Corporation works council). For Car Corporation this is also a risk management strategy as corporate irresponsibility further down the value chain may also have reputational consequences. One German business association representative pointed out that labor unions are considered trustworthy and especially more trustworthy than NGOs:

NGOs are, as Max Weber would say, ethicists of conviction. They pursue a goal independently of the consequences and independently of what one could achieve through compromise. Employers and labor unions, by contrast, have a long tradition of collective bargaining and they know they split the difference. With labor unions we have a tradition. We agree on something and then we stick by it (Interview, German business association representative).

Attempts to extend the GFA to Car Corporation’s suppliers have yielded mixed results. In one case in Turkey, headquarters’ management intervened after notification by the labor side. However, the issue could not be resolved. In Brazil in two cases of repercussions against unionists at suppliers local management intervened successfully after the local union at Car Corporation took minor industrial action.

At Car Corporation, the signature of the GFA has not fundamentally changed the relationship between management and employees. Institutionalized trust and in that sense associational governance have existed beforehand. However, this case shows that GFAs as particular scheme of associational governance can contribute to the transnational diffusion of such practices.
4.2 Security Corporation

The Security Corporation GFA differs markedly from the Car Corporation case as it has resulted from a transnational campaign organized by the service sector Global Union Federation UNI. UK-based Security Corporation provides a variety of security services in over 125 countries and is one of the world’s largest employers. Management was initially opposed to signing a GFA but agreed after a long quarrel with UNI and its affiliates. In the process, the labor union at headquarters, the general workers’ union GMB acted as a facilitator.

Globalization not so much as neoliberalism has been problematic for labor forces in immobile industries. This holds true especially for the security industry and other property services such as janitorial services, as well, although they have thrived as a result of the neoliberal hegemony of the 1980s and 1990s. On one hand, privatization and deregulation have created business opportunities for private sector security and other property services companies and allowed them to expand and sometimes internationalize. On the other, these policies have also increased competition in a labor-intensive sector with low barriers to market entry. This, in turn, has forced firms to continuously reduce labor costs, often through outsourcing, which, with regard to workers, has been accompanied by wage penalties (Dube and Kaplan 2010) and job insecurity (Flecker and Meil 2010). However, the decline in associational power in the U.S. and in other developed countries is also largely a result of private sector unions’ inability to organize sufficient numbers of workers (in little-unionized industries or regions) to make up for the loss of jobs and members in unionized workplaces, the growth of the labor force, and the increase in jobs in new enterprises or nonunion environments (Goldfield and Bromsen 2013, 234).

Unionization efforts are constrained by high fluctuation in the work force as temporary work is often part of the business model of service companies. Moreover, many property services companies are sub-contracted by other firms, complicating access (Helfen, Fichter, and Sydow 2012, 295-297). The situation is even worse for the low-qualified workers in developing countries due to the low degree or complete lack of unionization in the private sector and the institutional environment and competition is harsher (McCallum 2013). Beyond that, with regard to the security industry, in developing countries private companies play an even larger role because of public authorities’ deficiencies in security provision in areas of limited statehood (Abrahamsen and Williams 2010).

Institutional change had a pronounced negative effect on organized labor particularly in the U.S.⁹ New constraints led some unions to adopt new strategies. The North American Service Employees International Union (SEIU) has been among the pioneers that established the “organizing model” that emphasizes grassroots activity and the recruitment of new members over the representation and servicing of existing members (Hurd 2004; Kolins Givan 2007). After some organization drives in the security industry in the early 2000s, the SEIU aimed at increasing its leverage on busi-

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⁹ Here, union density in the private sector declined from over 20% at the beginning of the 1980s to about 15% in 1984 and to under 10% in 1997 (Kolins Givan 2007, 837).
ness by fostering transnational coordination (McCallum 2013; Platzer and Müller 2011). As a consequence, the SEIU became more involved in UNI and invested in terms of financial and human resources to develop greater strategic capacity (Ganz 2000, 1005-1007). In order to get Security Corporation to the negotiation table, UNI with the help of SEIU organized a transnational campaign, in which unions from more than twenty countries were involved. The “Justice at Security Corporation” campaign was modeled after the SEIU’s “Justice for Janitors” campaign, which since the mid-1980s was highly successful in unionizing janitorial services in the U.S. and also Canada (Erickson et al. 2000). UNI’s campaign against Security Corporation combined industrial action and tactics from the repertoire of transnational advocacy networks (Keck and Sikkink 1998). Mobilization efforts in important markets of Security Corporation, such as Indonesia and South Africa, were flanked by symbolic politics and the strategic use of information. UNI launched its campaign on the same day Security Corporation went public and published an alternative annual report entitled “The High Costs of the Low Road” that listed various cases of corporate irresponsibility. More importantly, UNI was able to mobilize shame by targeting Security Corporation’s clients and investors. Clients of Security Corporation are typically businesses or public authorities and less often individuals. Thus, UNI, rather than publicly challenging Security Corporation’s brand image, targeted companies on grounds of their business with Security Corporation. Moreover, UNI lodged a complaint with the OECD National Contact Point in the UK for violation of the Guidelines for Multinational Enterprises, which led one client, the Danish government, to threaten termination of the contract.

While the backlash of Security Corporation’s clients has been important, market pressure was not sufficient to get Security Corporation to sign a GFA with UNI. Negotiations did not progress until the labor union at company headquarters GMB became engaged in the process. The GMB assumed a background role and facilitated negotiations by acting as a mediator between UNI and management. GMB’s involvement was crucial as it helped to improve the relationship with UNI, which had become problematic.

And feelings were running very high. And frankly when you dig in the past the temperature starts to rise all over again because we will never reconcile our differences from that time. [...] And I felt that they [GMB] were able to take a fairly balanced view when the relationship was pretty bad with UNI. But then over the year of the negotiations that took place, I think that the relationship with UNI reached a completely different place. And obviously in the year and a half since the agreement was signed I’d say we’ve now got a really good relationship with UNI. And I speak to them routinely and very openly about opportunities and challenges we’re facing (Interview, Security Corporation manager).

In contrast to the situation at Car Corporation, the relationship between Security Corporation and the home country union, however, cannot be characterized as a social partnership in any way, shape or form. [...] The reason why we have the situation we have in the UK is that we’re very strong in the UK. [...] So the strength comes from our membership, and not from any social partnership (Interview, GMB representative).
Contrary to the relatively high degree of institutionalization in the German coordinated market economy, UK’s industrial relations institutions were practically dismantled under Prime Minister Margaret Thatcher (Baccaro and Howell 2011; 536-538; Wilson 2012, 9). Thus, the union’s associational power is a product of constant reaffirmation in industrial struggles. The GMB and Security Corporation had signed a major recognition agreement in early 2006. While social partnership is not a feature of the British system of industrial relations, the GMB and Security Corporation nonetheless recognize each other as negotiation partners and have developed an understanding for mutual gains. The trust relationship between Security Corporation and the GMB enabled a continuation of the talks with UNI, which alongside the SEIU was not considered trustworthy by management. The GMB’s careful approach—the union did not want to put its relationship with the company at risk—also facilitated a process of building trust between UNI and management. An agreement was reached in 2008. Since, tensions between the company and UNI have relaxed although UNI has taken a proactive stance vis-à-vis the implementation of the GFA, supporting union organizing. However, in order not to threaten Security Corporation’s market position, the parties have agreed on a stepwise implementation of the GFA. Therefore, initially implementation was only to be carried out in India, where the company is the largest security employer, and South Africa. Canada and the U.S. were subject to a phase-in clause that became effective in late 2010.

Implementation of the GFA (in this case organizing) has progressed more smoothly in South Africa while some compromises were made in India. In South Africa the GFA reduced the risk of management defection (in terms of retaliation measures against unionists) and, thus, facilitated organizing. Because of the competition in the Indian security market UNI had to restrain itself more than anticipated and focused instead on industry-wide standards. Local management was more reluctant to behaving according to the institutional script of the GFA, which has limited the effectiveness of organizing. Moreover, cultural differences and trust issues between the Global Union Federation and local workers in some places had a negative effect on union coordination. However, UNI’s change in approach has resulted in a change in labor legislation, which, if effectively enforced, will ameliorate working conditions for all employees in the Indian service industry. This has also been the result of an emerging social dialogue between UNI and Security Corporation. Trust, with regard to India, was more a product of information dissemination function of institutions, which contributed to the development of informal procedures and shared understandings at the transnational level.

This case shows that the existence of an institutionalized trust relationship between labor and management is not a necessary condition for the emergence and effec-

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10 Although the GMB supported the aims of the campaign, meanwhile trust issues had developed between the GMB and the SEIU. The unions blamed each other for looking out for their own interests. In the end, however, the UNI and the SEIU’s radical strategy and the GMB’s orthodox approach complemented each other (Anner 2009).

11 According to one manager, there is “a genuine commitment on both parties that this will be win-win” (Interview, Security Corporation manager).
tiveness of associational governance. However, in the absence of such institutions more “activation energy” is needed (e.g. in terms of resources) to initiate cooperation. Moreover, it requires sensitivity and endurance to uphold cooperation in the long term:

One doesn’t rebuild or create, let’s say in a situation where there’s no relationship before, trust out of nothing. Trust is created out of the series of experiences people have had. And if the only experiences you have had were in a fight then you have to build up a series of experiences where you have come to believe that there’s value in a relationship that you each have. And that takes time. That doesn’t happen quickly and I think it’s just not realistic for us that in labor relations things change overnight because they don’t (Interview, UNI representative).

5 Conclusion
In this paper, I have argued that transnational associational governance has emerged as an alternative mode of governance in the global regulation of labor. GFAs have developed in opposition to market-based governance schemes, which have been dominant in labor and environmental regulation. While GFAs do not share the problematic assumptions and liberal bias of most compliance-oriented certification schemes they rely on a delicate mechanism of institutionalized trust relationships between management and organized labor.

Building on a diverse case design, I have shown that associational governance schemes can emerge in highly different settings but that these settings shape their form in important regards. In the case of Car Corporation, the GFA has been more of a form of expression of a preexisting institutionalized trust relationship between labor and management. Here, internal labor representatives (works councils) have a long history of successful cooperation, which in some cases translates to problem solving at the transnational level. The case of Security Corporation displays that associational governance institutions can also be a product of conflict and the mobilization and use of power. However, although the strenuous campaign by the Global Union Federation UNI and its North American affiliate SEIU has proven to be effective the development of trust would not have been possible without the home country labor union. The GMB helped to mend the wound the protracted conflict had left. Without the GMB’s involvement, GFA would not have contributed to cooperation at the transnational level.

In both cases, the GFAs had an effect on the TNCs’ host country operations and, in the case of Car Corporation, even on the value chain. Yet it is striking that GFAs have mainly affected trust by providing a mechanism for the dissemination of information. On one hand, if GFAs are to initiate trust they include arrangements and initiate practices regarding communication and information sharing. On the other, they need to be basis for networking among unions so that information can be generated independently of management (Helfen and Fichter 2013). As the case of Security Corporation shows, labor actors need to consider each other trustworthy, as well, which can be complicated by north-south divides. Similar problems can arise with works councils as they are often perceived to be too close to management by
unionists both from the U.S. and the global south. GFA also define behavioral codes. In a general sense, this is what enables social dialogue at the transnational level. It is, however, more complicated at the local level where the stipulations of GFAs can be too vague or other institutions are more important. Thus, GFAs may not always have a significant effect on the trustworthiness of local actors and, in this regard, their impact on cooperation should be more limited.

There are multiple avenues for further research. First and foremost, the relationship between institutions and trust needs to be refined. While it is relatively clear how rules affect trust in national settings in the transnational context institutional interaction at all levels creates significant ambiguity. Thus, the question arises how effectively such loose arrangements as GFAs promote cooperation in the long term. Moreover, it needs to be tested whether the concept of associational governance applies to other forms of interaction, as well. In addition to GFAs, benefit sharing arrangements regarding traditional knowledge between indigenous groups and corporate actors might qualify as another form of associational governance. The same holds for stakeholder dialogue on the use of natural resources.

6 References


