The enforcement of diverse labour standards through private governance: an assessment

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Abstract

The effectiveness of private governance on global labour standards remains extremely difficult to estimate, let alone measure. Debates surrounding relevant factors focus on two areas: the study of contextual variables regarding social and economic upgrading on the one hand, and the analysis of firm-specific characteristics on the other hand. This paper contributes to both debates: regarding buyer company characteristics, while also taking institutional variables into account. By observing and comparing structural and environmental features of cases encoded in an original dataset derived from over 1000 audit-reports of the Fair Labour Association, the following questions are addressed: Which are the main structural components of compliance in the data, and are they compatible with previous findings? Is there evidence indicating that global value chain characteristics, such as e.g. supplier factory size and buyer country-of-origin, are indeed important for the improvement of labour standards? And finally, are some institutional environments more conducive or obstructive to these effects? Focussing on the Apparel, Sports- and Footwear industry, the article highlights the importance of regulatory quality, economic performance and social freedom of sourcing countries for the success of private governance. Furthermore, by distinguishing between process and observable rights, as defined by Barrientos and Smith (2007), the analysis statistically underlines the importance of public governance specifically for process rights, such as discrimination and freedom of association. The results therefore highlight that complementarity between private and public governance programs may be particularly important for these standards.

Keywords:

Private and public governance, global labour standards, freedom of association, compliance, Fair Labour Association, effectiveness of private governance.

Private labour governance in global value chains

With the spread of global value chains (GVCs)[1], the regulation of labour standards moved out of national governments' reach and into a space of "global governance deficit", where neither firms, nor governments have the sole prerogative and capability of regulation (Gereffi, et al. 2005; Mayer and Gereffi, 2010). International organizations, such as the International Labour Organization (ILO), have tried to fill this void with treaties and declarations for decades[2]. However, notwithstanding the normative importance of those

documents, the operative responsibility to regulate labour standards now falls largely onto multinational corporations (MNCs) instead of national governments.

Pressured by public campaigns and unions, firms adopt private forms of regulation, such as corporate codes of conduct, to assess the implementation of labour standards in their supply chain. Monitoring and auditing are used to track compliance, whereas the threat to end business relations is a potential tool of consequence in case of persistent non-compliance, although it is hardly ever put into effect (Locke, 2013). Existing forms of private regulation include: unilateral strategies such as internal company codes of conduct, bilateral international framework agreements including MNCs and international unions, or multilateral multi-stakeholder institutions (MSIs) (Jenkins, 2001; Hammer, 2005). The Fair Labor Association (FLA), which this paper focuses on, falls into the last category.

Even though private labour governance programs have been created as a substitute for public regulation, "stepping in" where governments are unable to act, their effectiveness is questionable. There is clear evidence that private governance is enforced patchily, with varied effectiveness, and sometimes even being counter-productive (O'Rourke, 2003, Anner, 2012). Private governance is for example found to be less effective for standards which are less tangible and therefore unobservable for auditors, such as freedom of association, harassment and discrimination (Barrientos and Smith, 2007). Moreover, due to the multi-layered complexity of GVCs, private governance is usually only capable to reach first-, and few second-tier suppliers with their programs. They are therefore unable to capture and address the reality of lowest-tier suppliers (i.e. small, home-based workshops), which might be the most affected in terms of precarious work (Barrientos, 2007).

Consequently, larger scale studies on effects of private codes of conduct have found evidence on both positive (Bartley and Egels-Zandén, 2015) and negative (Mosley, 2011; Locke, 2013) developments of labour standards under private governance. In addition, private governance often faces the criticism of being lead-firm driven and therefore insufficiently independent from business goals. Monitoring practises used

to assess compliance are viewed as corporate tools of control rather than effective tools of labour governance (O'Rourke, 2003). This critique is found to be especially valid, if monitoring is conducted by the factories themselves and not through third-party, independent assessment (Short, et al. 2015).

Due to these shortcomings, questions arise about the conditions under which private governance can be effective. In other words, we need to ask: which characteristics of the companies and value chains and which factors of the local environment are conducive or obstructive to the effectiveness of private governance programs?

To answer this question, a significant part of the literature on private governance in GVCs focusses on the importance of value chain and vertical governance characteristics for the effectiveness of private codes of conduct (Mayer and Gereffi, 2010; Locke, 2013). Factors such as the sector, the lead-firm's and factories' sizes, the magnitude of orders placed and the length of buyer-supplier relations have all been identified as significant for private governance outcomes (Locke and Romis, 2007; Locke, 2013). This suggests, that a lead-firm's capacity to successfully leverage the implementation of higher labour standards at supplier factories depends on the relational patterns within its GVC (Gereffi, et al. 2005).

The GVC-literature is however often criticised for its strong focus on the firm and for viewing the public environment only as important due to the state's capacity to facilitate trade (Horner, 2017). And with the increasing awareness of continuous labour-precariousness in GVCs despite NGO- and private governance responses, the question about national public responsibility beyond the facilitation of trade resurfaces. To address the shortcomings of the GVC literature, studies with stronger influences from human geography utilized the somewhat broader concept of global production networks (GPNs) to highlight the local and social embeddedness of private governance in GVCs (Coe, et al. 2008; Coe and Hess, 2013). Focussing on the relevance of factories' institutional environments and their relationships with local public and social actors, factors such as national state- (Vogel, 2008; Alford, 2016) and interstate-regulation (Abbott and

Snidal, 2012), the rule-of law within a country and the development of local markets (Locke, 2013) are shown to be especially important.

Additionally, notions of public-private synergy (Gereffi and Lee, 2016), complementarity (Amengual, 2010; Locke, 2013), cooperation (Amengual and Fine, 2017) and multi-level governance (Mosley, 2011) have become more prominent. Also, the rising number of multi-stakeholder cooperation in private governance fuels the underlying expectation of the literature that shortcomings of unilateral private governance can be addressed through the collaboration in MSIs (Amengual and Chirot, 2016). Although this has not been fully proven yet, the increased interest of public and social actors to co-enforce private programs of labour governance suggests that these "hybrid forms of governance" (Bair, 2017: 170) may indeed have a higher potential to locally impact worker's rights. Cooperation with local actors therefore becomes of interest for the conditions which define the effectiveness of private governance.

This paper draws on a unique dataset of encoded audit-reports from a specific private governance program, namely the FLA. It contributes to the debate on effectiveness, by examining closer how different conditions of private governance affect the level of labour violations in monitored factories. To do this, the two main explanations concerning the conditions of effectiveness, company/value-chain structures vs. the impact of the institutional environment, are tested for their relative importance in presence of each other. To account for unbalanced results of monitoring, the impact of these conditions is tested in relation to two types of labour standards: so-called process and observable standards. This distinction is based on the different tangibility of labour standards (Barrientos and Smith, 2007). Observable standards (such as better wages, safer work environment, etc.) are therefore easier to address and monitor than the more complex process standards (such as empowerment, collective bargaining, freedom of association, etc.), which are less observable, but enable workers to participate in processes which are perceived as important for the sustainability of labour standards (Barrientos, Gereffi and Rossi, 2010).

The analysis in this paper shows that factors of the local environment a. have a positive impact on the level of recorded violations and b. significantly mediate the impact of company- and supply-chain characteristic on the same. By doing so, it highlights that solid local public regulation and a strong civil-society are important factors in predicting higher levels of private governance effectiveness. Moreover, the findings in this paper additionally demonstrate how these effects of public governance differ between diverse sets of rights. Certain standards, namely the so-called process standards (operationalized here as freedom of association, harassment and abuse and non-discrimination), are therefore more affected by public good governance, and possibly private-public cooperation, than others. With this the paper leads into an interesting theoretical and practical discussion about the different tangibility of diverse rights and about the potentially different capacities of private and public governance to protect these rights.

The Data

Inspecting the source: The Fair Labour Association

The FLA is a multi-stakeholder initiative (MSI), an organization of companies, universities and civil society organizations with headquarters in the United States and offices in Europe and Asia. Founded in 1999 and with historically fluctuating membership, today the organization counts about 60 official corporate partners, including MNCs and large suppliers. All partners commit to the FLA-code of conduct and agree to enforce external auditing, using the FLA's own SCI "sustainable compliance"-methodology, in their GVCs. Since 2002, FLA affiliates conducted ~2,000 audits in facilities associated with their corporate partners. The audits are supposed to identify potential violations in nine areas of labour standards: employment relationship (ER), non-discrimination (ND), harassment and abuse (HA), forced labour (FL) and child labour (CL), freedom of association and collective bargaining (FoA), health, safety and environment (HS), hours of work (HoW) and compensation (CO).

The SCI methodology used for the audits follows three principles: assessment, reporting and capacity building. It marks the FLA's strategy to ensure assessments are: "both deeper and broader than a conventional audit" (FLA, 2016: 2). Another important characteristic of the FLA's strategy is a high level of transparency. This policy includes publishing the full amount of FLA-factory assessments on their website, including the name of buyers as well as sourcing countries and some supplier information. Each report contains a list of violations, including detailed explanations of the violation and recommended action. Follow-up notes mark revisits and the progress of recommendation implementation.

Preparation of the data

The principal data-set[3] of this paper is based on the encoding of 1005 publicly available FLA audit reports. The selection of reports is based on industry (accessories, apparel, footwear and sportswear[4]) and time (audits from 2004 to 2014). Within these parameters every publicly available report at the time was included in the dataset[5]. To aggregate the information of the reports, I counted the number of violations in each area of violation, building numeric variables. With slight variation, each of the nine FLA-code labour standard areas were thus coded as a numeric variable. The areas child and forced-labour (CFL) were merged into a joined "zero-tolerance" violations-variable and an additional area of "other[6]" was included. Furthermore, I extracted the FLA-affiliated buyer and available information on the audited factory, such as size, products and country and included data on documented contract termination. Even though the data is structured by years it has a weak panel structure (only 20% firms appear twice in time). This is due to the SCI methodology, which updates old reports instead of issuing new scores. The dataset is therefore more meaningful regarding distributive structures over different factories and less so in claims of longitudinal inference.

Analytical concept and variables

I will investigate the level of labour standard violations in three steps. The first section will contain a descriptive discussion of the FLA's data, followed by two analytical models testing the same independent variables on different dependent variables (DV). In the first model, the DV counts all violations recorded in the FLA data. The second model concentrates on process rights, combining violations recorded in the field of freedom of association, harassment and abuse and non-discrimination. The third model specifies the number of observable rights (containing hours of work, compensation and health and safety) as dependent variable. As independent variables, I first include a set of firm-characteristics, both production and lead-firm related, testing the importance of company indicators for labour standards. The second group of independent variables considers economic and institutional indicators, accounting for the importance of contextual factors in the study of private governance programs (Barrientos, Gereffi and Rossi 2010).

Company variables.

This section focusses on those characteristics of companies and the value chain which are believed to have a significant impact on labour standards under private governance. In the following, I will first inspect the characteristics of the GVC lead-firms, such as company-size and ownership-model. In a second step, value-chain related variables concerning discontinuation and the number of buyers at a factory are examined, finally entering the size of factories as a last company indicator.

Buyer characteristics. This paper focusses explicitly on the governance structures of the FLA. Since the FLA only provides a general framework of labour standard governance, it does not directly affect the relationship between lead-firm and suppliers, but rather adds certain terms and conditions. The involved firms are however still important. Whether this code of conduct is imposed by a larger or smaller lead-firm with lower or higher leverage towards their suppliers may be very relevant (Locke, 2013). Considering this, I will include a size-measure for lead-firms derived from their annual sales and number of listed employees[7].

This measure compensates for wealthy companies with low numbers of employees, such as brand firms which mainly design and market, and overly large numbers of employees of lead-firms with retailing business. Entering this variable into the models, I assume larger lead-firms to have higher leverage towards their suppliers, thus being more able to enforce the FLA-governance mechanisms compared to smaller lead-firms: [*H1.1. - The smaller the lead-firm, the higher the number of violations*].

For an additional variable concerning how lead-firms influence the success of private governance, I enter a dummy-variable on whether the buyer-firm is stock-market listed or not. Many studies hypothesize that companies with strong recognition and higher exposure to the public are more prone to be front-runners in private governance engagements (Vogel, 2008; Mayer and Gereffi, 2010; Bartley and Egels-Zànden, 2015). Stock-market listed companies have a higher exposure to the public, an obligation of information-disclosure and clean image towards their stakeholders. To avoid potential scandals, a higher motivation to manage labour standards within listed companies is likely. Thus, I expect to see a lower rate of labour standard violations where the lead-firm is stock-market listed[8]: [*H1.2 – If lead-firm is listed on the stock-market, the number of violations is lower*].

GVC variables. Furthermore, strategies of lead-firms regarding supplier-relationships in GVCs may vary greatly (Gereffi, 1994). Locke (2013) shows, that types of relationships between suppliers and lead-firms are dependent on variables such as size of orders, length of business relationship and importance of lead-firm for supplier. To consider some of these factors, I will add two more lead-firm variables: a measure for "other brands" sourcing at the same factory and a measure of "discontinuation" of contract.

Taking audit reports as indicators of success or failure of private governance, we must bear in mind that there may be several governance systems at the same time working within one factory. Not only, as indicated before, must we consider public and social factors. Additionally, one factory may be subject to the requirements and standard specifications of not only one, but several lead-firms. Within the FLA audits we find some information which we can use to control for multiple firms, documented are however only

other FLA-buyers. Using this information, I enter the dummy variable "other brands" which indicates whether only one or more FLA member-companies buy from the audited factory. With this variable I control for any effects more than just one FLA-buyer may cause in a factory. Two effects can be imagined. Assuming an increase of pressure due to higher number of FLA-buyers at a factory, lower rates of violations are expected for companies with more than one buyer sourcing from the factory: [*H1.3: The presence of more than one FLA-buyer at a factory decreases the number of violations detected*]. However, conversely we could also expect that with multiple buyers, the leverage of each buyer to implement private governance, becomes smaller, in this case [*HA 1.3: The presence of more than one FLA-buyer at a factory would increase the number of violations detected*].

Furthermore, I include a measure of "discontinuation" of contract. This variable serves as a proxy for the relationship between supplier and buyer. Most codes of conduct contain as ultimate penalty for non-compliance the end of the business relationship. This is however hardly practised (Gereffi, et al. 2005). Decisions that lead to the end of a buyer-supplier-relationship are instead usually due to cost, quality and/or logistical issues. Also the FLA-dataset only identifies 15% of contract termination due to compliance. The binary variable of discontinuation indicates therefore more than just levels of non-compliance: it can point to a state of relationship between buyer and supplier. I expect that an actual termination is preceded by a phase of negotiation between buyers and suppliers, where supplier experience increased pressure e.g. to cut costs, improve quality, etc. Many studies indicate that such increased market pressures often lead to an erosion of labour standards, which are of second priority next to success and solvency of the firm (Amengual 2010; Locke 2013; Gereffi and Lee, 2014). I therefore assume that the indication of "discontinuation", preceeded by negotiations and economic pressures, bears negative consequences for compliance and leads to a higher level of labour standard violations: [*H1.4: Factories with documented contractual discontinuation display higher rates of labour violations*].

Supplier variables. Finally, also suppliers' characteristics matter for the success of private labour governance. The level of formalization within their organization, the timespan which they have worked on labour standards and their geographical location are all variables decisive on how fruitful the ground is which private governance encounters. Whereas we already control for the institutional environment, previous studies suggest that especially the size of a supplier can indicate on how far their level of experience and formalization has already gone (Locke, 2013; Toffel, et. al 2015). As a final variable regarding companies in the GVC, I thus enter the number of workers at the audit-factory into the model, expecting a lower number of violations in larger factories: [*H1.5: The higher the number of workers at the factory, the lower the number of violations*].

Institutional variables

The understanding of the term "institutions" in this analysis is a rather broad one and encompasses all structural environmental factors which potentially influence a factory's compliance and private governance efforts. These factors include structures and phenomena at social, economic and political level which can be of local and global scope.

Regulatory capacity. Studies of institutional impacts on private governance mostly focus on the regulatory capacity of a state. Locke, Rissing and Pal (2013) show that compliance is higher in supplier-countries with strong regulation, highlighting the persistent importance of state regulation. Toffel, et al. (2015) highlight the importance of three types of institutional clusters on the compliance of labour standards: state-based institutions (intergovernmental and domestic legal institutions), supplier-country civil-society institutions and buyer-country market institutions. Using the World Banks "rule of law (ROL) Index", Locke (2013) points out that success of private governance not only depends on regulatory institutions to be effective, but also on not being non-disruptive.

Following this example to include regulatory capacity as institutional control, I use the ROL index in my model to capture "the extent to which agents have confidence in and abide by the rules of society, the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence[9]" (World Bank, 2015). A higher score on ROL corresponds to higher levels of regulatory quality and overall societal trust in public security. Using the index in the analysis, I expect a lower rate of labour violations for countries with higher ROL-scores: [*H2.1 - The higher the sourcing country on the ROL index, the lower the number of labour violations*].

Looking at *social institutions*, there is a significant string of literature suggesting that public opinion and mobilization have a large effect on both regulatory environment and corporate behaviour in terms of labour standards (Ghigliani, 2005; Marginson and Mearde, 2010). Campaigns against labour violations usually target the buyer companies rather than the regulators (Vogel, 2008) and leverage carries overseas due to higher CSR involvement and private governance programs as a response (Locke, 2013). The strength of campaigns can be attributed to domestic or trans-national union movements (Ghigliani, 2005), press freedom (Short, et al. 2015) or the higher density of international NGOs in buyer- and supplier countries (Lim and Tsutsui, 2010).

I also include a measure of press freedom to account for the ability of campaigns to spread, expecting it to influence the incentive structure of firms to comply with labour standards. Following the example of Short, et al. (2015), I use the 2015 measure of the "World Press Freedom Index" provided by the Reporters Sans Frontières. The index is based on surveys collected from correspondents, journalists, researchers, jurists and human rights defenders which score countries regarding their respect of journalistic freedom and government intervention into media. Countries with a lower score on the index have a higher freedom, and I expect corresponding lower levels of violations, or: [*H2.2 – the higher the sourcing country's level on the press index, the higher the level of violations*].

Economic performance. The overall economic state of supplier countries can be very important for labour standard compliance, specifically in factories linked to GVCs. According to the concept of economic upgrading, increased innovation and competitiveness among firms can stimulate decent work and employment practices within countries of production (Gereffi 2005; Barrientos and Smith 2007; Barrientos, et al. 2011). The embedded concept of industrial upgrading assumes a spill-over of economic advancement to business capabilities in manufacturing firms, which in turn can lead to more leeway for social benefits (Barrientos, Gereffi and Rossi 2010). Choosing to follow the notion of linkages between economic and social upgrading, I include the logarithm of the yearly GDP per capita[10] as an indicator of relative economic performance. I expect a spill-over of national economic performance to factory compliance and thus expect a lower level of labour standard violations in countries with a high GDP: [*H2.3 – the higher the GDP (log), the lower the number of labour violations*].

Observable vs. Process Standards

The specification of different models for observable and process rights is based on the assumption that private governance mechanisms, such as monitoring, are unevenly effective in addressing violations within those diverse groups of standards (Barrientos and Smith, 2007). Varying effects in the models for different standards are especially expected in the following way.

First, since it has been shown that even "rigorous multi-stakeholder factory audits seldom are able to identify process rights violations" (Egels-Zandén and Lindholm, 2014: 2), we would expect that company and value chain characteristics do not significantly predict violations of process rights. Concerning the indicators of institutional environment, process rights should be especially related to the strength of social institutions and a strong civil society, as those rights might be especially influenced by generally higher levels of awareness and empowerment. A positive impact of social institutions and press freedom on the level of process rights should be the result.

Observable rights on the other hand are per definition easier to detect and therefore also easier to address for private governance, leading to the assumption that company and value chain variables will be significant predictors for observable standards. Since observable rights are also strongly determined by formal labour regulation and public standards, such as minimum wage-levels and publicly defined safety-standards, I additionally assume that a higher regulatory capacity and economic development of states coincides with higher levels of observable rights.

Control variables

By including yearly dummies in the model, I control for uneven numbers of audit-reports per year in the dataset. Country- and regional dummies will not be added due to collinearity. To account for differences of country-of-origin, I control with dummies for the state in which the headquarter of each lead-firm is situated (UK, Germany, US, Japan, Hong Kong, Sweden) and additionally control for industry effects. Finally, I include a categorical variable for the "monitoring agency" tasked to produce the audit-reports, accounting for subjectivity and methodological biases regarding the conductors of audits.

Compliance and violations in comparison

By comparing the FLA-data's descriptives to other literature on private governance effectiveness, I want to make sure that there are no strong deviations from previous findings which could indicate an FLA-bias, possibly produced by a lack of union involvement or the SCI-auditing strategy. The overall distribution shown in figure 1(a) is comparable to previous findings. With 35%, health and safety standards (HS) represent the largest number of violations, followed by compensation (CO) with roughly 20%. Together they account for more than half of all recorded violations. This high representation of HS issues is in line with previous audit-datasets (e.g. Barrientos and Smith, 2007; Locke, et al. 2007; Anner, 2012; Bartley and Egels-Zànden, 2015), whereas CO-violations are much less dramatically represented in other data (Locke, 2013; Bartley and Egels-Zànden, 2015).

In audit-data from Nike and Timberland, hours of work standards (HoW) have one of the highest violation-rates (Locke, et al. 2007). It is therefore noticeable that the FLA data only identifies 7% in this field. This deviation is likely due to FLA-definitions, where HoW is partly included in the standard on employment relations (ER), with 12% of violations. Issues regarding administration and documentation of HoW fall into the FLA-category of ER, while they would fall into HoW elsewhere. This highlights how knowledge of the concrete content of codes helps in comparisons.

Figure 1: Observed violations, by Percentage of Standard and Mean findings per Region

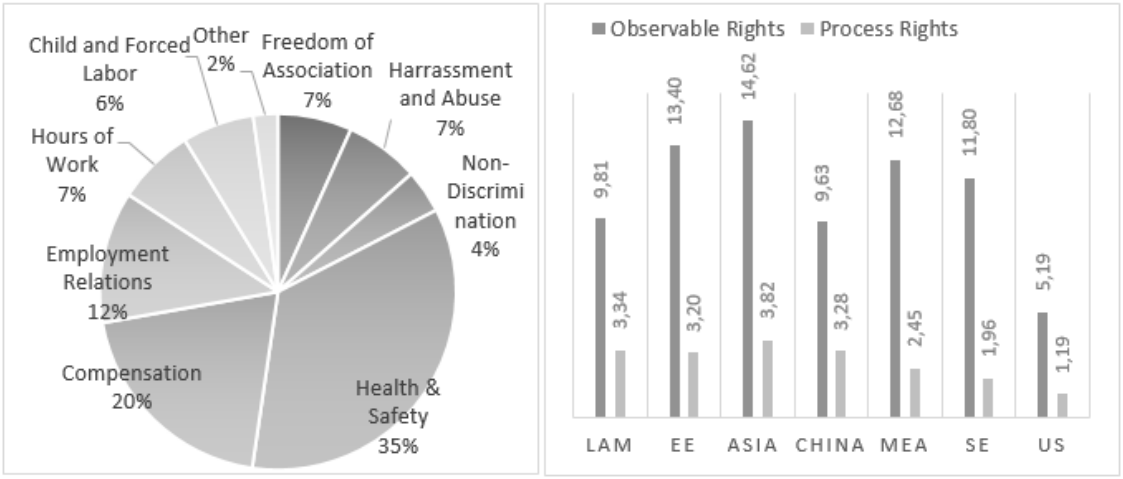

FIGURE 1: *FLA (2016).* ***1(a)*** *Left box: n = 19.267 Total no of violations.* ***1(b)*** *Right box: n (observable rights: HS, HoW, CO) = 11,918; n (process rights: FoA, ND, HA) = 3356. LAM (Latin America), EE (Eastern Europe), Asia (Asia without China), MEA (Middle East and Africa), SE (Southern Europe), USA. Average no of violations.*

Figure 2 shows additional geographical-, time- and rights-distributions of StroehleFLA. Here, regional differences of process rights are in line with expectation: violations are the highest in Asian regions and MEA, where in many cases industrial relations (IR) systems are weak to non-existent (Kaufmann, 2004: 489), as well as Latin-America, where IR-systems have been marked by change and decentralization under the pressure of the global economy (Ibid: 528f.). Most violations on observable rights are also found in Asia, however less so in China. This may reflect stricter government controls on HS-standards in Chinese

factories which are affiliated with international MNCs (Smith and Zhen, 2016). Finally, also the underrepresentation of FoA-violations Anner (2012) finds in his data are reproduced. Since the FLA-code of conduct on FoA strongly refers to national laws, violations in this area are likely to be underreported in countries where active union-involvement is not foreseen or even repressed by national legislation.

Figure 2: The development of mean labour violations by Type of Standard and Region

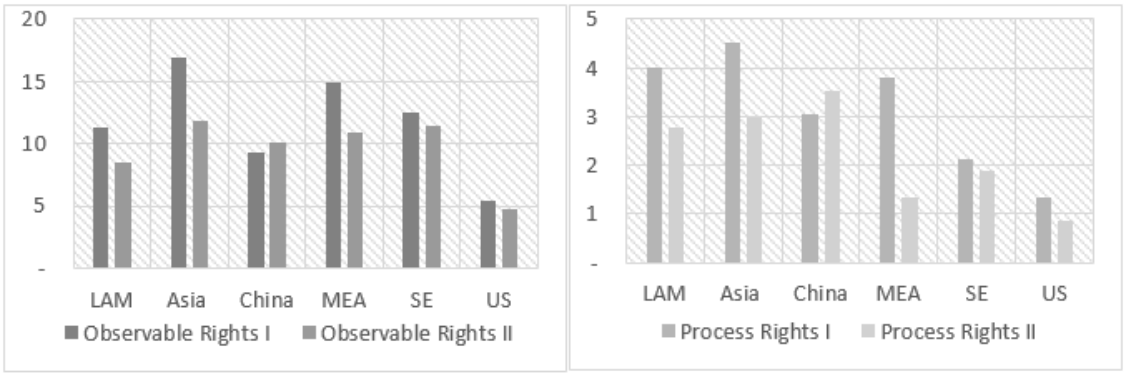

FIGURE 2*: FLA (2016); Period I [2004-2007], Period II [2008-2014]. n (observable rights) = 11,918 (HS, HoW, CO); n (process rights) = 3356 (FoA, ND, HA). LAM (Latin America), EE (Eastern Europe), Asia (Asia without China), MEA (Middle East and Africa), SE (Southern Europe), US (United States).*

The two time-points in figure 2 represent a general development over the aggregate of all factories. Looking at this data over time, the overall development of labour rights in FLA-factories seems to have bettered substantially. The stability of this positive trend over regions and time is noteworthy, should however be interpreted carefully: most recent audit-data has found no (Locke and Romis, 2007; Locke, 2013) or only moderate levels (Short, et al. 2015; Bartley and Egels-Zandén, 2015) of improvement in factories under private governance. Considering these previous findings, we may have to assume a positive bias in the FLA-audits, possibly due to the strong corporate involvement in monitoring processes.

Methodology

When preparing the dataset, I merged the FLA-data with selected economic and institutional indicators alongside a unique identifier over country and year. For the two regression models, I used an aggregated variable of all-area violations as dependent variable in Model I, and the violations of process rights in Model II. I abstain from further model specification of observable rights, as results are in line with Model I.

For the statistical analysis, I use standard regressions with one logarithmic transformation and one quadratic term. The logarithm is used to avoid heteroskedasticity of the GDP time series, where the local variance of the series could be larger if the number of cases is higher. The logarithm accounts for these movements and can fit a somewhat more stationary measure, a method especially used for macro-economic measures (Benoit 2011). The quadratic term of press freedom was included when first linear results produced inconsistent results and the marginal fit of the variable was identified as non-linear. The slightly modified formula of linear regression I use in my analysis is therefore the following:

$$Y_i = \alpha + \beta_1 * \log(GDP) + \beta_2 * x_2 + \beta_3 * (press)^2 + \beta_4 * x_4 + \dots \beta_n * x_n + \varepsilon_i$$

The independent and control variables in both models are identical, with the aim of highlighting differences between institutional and company effects on the dependent variables. I introduce three bundles of independent variables to the regression in a series of nested models. First, I apply the five company variables. All lead-firm variables are tested as a variation of the production firms. With this, I assume all selected lead-firm variables to have a direct effect on the governance of labour standards and thus on the tested level of violations. Here, I also include the buyer country-of-origin control variable.

In a second step the institutional variables are applied. I expect to see strong effects of national differences moderating the effects of company indicators. In other words, company effects still significant under the control of strong institutional indicators, may be interpretable as especially strong. The last model includes all control variables, such as yearly dummies, industry and monitoring agency, creating the final, full model.

Lastly, diagnostics were run for all models, including the vif-test for multicollinearity (all values insignificant), a residual-test to check skewness and kurtosis (slight skewness to the left, visible but insignificant kurtosis), and accuracy of prediction (Cameron & Trivedi's decomposition of IM-test). The residuals indicate a slight heteroscedasticity, mainly caused by outliers with extreme values of violation in the dataset which are not ideally predicted by my models. We must therefore assume that the model is more valid for observations with low levels of violations than for those with extremely high levels. This is conceptually sound: a factory with extreme levels of violations is likely to be subject of additional factors driving nonadherence to the code-of-conduct. These could be ineffective management, financial problems and weak compliance structures. To account for misspecifications due to heteroskedastic tendencies, each model is tested for robustness and rerun with a robust standard error. Since β and p do not change strongly with the inclusion of the robust error, I abstain from further changes to the model regarding specification.

Results

The regression-results are shown in appendices 1 and 2. In model I, the only company variable continuously significant in all nested models is “discontinuation”. Whereas the effects of “size of lead firm” and “stock-listing” are significant at a 90% confidence-level only in the model without institutional controls. Factory size only becomes significant with the inclusion of institutional variables. Of the institutional variables, GDP and press freedom are highly significant (99% confidence-level) whereas ROL is not significant, at all. Control variables are all significant in model I.

In model II, none of the company variables’ effects are significant anymore. Whereas all institutional variables are significant, including ROL at a 95% confidence level. Interestingly, effect of “press freedom” here is reversed. Finally, the controls for buyer country-of-origin and industry remain significant, while effects of “monitoring agents” are not significant anymore.

Since the results of model III show little to no difference to the model regarding all violations (model I), the following discussion will only refer to model I and model II, abstaining from further including model III in the specification.

Discussion and Contributions

The results of the analysis contribute to the discourse on effectiveness of private labour governance in GVCs. They do so by a. untangling the independent and relative effects of company characteristics and the institutional environment on private governance-effectiveness and by b. demonstrating how diverse groups of standards, namely process-and observable standards, are differently affected by private and public governance. Both will be elaborated in the following.

To start, the described regression-results give an interesting picture of the importance of corporate characteristics for the success of private governance. In model I, the significance of "lead-firm size" and "stock-market listing" can only partly confirm the hypotheses 1.1 and 1.2 as they are only significant in models without institutional controls. The effects of "factory size" react in the opposite way: only in the models with institutional variables is factory size significant. Also hypothesis 1.5 is thus only partly confirmed. More interesting however are the results of model II, where all company indicators are insignificant with and without institutional controls, and all three hypotheses must thus be rejected. Two interesting deductions can be made from this difference.

Firstly, these results indicate that company characteristics are not significant conditions for the prediction of violations of process standards, such as freedom of association, discrimination and abuse. On the other hand, since company characteristics are significant in model I, they seem to be specifically important for the governance of the other, observable standards, such as health and safety, compensation and working time. The fact that process standards are not affected by corporate characteristics, confirms the view of

former studies (Anner, 2012; Bartley and Egels-Zandén, 2015) that they are less tangible for private governance and therefore more difficult to address through corporate action.

Secondly, we see how variables of public governance moderate the impact of company and supply chain indicators significantly. This demonstrates that public regulation and the institutional context of production countries are important for the success of private governance programs, regardless their company and supply-chain conditions. For example, even the best corporate and supply-chain conditions of private governance may therefore not be enough to improve compliance in countries where the institutional environment is especially hostile to labour standards. This is specifically relevant regarding that when production is moved to other countries, it is usually moved to countries with less regulation, not more (Anner, 2012). This also feeds into the discussion about complementarity and substitution of different governance-levels, suggesting that private governance does not substitute but rather complement public regulation (Mosley, 2011; Locke, Rissing and Pal, 2013; Gereffi and Lee, 2014).

The significance of buyer's country-of-origin effects further shows that differences in lead-firms can have an impact on their private governance capacity. This is in line with findings of Hess (2013) and expectations of Nadvi (2014), the latter highlighting especially different governance-approaches of MNCs from emerging economies. Unfortunately, this assumption cannot be checked with the FLA data, as there are no lead-firms from emerging economies included in the data. These kind of buyer country-of-origin effects are thus in need of further investigation. The presence of more than one FLA-buyer at a supplier's facility on the other hand shows no significant effects on compliance in either model and H1.3 is rejected.

Another interesting effect of company and supply-chain impacts on effectiveness is shown by the significance of the discontinuation indicator (H1.4 is confirmed), reporting audit-documented termination of a supplier-contract. The positive impact of discontinuation indicates that the audits recorded higher levels of labour standard violations before the contract termination with the supplier. Reasons for this might be twofold. First, if the contractual relations between factory and lead-firm are terminated due to compliance

reasons, the lower standards are simply a correct indicator of the factory's non-adherence to the code-of-conduct. If the reason of termination is however not due to labour, but due to strictly economic issues (e.g. cost or quality issues), it may indicate that economic and related pressures leading up to the contract-termination have a negative effect on labour standards. This indicates that economic pressures in the wake of contract termination (due to issues other than labour standards) are often counterproductive for labour standard compliance. Corporate decision-making and strategy beyond labour standards, concerning e.g. quality and cost, may therefore counteract efforts of labour standard governance. This is in line with the findings of other studies in the apparel industry, which highlight the difficulty of lead-firms to manage two opposing interests: upholding extreme economic on-time delivery systems versus the implementation of stringent code of conducts (Locke, 2013; Bartley and Egels-Zànden, 2015).

Regarding the institutional variables, the significance of almost all indicators in both models underlines the relevance of local public and social conditions for private governance on the one hand and highlights patterns of uneven private governance effectiveness on the other hand.

As expected the results suggest that high economic development (as GDP) corresponds to lower levels of labour standard violation, and H2.3 can be accepted. The effects of press freedom in model I furthermore suggest that the impact of strong public transparency and freedom of speech is especially high in those countries which have a medium level of press freedom. Interestingly, for process standards this effect is reversed. High press freedom is here important in countries with extremely high or extremely low levels of freedom of speech, highlighting that e.g. in very repressive countries, free speech is important for those rights, which are closely connected to empowerment such as freedom of association and discrimination. Within these boundaries, H2.2 can be accepted, adding to the generally expected correspondence of higher labour standards with more open societies and potentially more free and active social action.

Moreover, a comparison between the two models empirically highlights the distinct differences between process rights and observable rights (Barrientos and Smith, 2007; Bartley and Egels-Zandén, 2015). The

results suggest that these groups of rights respond differently to private and public governance. Public indicators of governance are therefore all significant for the prediction of process rights, whereas corporate characteristics of private governance are not. Process rights are therefore more tangible for public governance than they are for private governance, relying strongly on the institutional environment in which they are embedded. For observable standards on the other hand, this picture looks somewhat different. Whereas some of both institutional and corporate variables are to some extent significant in the first model, the Rule of Law index is for example insignificant. Compared with model II, this not only suggests that public regulation is more important for the governance of process standards than it is for other standards, it in turn also suggests that observable standards may be significantly less affected by public regulation. Therefore, whereas we can ascribe a higher tangibility of process rights to public governance, the governance of observable rights is potentially more important and successful through private systems of regulation.

There are several possible explanations about what could create these differences in governance-impacts between process and observable standards. To some extent they are however all likely to be related to the standards' different dependency factors on institutional and corporate forms of organization and regulation. In other words, an observable standard, such as providing new fire extinguishers or making sure that protective clothing is worn, can be directly influenced by the corporate organization and management. Public actors on the other hand cannot directly influence this, they would have to indirectly oblige or persuade the firm, to make these changes. Seeing that observable standards may be less affected by public regulation even if regulation is high, could then also be connected to imperfect systems of labour inspection (Bartley and Egels-Zandén, 2015).

Many process standards on the other hand, e.g. the support of local unions at a factory, are much more dependent on several public provisions, such as the legality of unionization and collective bargaining. Private governance can therefore only make a positive impact on rights, where the national labour law of a

production country allows it. Conversely, we would assume that with a strong public system in place, factories would have substantially less motive to defect by e.g. suspending union-members, because standards would be concordant with both, public and private regulation. This is the classical argument of public and private governance complementarity and reinforcement (Locke, Rissing and Pal, 2013).

Additionally, process standards, such as discrimination and harassment, are strongly connected to stories of empowerment, gender equality and public awareness. Ways to impact them sustainably may thus be seen in broader institutional areas, such as the educational system and freedom of speech, which are very difficult to reach through private programs. To successfully address these issues through private governance, programs must move beyond the mere writing and control of codes of conduct and move towards tools of direct engagement with workers as well as capacity building (e.g. worker training, women empowerment groups, establishment of dialogue-channels, etc.). This proposes, that process rights are primarily not unsuccessfully, but rather inadequately addressed by private governance.

The fact that addressing process rights may require the setup of complex and expensive tools of engagement, additionally suggests that factories may have reasons to give precedence to the governance of observable rights. Factories may thus be more motivated to invest in observable, rather than process standards, as they may be easier to comply with and are per definition a more visible sign of improvement. In other words, they may favour observable "quick-fixes" over the lengthy and complicated setup of procedures guaranteeing process rights. Additionally, an increase in observable standards may be perceived as less "risky" to address. In many countries, employers e.g. refuse to recognize factory-level unions, fearing that they may bring more problems than gains (Oka, 2015).

These findings about different governance-tangibility of distinct groups of rights are extremely interesting in terms of compliance strategy as well as policy development. Many private governance systems are therefore based on the assumption that compliance of labour rights can be addressed through one single, corporate strategy. The findings in this paper challenge this and suggest that there are certain areas, namely

those of freedom of association, harassment and abuse and non-discrimination, which are more likely to achieve compliance if subjected to stronger public regulation or possibly private-public collaboration. In these cases, the complementarities between public and private governance play a key role of establishing *sustainable* improvements in labour standards (Egels-Zandén and Lindholm, 2014).

Finally, the analysis in this paper has clear limitations, especially regarding the data quality. Thus, the data used in this paper does not include a counterfactual and was taken from a public source without control over the data collection and sampling. The analysis is thus limited to interpreting a population of factories which are all under governance at the point of their audit and the only true statement that can be made is that all developments are valid for this population only. The assumption that developments and dependencies are different for factories without private governance, is only supported by studies with counterfactuals, such as Bartley and Egels-Zànden (2015), not by the data itself.

Conclusion

Private governance is embedded in a web of multiple actors at multiple levels. Identifying single effects and dependencies regarding compliance within this web remains a big challenge. Through the analysis of a unique data-set of audit reports from the FLA, this paper isolates and compares different company and institutional conditions affecting the effectiveness of this specific governance program.

By doing so the findings in this paper stress the importance of recognizing that distinct labour standards react differently to forms of private and public governance. Different characteristics of process rights and observable rights do not only lead to challenges in monitoring, as it has been widely accepted, but also seem to be fundamentally distinct in their reaction and tangibility towards different forms of governance. Underlined by the varying significance of corporate features and institutional variables in the analysis, process rights are therefore strongly influenced by variation of public regulation and are hardly influenced by changes in company-features and private governance Even though private governance seeks to fill gaps

of weak public regulation with higher standards, process rights seem to remain much stronger susceptible to local, public standards as opposed to global, private ones. Conversely, observable standards are influenced by both, certain institutional and corporate conditions of private governance. However, the findings also indicate that observable rights may in turn not be as strongly affected by levels of public regulation and thus be more effectively addressed by private regulation.

With this, the paper also strongly supports the assumption of public and private governance complementarity as opposed to their substitution (Locke, Rissing and Pal, 2013). However, only careful assumptions can be made about concrete complementarities between public and private governance and more research regarding the synergies and complementarities of different forms of governance is called for. For one, the effects of public regulation need to be unravelled, identifying relevant meso-level institutions and their potential impact on the effectiveness of private governance. Secondly, the role of social actors needs to be included more clearly and investigated more and separately from broad forms of public regulation (Amengual and Fine, 2017).

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Appendix I: **Regression Results Model I**

Dependent Variable: All Labour Standard Violations

VARIABLES	(1) Model with Company Variables	(2) Model including Institutional Variables	(3) Full Model	(4) Full Model (Robust St. e.)
Company Variables				
Size of lead firm	-2.92e-05*	-1.70e-05	-1.12e-05	-1.12e-05
	(1.61e-05)	(1.59e-05)	(1.58e-05)	(1.38e-05)
Stock-market listed	1.983*	1.032	0.450	0.450
	(1.169)	(1.153)	(1.178)	(1.068)
Other Brands	0.697	0.334	0.485	0.485
	(0.811)	(0.795)	(0.808)	(0.817)
Discontinuation	4.238***	3.297***	3.635***	3.635***
	(0.954)	(0.939)	(0.935)	(1.009)
Workers at factory	-0.000246	-0.000401*	-0.000481**	-0.000481**
	(0.000211)	(0.000211)	-1.12e-05	(0.000194)
Institutional Variables				
Rule of Law		0.0834	-1.398	-1.398
		(0.905)	(0.917)	(0.926)
GDP (log)		-2.338***	-1.263**	-1.263**
		(0.476)	(0.498)	(0.494)
Press Freedom		0.528***	0.680***	0.680***
		(0.193)	(0.193)	(0.249)
Press (quadratic term)		-0.00577***	-0.00752***	-0.00752***
		(0.00176)	(0.00177)	(0.00224)
Control Variables				
HQ: Hong Kong	-5.687	-3.931	-1.434	-1.434
	(4.238)	(4.138)	(4.062)	(2.874)
HQ: Japan	2.417	5.072***	4.790***	4.790**
	(1.816)	(1.804)	(1.793)	(2.204)
HQ: Sweden	-2.430	-1.583	-0.600	-0.600
	(1.944)	(1.914)	(1.912)	(1.603)
HQ: UK	-4.072	-2.070	-3.453	-3.453
	(3.002)	(2.947)	(2.974)	(2.921)
HQ: US	-4.514***	-4.469***	-3.839***	-3.839***
	(0.954)	(0.931)	(0.937)	(1.015)
Ind.: Apparel			-3.804***	-3.804**
			(1.180)	(1.890)
Ind.: Footwear			-2.938**	-2.938
			(1.462)	(2.221)
Ind.: Sportswear			0.556	0.556
			(1.695)	(2.123)
Monitoring agent			0.0901***	0.0901***
			-1.434	(0.0257)
Constant	18.55***	27.64***	18.42**	18.42**
	(1.325)	(7.071)	(7.291)	(8.358)
Observations	998	991	991	991
R-squared	0.075	0.130	0.197	0.197

Standard errors in parentheses. *** p<0.01, ** p<0.05, * p<0.1.

Yearly dummies not shown; Omitted categories: HQ -Germany; Industry (Ind.): Accessories; Year: 2014.

Appendix II: **Regression Results Model II**
Dependent Variable: Process Rights Violations

VARIABLES	(5) Model with Company Variables	(6) Model including Institutional Variables	(7) Full Model	(8) Full Model (Robust St. e.)
Company Variables				
Size of lead firm	-6.51e-06	-3.82e-06	-3.28e-06	-3.28e-06
	(5.15e-06)	(5.11e-06)	(5.16e-06)	(4.48e-06)
Stock-market listed	0.214	0.0439	0.0930	0.0930
	(0.373)	(0.371)	(0.385)	(0.369)
Other Brands	0.177	0.0762	0.193	0.193
	(0.259)	(0.256)	(0.264)	(0.256)
Discontinuation	0.530*	0.471	0.499	0.499
	(0.305)	(0.302)	(0.306)	(0.318)
Workers at factory	-2.74e-05	-8.93e-05	-8.38e-05	-8.38e-05
	(6.73e-05)	(6.79e-05)	(7.00e-05)	(5.84e-05)
Institutional Variables				
Rule of Law		-0.531*	-0.704**	-0.704**
		(0.291)	(0.300)	(0.309)
GDP (log)		-0.689***	-0.537***	-0.537***
		(0.153)	(0.163)	(0.141)
Press Freedom		-0.211***	-0.171***	-0.171*
		(0.0620)	(0.0631)	(0.0917)
Press (quadratic term)		0.00174***	0.00132**	0.00132
		(0.000567)	(0.000578)	(0.000815)
Control Variables				
HQ: Hong Kong	-1.577	-1.029	-0.305	-0.305
	(1.353)	(1.331)	(1.327)	(1.085)
HQ: Japan	-0.168	0.342	0.239	0.239
	(0.580)	(0.581)	(0.586)	(0.668)
HQ: Sweden	-0.166	0.172	0.337	0.337
	(0.621)	(0.616)	(0.625)	(0.507)
HQ: UK	-1.100	-0.639	-1.019	-1.019
	(0.959)	(0.948)	(0.972)	(1.062)
HQ: US	-1.049***	-1.013***	-0.812***	-0.812**
	(0.305)	(0.300)	(0.306)	(0.327)
Ind.: Apparel			-1.545***	-1.545**
			(0.386)	(0.653)
Ind.: Footwear			-0.921*	-0.921
			(0.478)	(0.748)
Ind.: Sportswear			-0.611	-0.611
			(0.554)	(0.691)
Monitor			0.00305	0.00305
			(0.00885)	(0.00743)
Constant	3.961***	15.14***	13.93***	13.93***
	(0.423)	(2.275)	(2.382)	(2.674)
Observations	998	991	991	991
R-squared	0.024	0.070	0.114	0.114

Standard errors in parentheses; *** p<0.01, ** p<0.05, * p<0.1
Yearly dummies not shown; Omitted categories: HQ -Germany; Industry (Ind.): Accessories; Year: 2014

Notes

[1] Global value chains: "full range of activities which are required to bring a product or service from conception, through the different phases of production, […] delivery to final consumers, and final disposal after use" (Kaplinsky and Morris, 2011: 4).

[2] As part XIII of the treaty of Versailles 1919 the ILOs work goes back decades. The nowadays viewed as most important "ILO declaration on Fundamental Principles and Rights at Work" was however only adopted on June 18th, 1998 (see http://www.ilo.org/declaration/lang--en/index.htm).

[3] In the following called "FLA data".

[4] 31 buyer-companies are included, all have their HQ in one of six countries: Germany, Hong Kong, Japan, Sweden, the UK and the US. Companies with less than 10 reports online were not considered.

[5] The data-set was built between 10-12.2015. There may be reports that fall into the selection parameters, which were not yet or not anymore available at that time and are thus not included.

[6] Mainly identifying bureaucratic issues and issues of illegal subcontracting.

[7] Numbers taken from 2014 and 2015 respectively, depending on when latest information was available. All information from stock companies was taken from the yearly financial reports, all information from non-stock listed companies was taken from the corporate websites and corporate material.

[8] This variable only considers the primary lead-firm name on the audit report, other companies which may also source at the factory are being disregarded, *can* however enter the model through a second report.

[9] List of variables used to construct ROL can be found online via World Bank Governance Indicators.

[10] See in the "Methodology" section the reasoning of including a logarithmically transformed variable.