Minding their own business? Firms and activists in the making of private labour regulation

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Chapter Two. Understanding developments in private labour regulation. A framework for research.

A researcher of private labour regulation is reviewing data, trying to make sense of his findings. He leafs through the interview transcripts. In an interview with a firm representative he reads: 'We did not know what to expect from interaction with NGOs, we had little experience with them'. In an interview with an activist his eyes remain fixed on this line: 'At that time we had no idea what was going on at those companies.' From another firm representative he reads: 'We talked about implementing codes of conduct, but we did not know yet what that would mean.' And another one says: 'We did not understand what all the fuzz was about. Why were activists so angry about the system we proposed to check labour standards?'

The researcher picks up his notebook, writes the word 'UNCERTAINTY', puts question marks behind it and underlines it a few times.

1. Introduction

Social scientists studying CSR are in an academic field that is still in the process of gaining maturity, in terms of body of knowledge, established methods, schools of thought and theoretical controversies. The researcher is therefore faced with a degree of uncertainty in designing and executing his or her work. To a considerable extent, as this study will argue, this uncertainty is mirrored within the empirical domain of study, where actors concerned with private regulatory policies are sometimes unsure of what position to take and not completely aware of what allies and opponents are doing- nor who exactly the allies and opponents may be. This chapter is concerned with addressing the approach to understanding private labour regulation: its policies, political dynamics and the behaviour of the actors involved.

To reiterate, the study seeks to answer the question of *what describes and explains developments in private regulatory organizations covering labour conditions in transnational production chains*. This question is made up of three sub-questions: first, *what describes and explains the development of private regulatory organizations in terms of stringency of rule?* Second, *what describes and explains the preferred commitment by a company to a particular private regulatory organization over others?* And third, *what describes and explains the direction of processes of convergence and competition between international private regulatory organizations?* As seen in the previous chapter, these questions reflect prominent issues in the discussion on Corporate Social Responsibility in contemporary Western societies: whether CSR is an actual 'real' policy or merely an empty PR exercise; whether CSR is making a positive

difference to the issues it aims to address or not; and whether CSR is hype destined to remain a niche practice in most industries, or whether it will become mainstream.

In this chapter, first the general design of the study will be discussed, followed by an elaboration of the theoretical approach. Finally, the general argument will be laid out, focusing on the descriptive and explanatory element of each sub-question.

2. Research design

As said, most research on private regulation and CSR is as much a work in progress as the policies under study. Given the analytical ambitions of this study, what is lacking is prior grounded empirical work by scholars, with specific lessons for the questions raised. Similarly, up until now, studies of CSR and private regulation have not yet fully expressed the substantial controversies existing between groups of scholars that may inform research strategies. This means that the researcher is working *alongside* emerging understandings of private regulation, rather than *on the basis of* established literature on private regulation. This research will therefore analyze developments in private regulatory organizations in a manner that is as much *inductive* as deductive. The specific focus will be on developments in all the private regulatory organizations of the clothing production chain because arguably it is the first production chain for which such a wide range of private labour regulatory organizations have been developed. This facilitates the identification of variance in dependent variables and possible independent variables in different cases, while holding industrial characteristics constant in order to identify relevant patterns. To guide the research into these cases, a range of expectations can be drawn from existing research into CSR and into broader social interaction in the international political economy. But much of the empirical work will develop inductively. This means, firstly, that the key findings of the study only apply fully as description and explanation for the selected field of cases, and secondly, with regard to a wider field of cases, the study's findings have the status of propositions, and will be formulated as such.

The clothing production chain is also perceived among CSR practitioners and analysts as being the most advanced in terms of producing private regulation for labour standards. In terms of case design, this implies that there is a danger of overstretching the argument on the possibilities for private regulation across industries, by only focusing on the quite unrepresentative *best practice case*. But, at the same time, by studying the most advanced industries the political limits of private regulatory experiments are most clearly identified. Second, it provides the circumstances for fruitful comparison of the findings from the clothing chain with developments in other, not too dissimilar but less CSR-active, production chains. Third, it is important to note that the diffusion of lessons on private regulation across industries takes place among field practitioners, where the proceedings in

the clothing chain can act as exempla. This means that on a qualitative basis, findings in this study may also resonate with the politics of private regulation in other industries, indicative of the relevance of findings well beyond the field of clothing production.

Spill-over of lessons derived from private labour regulation for clothing to other issue areas, such as environmental policy, are also possible. Similarities in approaches to private regulation of both social and environmental issues have already been recognized (Bartley, 2003; Fransen & Kolk, 2007). Increasingly, newly emerging private regulatory organizations focus on broad *sustainability* issues, including both social and environmental guidelines. And, finally, many company representatives involved in strategizing on private regulatory policy have both environmental and social issues in supply chains on their plate. It can therefore be questioned whether the level of generalization in this study on the propositions on policy and actor behaviour should stop at the border between social and environmental policy.[7]

In order to answer the first applied research question (describing and explaining private regulatory approaches) the study focuses on the eight existing private organizations as separate cases to understand the different constellations of actors negotiating the development of different forms of private regulation, using comparison between the cases to identify possible mechanisms. These cases are the Fair Labor Association (FLA), Worker Rights Consortium (WRC), Social Accountability International (SAI), Ethical Trading Initiative (ETI), Fair Wear Foundation (FWF), Initiative Clause Sociale (ICS), Worldwide Responsible Apparel Production (WRAP), and Business Social Compliance Initiative (BSCI).

For the second research question (describing and explaining patterns of business support for private regulatory organizations) the development of the CSR strategies of European clothing firms on the issue of labour and ethical sourcing is studied comparatively, predominantly analyzing firms that have, and some firms that have not, joined different sets of private regulatory organizations. The analysis will focus on all European companies currently involved in private regulation for labour circumstances, checking for economic and political characteristics. For interviews, firms are selected from Western European countries: the United Kingdom, Germany, Switzerland, the Netherlands, Sweden, and Finland. In the first instance, variation between firms is sought within these countries to identify differences in choices for or against specific private regulation. Qualitative patterns found between company characteristics and private regulation strategy are then tested quantitatively for a larger group of firms using a survey instrument designed and implemented as part of the present study. Focusing on European companies means allowing for possibly relevant institutional variables (home country government, political culture, socio-

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[7] Of course this influence goes both ways and this study is therefore also sensitive to the adoption of ideas from beyond the private labour policy arena.

economic configuration) while holding certain possibly-relevant factors constant (such as EU policies with regard to CSR, social and environmental issues, the trade regime, as well as the general geography of European production chains).[8] Such a setup eases inductive inference. Focusing predominantly on companies that have become private regulatory participants highlights patterns of divergence in particular kind of private regulatory preference rather than divergence between companies that have and companies that have not (yet) joined private regulatory organizations.

For the third applied research question (describing and explaining regulatory competition and convergence dynamics) the analysis focuses on private regulatory organizations on the macro-level as belonging to one field (regulation for the clothing production chain), where the development of regulation is intimately connected, regulatory organizations respond to each other, and involvement and exclusion patterns influence fragmentation and/or harmonization of the regulatory field. In addition, purposive attempts at cooperation and convergence are studied, such as the Joint Initiative on Corporate Accountability and Worker Rights (JO-IN), the Supplier Ethical Data Exchange (SEDEX), and emerging alliances between existing regulatory organizations.

Seven different forms of data gathering are used for this research (for more details see the Methodology Appendix): policy analysis of private regulatory programs; analysis of other policy documents relevant to actor strategies; interviews with representatives of relevant organizations; study of documents provided by these people; presence at discussions between these people; analysis of a survey questionnaire distributed among firm representatives; and analysis of industry economic data.

3. The approach

The theoretical approach of this study can be categorized as *Sociological Institutionalism*. Many studies on topics concerning CSR and private regulation in political science, policy, and management disciplines make use of sociological institutionalist insights (for example Ruggie & Kell, 1999; Bernstein & Cashore, 2007; Delmas & Toffel, 2000; Wetterberg, 2007). Investigating corporate behaviour that seems at first sight to go beyond short-term profit motivations clearly goes well with the core assumptions of sociological institutionalism, which regards firms' embeddedness in social interaction and the influence of norms and discourse (Leander, 2000). What is more, the prescriptive call by leading management scholars regarding CSR (Davis, 1970; Carroll, 1991) is that firm managers *should* reflect more on their organization's embeddedness in society and its interactions with different societal groups. Apart from an analytical approach, sociological

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[8] Switzerland and Norway of course are not EU members, but are substantially affected by these policies due to their economic and political ties with surrounding EU member country neighbours.

institutionalism therefore also seems to inform a normative perspective on business. On three points this study seeks to specify the sociological institutionalist understanding of private regulation. In particular, it deviates from some of the general elements in this emerging body of literature by emphasizing agency *in* and heterogeneity *as a result of* processes of social interaction in the politics of private regulation, and then by questioning the value of policy consensus as a product of social interaction between antagonistic actors in the policy field.

First, this study proposes an explicit theory of how, in certain contexts, actors' agency may matter more than in others, in an effort to counter the implicit determinism in theories emphasizing common rules and scripts as explanations for action (for discussion see DiMaggio, 1988). This is a fallacy that institutionalist CSR studies could easily become subject to when emphasizing how societal expectations structure corporate policies. The concept of isomorphism, for instance, figures prominently in studies as an explanation for corporate strategies towards CSR (see for an example Wright & Rwabizambuga, 2006). What is unclear is whether it is so easily applicable given that it is rooted in assumptions about evolved and relatively stable organizational field dynamics. These assumptions may not fit in all empirical circumstances. In particular, the time at which the interactions between actors are analyzed may have an influence on the degree and form of institutional pressures on them. This study is therefore sensitive to the temporal aspect of institutionalization processes in empirical analyses. Institutional patterns do not emerge out of thin air. It may therefore be wise to take into account the possibility that CSR is taking place in a field of politics *in the making* rather than an organizational field already *in existence*. Depending on the specific empirical field, the interactions between the actors under study can be of a more contingent, improvised, and unfinished nature than the concept of isomorphism allows for. This is specifically so given the relatively new status of CSR as a policy topic. This opens up space for agency in particular.

Second, sociological institutionalism focuses on the evolving nature and results of social interaction. Sociological institutionalist analyses of private regulation and CSR seem predominantly interested in the harmonizing effect that social interaction has. It is not an exaggeration to state that many CSR studies emphasizing the influence of social interactions and norms tend to conflate routines in social interaction and institutionalization on the one hand, and increasing common understanding about policies and agreement among business and societal actors in the field on the other (Ruggie & Kell, 1999; Bernstein & Cashore, 2007).[9] Intellectual godfathers March and Olsen (1998: 959-960), however, in their summary of institutional logics in politics, distinguish two general effects of the patterns of engagement between actors, which are a source of malleability of

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[9] This conflation may possibly correspond with an implicit or explicit Habermasian notion of ideal communicative action. For discussion on Habermasian versus post-Habermasian perspectives on interaction, see for instance Hillier (2003).

those actors: one leading to convergence, mutual confidence, and positive trust spirals between actors, and the other leading to heightened differences and possible conflict. Any study of institutional patterns in the field of CSR politics should be open to both options, not merely to the former. In the end, empirics should inform which of the two scenarios is more suitable. Sociological institutionalist analyses of private regulation can therefore be as much about understanding evolving *heterogeneity* as about *homogeneity* in actors' perspectives and actions concerning private regulation.

Third, some scholars conflating institutionalization with the emergence of common understandings on private regulation also add to this a degree of optimism about the content of this understanding. The concepts of *learning* and *best practice* all denote that the substance of the policy agreement on how to perform private rules among actors is progressive. This study is explicitly agnostic *a priori* about the general political consequences of social interaction as it evolves in the field of CSR issues. It does not propose that the effect of prevailing norms and routines on an emerging policy consensus is necessarily progressive, in the sense that the result conforms to general pre-established notions of fairness, or the quality of rule and policy. It may very well be that if a consensus were to emerge among actors about what constitutes legitimate private regulation, it would fall short of any of these pre-established notions, or would fare worse in comparison to one or more of the policy positions previously held by a minority group of actors in the policy field. In addition, the study seeks to leave room for a less optimistic position regarding the consequences of a possibly emerging common understanding of appropriate private regulation as a result of institutionalization. This follows Zald et al (2004), who discuss the possibility of *symbolic compliance* by actors as a response to institutional pressures, meaning that lip service is paid to a rule raised by an external environment, but no actual organizational change takes place. Similarly, Meyer & Rowan (1977) describe the *de-coupling* of organizational purposes when pursued by different departments of one organization as a response to a multitude of (possibly conflicting) institutional pressures. The question is then whether learning processes towards common understandings on private regulation can actually reach the operation of organizations 'deep down'.[10]

Below, this theoretical approach is introduced in more detail. The discussion will start from an elaboration of structure and agency in social theory, introducing an approach that may best be

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[10] By adopting an institutional approach to private regulation this study has much in common with the research agenda of Tim Bartley (see for instance his 2003; 2007) regarding the development of private governance for the American forestry and apparel industries. This study and his can principally be seen as complementary. The present study however extends on Bartley's work in three ways: first, by focusing empirically on American *an*d European cases, creating a more complete and diverse picture of institutional mechanisms; second, by focusing more extensively on the processes of institutional convergence between private regulatory bodies and corporate preferences for institutions; third by theoretically emphasizing the social-relational aspect of of institutional mechanisms, next to temporal aspects also highlighted by Bartley.

called *situated agency*. Following that, the resulting repercussions for an understanding of levels of analysis, rationality, ideas and interests, power, and regulation-market dynamics will be discussed.[11]

a. Structure, agency, institutions, change

Questions of structure and agency are frequently debated in the context of political science theorizing. This study starts off with structuration theoretical assumptions (Giddens, 1984; for application in International Relations see Arts, 2000; Wendt, 1987). This means that the duality of structure is emphasized: 'the structural properties of social systems are both medium and outcome of the practices they recursively organize' (Giddens, 1984:25; for discussion see Arts, 2000). Structures are here understood as rules and resources. Actions are taken by actors that are able to reflexively monitor their course of action. At the same time, however, actors are constrained by rules and resources, bounded to routines, in need of predictable social practice, and not always able to view the consequences of their actions. Transformation through conscious action is therefore possible, yet structured and constrained.

Following Emirbayer and Mische (1998), this study holds that structuration (like its French cousin, Bourdieu's Theory of Practice, 1977) has two important deficiencies that need to be addressed. First, structuration theory's emphasis on the interrelatedness of structure and agency discourages an effort to analytically separate the two in studies of social (and political) processes. This stance is also called *analytical dualism* (Arts, 2000:536). Second, Emirbayer and Mische hold that structuration theory is too silent on the conditions that make for transformation and change, and the particular structural contexts of action that allow for agency to come into play to a greater or lesser extent. The authors thereby touch on a matter also discussed in a different language, namely that of institutions, regarding the possibility of institutional transformation and the significance of institutional entrepreneurship (see for instance Barley & Tolbert, 1997; DiMaggio, 1988).

Emirbayer and Mische distinguish between action (understood as an expression of the synthesis between structuring forces and agency dynamics), actors (entities whose actions require explanation), structural contexts of action (those forces constraining and enabling actors' actions), agency (the potential element within every action of acting out purposive change to structural conditions of action), agentic orientations (the scale of possible actions that may be deliberated by an actor), and agentic capacities (the extent to which actors can act more or less agentically). Two insights then are crucial. First, structural contexts may determine courses of action, but they do not always do so to the same degree in every circumstance. Second and following, structural contexts of

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[11] Because of the inductive character of this study, understanding of more specific mechanisms elaborated in the approach has developed more or less alongside the understanding of what is happening in the field. Wider applicability of the approach should become manifest in studies of fresh, yet to be grazed empirical fields (on a similar note see Oye, 1992:4-13).

action determine the degree of agentic capacity that actors have, *but not what actors actually do with this capacity*.
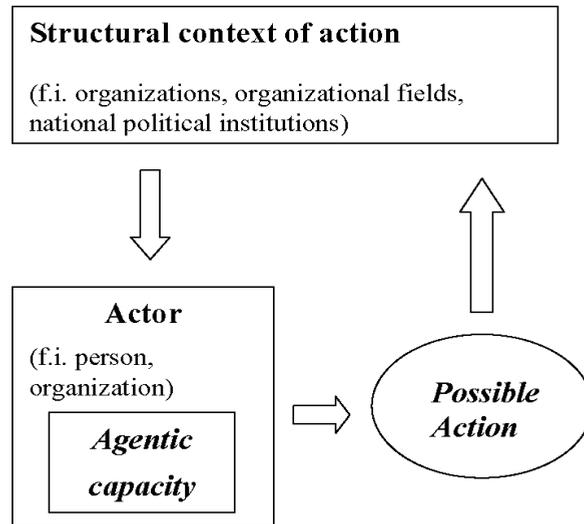

Figure 2. Structure and agency under conditions of temporal-relational stability

Accordingly, actors' positions are portrayed as in Figure 2. Agentic capacity is small, so that actor's behaviour can be understood on the basis of structural conditions enabling and constraining his or her actions. Conditions can then be established that render his or her actions to be structured in such a way. Most notably, action is structured under conditions of institutional stability and predictability. These, as anthropologists argue, can be found in certain temporal and relational qualities of social life that reduce uncertainty (Swidler, 1986; Mead, 1932). Experience of time affects agency, since knowing what tomorrow will bring affects greatly what you will do today. Stable expectations of present and future stimulate structurally predictable action. Think for instance of a person working inside an organization in a position that has a specifically described script of continuous actions per month. These actions may be explained by these scripts that are ultimately set according to the purpose of the organization; the consequence of these actions will mostly be a replication and solidification of the organizational purpose, as a structural context of action. Similarly, relational qualities of social life, understood as the degree to which actors are embedded in multiple cultural, social-structural, and social-psychological contexts, affect uncertainty and induce degrees of stability and predictability. Low degrees of multiple embeddedness then means higher stability. Think for instance of a firm that operates in a market with a clear division of segments, a stable hierarchy of firms, and predictable relations between

industry and government agencies. The activities of this firm may be understood using respective relevant structural contexts as explanatory factors.

Most institutionalist approaches recognize that in a situation of higher uncertainty, such as in the case of external shocks and unforeseen events, transformations of structured patterns of actions are possible, and agency or *entrepreneurship* therefore matters (see for instance Dimaggio & Powell, 1991; North, 1990; Thelen, 1999). In the current approach, as Figure 3 shows, agentic capacity then rises and different courses of action can be foreseen as a result (A, B, C, D).
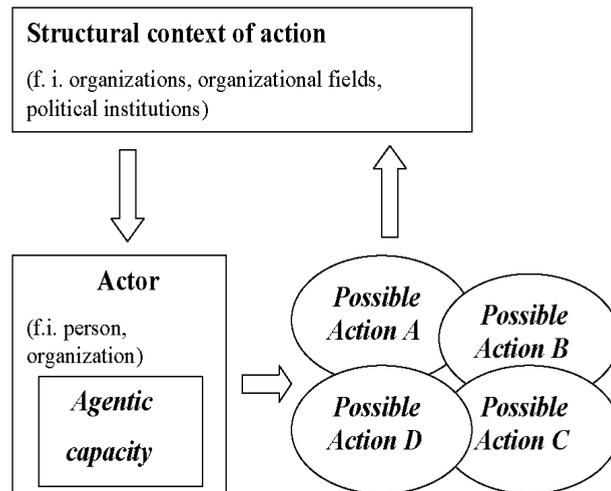

Figure 3. Structure and agency under conditions of temporal-relational instability

From a temporal perspective, it can be noted that different stages of a process of change may induce different degrees of agentic capacity, and may also involve specific types. Emirbayer and Mische (1998:1006), paraphrasing the work of Mead, hold that '[a]ctors engaged in emergent events find themselves positioned between the old and the new and are thus forced to develop new ways of integrating past and future perspectives.' An example may be the development of a business strategy by a manager for a new company that engages with an innovative field of economic activity, for instance applying new technology.

From the perspective of embeddedness in multiple contexts one can think of a person inside an organization holding different responsibilities towards different groups, having to manage different expectations and roles at the same time. According to sociologists, this may lead to more autonomous personal and occupational identities and more reflective engagement with structural

contexts of action (Emirbayer & Mische, 1998; Coser, 1975). Both perspectives may lead to agentic action transforming structural contexts of action.

Applying this to private regulation settings, it is possible to see how structure and agency go together to make for specific forms of interactions and outcomes. The actors interacting in the making of private regulation are organizations and their representatives. From the perspective of the organizations, different structural contexts constrain and enable action. For firms, these may be their position in the market, position in the organization of the value chain, and home country. For activist groups, these may be constituent groups, home country, networks of affiliation, donors, and organizational purpose. From the perspective of the persons inside organizations, corporate strategy, organizational hierarchy, culture, and job descriptions may structure activities.

By engaging in political interaction at the beginning stages of the development of private regulation, these groups are faced with an uncertain environment that allows for projective behaviour. This is because, in terms of Maarten Hajer (2003:175), this field of political interaction at its inception is *an institutional void*:

> there are no clear [generally accepted] rules and norms according to which politics is to be conducted and policy measures are to be agreed upon …we can observe that there are important policy problems for which political action either takes place next to or across [existing and established political] orders, thus challenging the rules and norms of the respective participants.

This is similar to the identification of a 'veil of uncertainty' identified by some regime theorists (see Young, 1991; compare Junne, 1992) in international public negotiations, that make it difficult for negotiators to see how agreements will affect them in the long run. However, the void stimulates more uncertainties, since actors involved may also lack information on the content of the problem to be addressed, the governance product to be negotiated, the process through which this must be done, and what actors to involve. The implication of this is that the political process towards the development of private regulation for most actors takes place, to some extent, alongside an internal but interactive process of development of preference, strategy, and strategic repertoire.

Taking a simplified figure (Figure 4, left side) of policy choice under conditions of an institutional void, it is clear that actors cannot reason back their actions and preferences on the basis of the present possibilities or on trajectories travelled by those they relate to, such as their inspiration models, their peers, their opponents, or otherwise. There is thus little room for iteration or structurally set action. The actors have to create those institutions and set the example for action themselves. This is a specific situation of uncertainty that stimulates the significance of particularly projective, forward-looking forms of agentic capacity. And it may also allow for persons within organizations to make a significant difference, given the lack of clear strategies that organizations at

this point in time can offer to individuals. Both on an organizational and personal level, agency contributes to the formation of new structural contexts of action (the field of private regulation) and possibly also to structural transformations of existing contexts of action, such as the organization a person is working for, or in the case of firms, its strategies towards production or competition.
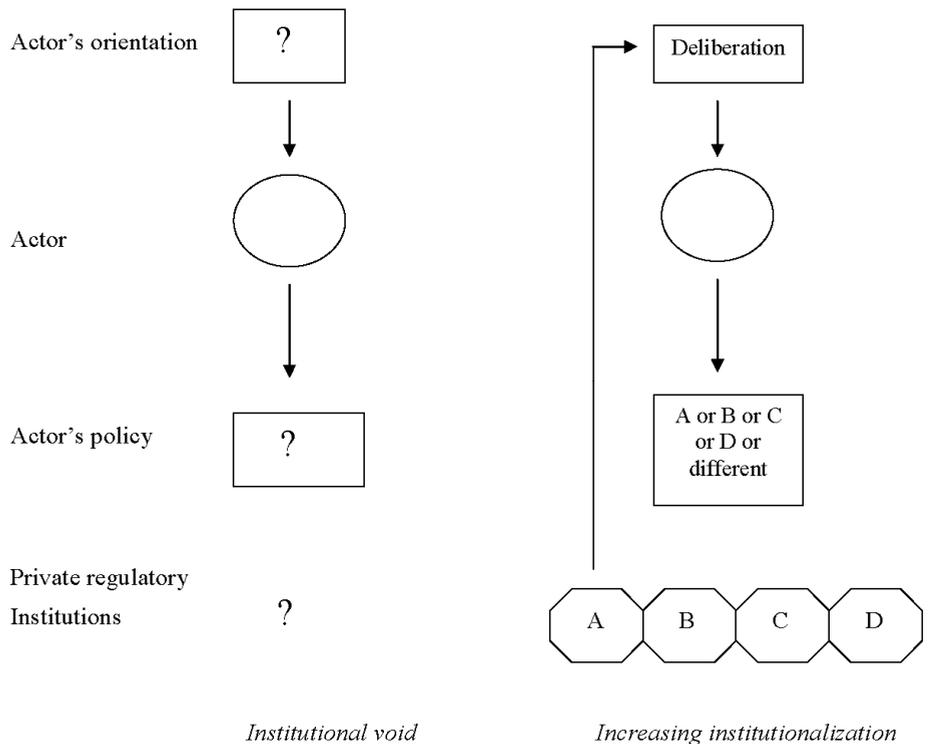

Figure 4. Actors' orientations under the condition of an institutional void and under the condition of increasing institutionalization: the temporal dimension in the duality of the institutional void

With the passing of time and the development of private regulation, particular choices become clearer (Figure 4, right side). With the emergence of political institutions the void starts to be filled up, so to speak, and the field of private regulation itself slowly becomes a structural context of action with particular available routines and scripts. Put in organizational theory terms: the field slowly becomes institutionalized. Uncertainty withers away somewhat for most actors, since regulatory options are now available, which may form the basis of deliberation on the particular orientation and preference of an organization. Furthermore, the choices of other actors in the recent past can inform further strategizing about one's own trajectory.

However, one element of uncertainty still allows for the significance of agency on both the organizational and inter-organizational level, and that is the multiplicity of identities and organizational expectations. This is the case, primarily, because of the peculiar nature of CSR. CSR means a private strategy for public goals and a not-for-profit end pursued by predominantly for-profit organizations. This is a situation to which both for-profit and not-for-profit organizations involved have to adjust, with some representatives inside organizations balancing different institutional pressures and different organizational purposes at the same time (compare Meyer & Rowan, 1977). Second, ongoing globalization (Dicken, 2006), financialization (Palpacuer, 2005; Nolke & Perry, 2007), state restructuring (Palan & Abbott, 1996), and governance shifts (Kohler-Koch, 1996) challenge corporations to develop multiple strategies to answer to different institutional pressures (compare Van Tulder & Van der Zwart, 2006; Muller, 2004). Agentic capacities on the managerial level may therefore remain an important matter, especially in the case of companies or industries going through processes of transformation, or balancing different purposes at the same time. These can be depicted in a simplified dual ideal type model (Figure 5).
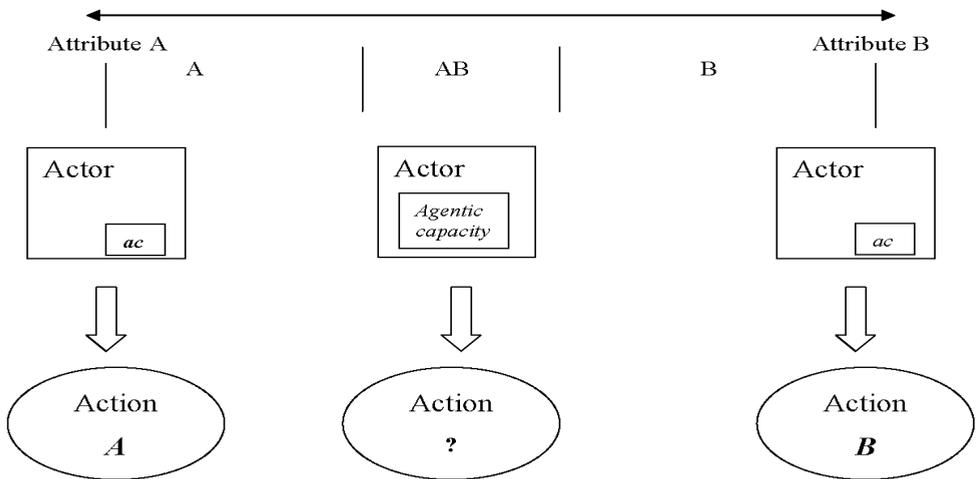
Figure 5. Instances of increasing and decreasing agentic capacity due to different degrees of unified or multiple attributes of the corporate identity of organizations

If an organization, for instance, has a clear embedded strategy (ideal typical attribute A or B), its actions and policies will be easily explained by this strategy, which functions as a structuring context. For instance, a private corporate organization committed to raising shareholder value (A)

will take action to achieve that effect, and policies will be elaborated on that basis. Its policies may be distinguished easily from an organization committed to delivering a public service without a profit motive (B). If, on the other hand, the strategy is mixed or layered (as in situation AB) and the organization fulfils different purposes–think for instance of a public service organization that has recently been privatized but is still legally committed by government to certain types of products and prices–it becomes less clear what particular part of the overall strategy will inform decision making on policies. This form of uncertainty, stimulated by either ambiguity or ambivalence in an organization's strategy (Bartley & Schneiberg, 2002), may induce a greater significance for personal agency inside the organization. Or, compared to other companies with more stable organizational identities, it may render the prediction of a company's actions more difficult.[12] Through this heuristic device, variations in the significance of agency under conditions of increasing institutionalization of the field can be understood.

In short, structure and agency both matter, being in a mutually constitutive relationship. However, sometimes the one may matter more than the other, subject to conditions that have to do with the degree of certainty of actors, related to the social experience of time and identity. The implication of this is that explanations of the outcome of studied political processes are also 'structurated', in the sense that they require the portrayal of these multiple (inter)actions of actors in specific temporal and social-relational settings. This will be done in more detail in the Argument section that addresses the specific research questions, as well as in the following empirical chapters.

b. Levels of analysis
It becomes clear from the previous section that in terms of *levels of analysis*, this study goes beyond macro-elaborations of the development of regulation. It first follows the cue from organizational and management theory, that firms should be understood as actors with specific agency and preferences instead of as a class of agents whose individual behaviour can be deduced from industrial or market patterns. It therefore aligns itself with a body of thought bridging IPE and management studies (Murphy, 2004; Ruigrok & Van Tulder, 1995; Stopford & Strange, 1991). It approaches other categories of actors, such as activists, in a similar fashion. This way, relevant differences as well as relevant interaction dynamics between organizations may be identified.

Second, the individual actions and attributes of persons and interpersonal relations may, as argued above, under certain conditions be relevant for understanding the macro-outcomes of political processes that principally involve interest-representing bodies such as companies, trade unions, and NGOs. In order to understand the significance of these actions, intra-organizational

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[12] A parallel comparison from the activist field would be a transnational labour group (attribute A), a Christian consumer organization (attribute B), and a broad developmental umbrella NGO with many advocacy points (AB).

interactions sometimes need to be taken into account as well (compare Fligstein, 1996; Amoore, 2000; Zald et al, 2004). In line with Oran Young (1991), this study emphasizes in certain contexts capabilities such as personal entrepreneurship or intellectual leadership as necessary variables when understanding the outcomes of political interactions between aggregate groups. These persons themselves are not, of course, atomized autonomous actors. Having established their ability to 'swing free' from a particular organizational purpose in political interaction, it is clear that their actions are still shaped by all kinds of social contexts (upbringing, social circle, professional background). The point here, however, is that they bring in something extra next to their functional role as representative of a particular organization, and that their multiple embeddedness in different social contexts thus offers them opportunities for agentic action.

c. Rationality

What are the repercussions of the usage of (a situated agentic type of) structuration and the chosen levels of analysis for the assumptions about the character of actors' behaviour (*rational*, *non-rational, irrational*)? Structuration theory understands individuals to be gifted with not only the ability to act rationally and intentionally. In Giddens' terms, *practical consciousness*, related to tacit knowledge and routines as well as unconscious motives, also plays a role. Similarly, Bourdieu (1977) speaks of a *habitus* as a collection of dispositions and inclinations driving human behaviour, some of which the individual does not consider actively while driven by them to act (compare also John Dewey, 1922, on the relationship between thought and action). Recent insights from neuroscience and psychology seem to confirm these notions of 'half consciousness', practice, and thought after action (Bechara et al, 2000; Damasio, 2005; Miller & Cohen, 2001).[13] While such an understanding of action itself plays down the rationality of human behaviour, it does not need to flatly contradict rational choice theory. After all, thinner forms of rational choice (see Ferejohn & Satz, 1994) already sidestep the question of whether humans identify their preferences rationally, instead of focusing on the rational element in action itself. What is more, because practical consciousness (or *habitus* for that matter) on the macro-level may very well resemble patterns of action conforming to notions of rationality, the identification of a specific pattern of action to which practical consciousness possibly contributes may then be meaningful for theoretical purposes.

It is first important to acknowledge that what is considered *rational* may vary because it is socially structured by the field one focuses on. We need to understand which 'rules of the game' are predominant in different relevant institutional settings of policy making. Second, in line with the

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[13] This insight also seems to have raised the interest in the study of *emotions* in political action, both with sociologists (f. i. Jasper, 1998) and political scientists (f. i. Hymans, 2006). While it is possible to describe some of the mechanisms in this study using the terminology of feelings, the approach for now sidesteps this issue, since it would require the very complex task of establishing conceptual boundaries between the realm of emotional and rational stimuli to behaviour. The advantage of referring to practical consciousness is that it is agnostic about this distinction.

previous account of agency, it is important to see that a rational account of political behaviour is subject to scope conditions (Bartley & Schneiberg, 2002). It is well suited for explanations in situations where assumptions of rational desire are in line with empirically identified fixed ideas and identities, as expressed by actors, as well as those situations where rational behaviour can hardly be distinguished empirically from action-structuring mechanisms, such as ritual and routines. Under these conditions behaviour may be successfully subject to statistical tests on the basis of fixed actor attributes, leading to specific outcomes. However, its suitability is only plausible as long as it is taken into account that what is measured may be as much the result of socialization processes among interdependent actors, as it may be an aggregate of independent individual rational strategic choices.

Notions of rational choice are thus less suited for situations marked by higher uncertainty and unstable identities. Once agentic capacities include multiple possible outcomes, and personal capacities as well as interpersonal relations become more significant, as elaborated above, structured patterns of explanation are more difficult to assemble. Ironically, this may also be at the same moment that deliberation on different options of agentic action takes place in actors' minds.[14]

d. Ideas and interests, subjectivism-objectivism, material-ideational

The preceding treatments of structure, agency, and rationality makes clear that ideational, cognitive, and subjective elements matter for an understanding of the type of politics studied in this dissertation. The question is, of course, in what way and to what extent? And, in particular, given the hegemonic status of explaining political action through actors' given 'interests' within the realm of both IPE and IR studies, what is the relationship of identities and ideas to these?

This study holds that it is possible to identify a core interest of persons and organizations (comparable to a 'rump materialism' in IR, Wendt, 1999; in critical realist philosophy, Bhaskar, 1978; and in neuroscience, Damasio, 2005). This interest is in self-preservation. How this interest is actually understood and applied depends on processes of socialization and identification. These processes are structurated as well, with routines and scripts structuring actions of identification, which may transform identities.

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[14] The status of *rationality* should also be reflexively taken into account for the fields of social interaction studied. Obviously, the aim of this study is not to fully prove the empirical validity of human action driven by practical consciousness, or, for that matter, rational choice. This study however focuses on political interaction in societies where the predominantly desirable fashion of structuring political action is with reference to rationally informed action and goals. The implication of this is that actors in their own accounts may want to emphasize the rationality of their thoughts and actions, while their original thoughts and actions may at the time have been less rational. This is particularly so for those persons representing organizations that have officially identifiable stakes. Because of this it is important to apply a layered approach to the analysis of people's accounts of their role in policy developments: looking at one level at fact finding, and at another at discourse.

A first step then is to recognize that personal and organizational perceptions matter for an understanding of political processes. Structuration theorists emphasize the importance of seeing, experiencing, and understanding as a phase in human action. This may also be through intersubjective understandings that shape perceptions for groups of individuals (as in organizations). This phase may both enable agentic capacity (as actors envision all kinds of alternatives) as well as constrain it (if perception reduces available options). Understandings of interest then drive human agency, rather than a core innate material interest.

Second, identities matter for an understanding of actors' involvement in political processes. Identities are social constructs that may be constantly re-evaluated, internally and externally, through social processes of interaction. Who you are or what an organization stands for affects perceptions of what is at stake. Who a person is depends on his or her weighing and ordering of ideas and commitments, in constant dialogue with the structural contexts of action he or she is involved in. Accordingly, a person may then also identify a corresponding interest influencing his/her actions and interactions with the world outside him/her.

Within organizations, identity formation and transformation take place between persons and collectives of persons that identify themselves as groups inside the organization. These interactions may take different forms: either conflicting or cooperative, through 'vertical' authoritative imposition or through 'horizontal' 'deliberative' negotiation. In any case, it may be understood as a political struggle for the control of the purpose of the organization (Fligstein, 1996). A stable identity emerges once a conception of control is established that settles what the organization stands for, what it should aim for, and what it should do to accomplish that. An organizational identity is further shaped by an organization's interactions with the outside world, responding to other organizations and external accounts of its own identity (DiMaggio & Powell, 1991; Zald et al, 2004). The overall result of internal-external dynamics of identification is a more or less stable form of organizational identity, with corresponding organizational interest.

Both personal and organizational identity might be very stable, and structure thought and action according to a set of purposes, in relation to which a personal and organizational interest may be formulated. And, as argued above, temporal and social-relational qualities of structural contexts of action may cause identities to be unstable, multiple, or unclear, prone to either ambiguity or ambivalence. At such a point, there are multiple possible purposes and corresponding interests. If, for instance, an NGO is committed to reducing poverty, creating more sustainable development, and raising labour standards, and it advocates for many regional affiliates while receiving money from governments and private donors, how does an NGO representative best serve the organization? How does the NGO structure its preference in certain negotiations about development goals? Or if its advocacy goals cause it to venture into unknown political territory, how can it find out which

political contacts, which regional goals, and what strategic instruments in the end will best conform to its organizational interest? This might be a matter of perspective. It is at this point that the acts of such a representative are difficult to predict on the basis of fixed organizational or personal interest.

In sum, in many settings, organizational and personal identities are stable enough to study them as fixed interests driving the purpose of actor behaviour. The difference between calling something an 'interest' or an 'idea' is then almost reduced to semantics. But, like rationality, interest-based explanations are subject to scope conditions. It is in the situation where identities are unstable that interests become less easy to construct as explanatory devices and their analytical value decreases. Emphasis on perception, understanding, and processes of identification then are crucial for understanding political processes.

e. Power

Assumptions about power are made in every study of politics. Political theorists lament that political science researchers rarely attempt to provide their readers with a consistent view of how power is understood to produce certain effects in their studies (see for instance Guzzini, 2000). Nothing would be more tempting than to follow that bad example in this work. However, the political theorist plea is too forceful to neglect.

In line with the logic of structuration, this study follows David Baldwin (1989) who holds that power should be understood as socially situated within specific political fields, meaning that specific power relations evolve through contexts of action that structure dynamics in a field of political action, and to some extent also possible outcomes. Baldwin suggests that lessons from analyses of power relations between political actors may therefore not be so easily generalizable across different policy fields (for critique see Guzzini, 1993). This study is generally in agreement with that perspective, though it at least offers the opportunity for comparison of power relations across fields of political interaction that have somewhat similar structural contexts of action, which means for instance other political fields revolving around private regulatory arrangements. Additionally, through pointing at the relationship between structuration and situated agency, it offers a framework for thinking about why certain comparisons between different issue fields may be more fruitful than others.

Power is understood, first, as relational, but within the contexts set by structures. These structures enable and constrain actors and may unevenly benefit certain categories of actors more than others. In the field of private regulation, for instance, firms are structurally in a beneficial position since private regulation requires their participation, depending on the voluntary decision of firms. This hands firms capacities for manipulation, while it stimulates anticipatory action on the side of societal actors and private regulatory organizations aimed at luring firms in.

Second, some IPE authors (Strange, 1988; Gill & Law, 1988) would hold that these structural effects themselves may be defined as power, namely structural power. Indeed, structuration also holds that structures may be transformed and thus could have effects through the action of actors as power exercisers. Following Guzzini (1993; 2000) this study holds that the term structural power should be privileged for specific empirically identifiable actions at structuring. Establishing that structures favour some groups of actors' positions over others' is something other than establishing that such a group of actors has exercised power with the favourable situation as a result.[15] Empirically identifiable actions of structuring politics may, for instance, be attempts at influencing discourse and norms, or attempts at influencing rules that apply to markets. The general trait is that their effects are more indirect and impersonal when compared to relational power.

In line with structurational assumptions on actor behaviour (praxis, practical consciousness), power is not only studied as the capacity to influence intentionally, but also the capacity to influence unintentionally (Guzzini, 1993). Power capacities applied by actors both in relational and structural influencing are, following Mann (1986) and Scott (2001), first divided in economic, ideological, and political forms. An example of relational economic power is the imposition of management systems by buyers who have a monopsonic relationship with their suppliers. An example of structural economic power is the establishment through corporate lobby of more favourable economic circumstances for particular sections of an industry. Ideological power in its relational vein can be exercised by one actor 'framing' another actor's actions or identity in such a way as to hurt their reputation or operational legitimacy. In the structural sense, ideological power is exercised once actors strive to establish a particular norm predominance or dominant discourse that sets the terms of discussion in their favour. Political power can be identified for this study by authority and representation capacities. Relationally, this may work as one actor pushes another actor towards other behaviour with reference to the actor's position as spokesmen of a much larger mass of actors. Structurally, authority may be used by regulatory organizations towards their participants, and representation dynamics by leading actors inside organizations to steer the behaviour of their representatives.

Apart from the separation of ideological, economic, and political power, the study also reserves a position for power on a personal level, since it is established that the level of analysis should extend to personal dynamics. Following Weber (1991:245-253), personal power is understood as the possibility to put certain individual characteristics (charisma, social skills, expertise) to use in order to acquire authority on the interpersonal level. Social power then also becomes a significant capacity, as powerful persons influence other persons in their thoughts and

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[15] After all, structures may come into existence through many different types of activities, by different actors, and at different times. Structures constraining action are therefore not always manifestations of structural power.

actions through tactics of persuasion and developing emotional relations that stimulate feelings of trust or distrust, compliance or conflict. This may, for instance, be through the stimulation of identification, and interactive social versions of punishments and rewards.

Finally, this study holds that certain structures are more easily within the reach of actors than others as levers for exercising power. Actors, for instance, will attempt to transform the organization of production, the terms of global competition, different kinds of international and national public regulation, global discourses of economic efficiency, or global norms of justice, so as to benefit their own situation. These structures are, however, less malleable by individual actors concerned here, since they stand in a structurated relation to a much larger category of activities by different types of actors. In contrast, the structures specific to the field of private regulation are more easily malleable than the same structures that have to be built up in the institutional void. These structures are, for instance, the private regulation itself and the emerging norms and discourse on what constitutes right, efficient, and equitable private regulation.

Structures (distant)

Economic: organization production, industry structure

Ideational: societal and economic ideas

Political: nature of public regulatory frameworks

Structures (field))

Political: structure of private regulatory framework

Ideational: ideas about appropriate private regulation

Actor A **Actor B**

Relational

Capacities

Economic;
Ideological;
Political;
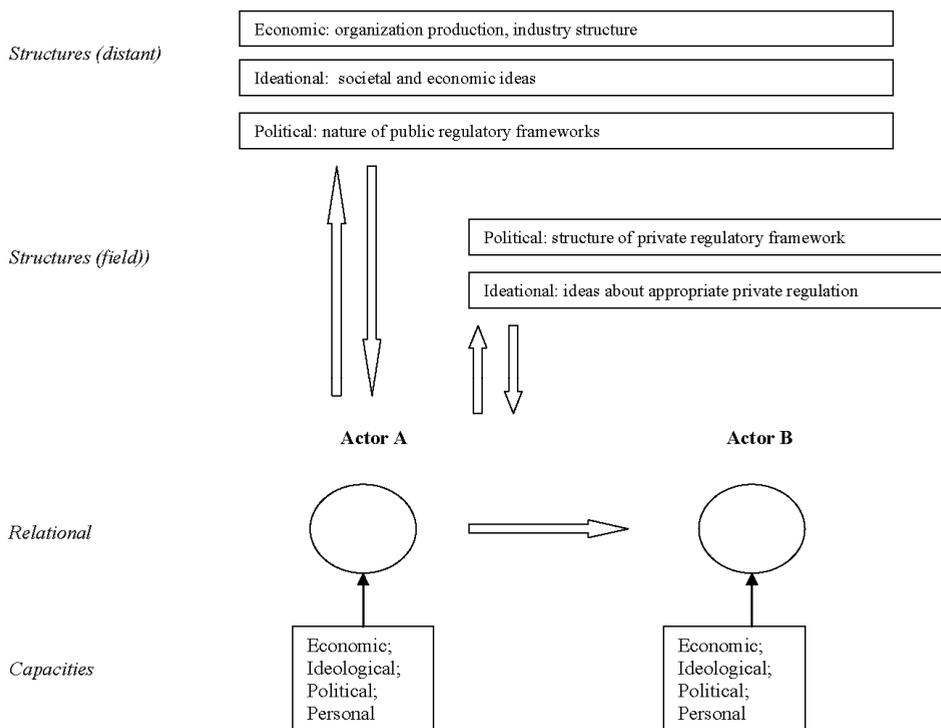Personal

Economic;
Ideological;
Political;
Personal

Figure 6. Power capacities, relational power, structural power, and structural constraint in private regulation, from the perspective of actor A influencing actor B

The resulting understanding of power relations for this study is illustrated in Figure 6, using the example of an actor A trying to get an actor B to do what it would not otherwise do.[16] Relational power dynamics are structured by more near and more distant structures, which may in turn be affected by attempts at structural power, that may change the terms of relational power dynamics in favour of actor A.

f. A market for rules and rules for the market

The understanding of power and structures informs two premises about the relationship between rules and power in the context of a domain of regulation, and leads to a specific focus when analyzing business regulation.

First, philosophers of law (for instance Dworkin, 1977) hold that regulation in general should reflect common norms of justice, and for that reason regulation may be used to address the distribution of wealth and resources in a society so that they become in accordance with those norms.[17] Regulation of labour in this sense is most often viewed as an intervention in the inequality between capital and labour, seeking to strengthen the weakest party in order to bring about a situation where interaction between the two conforms to the common norms of justice in society (compare Bakels, 1973).[18] Applying this line of thinking to the subject of study, private labour regulation across borders should conform to those common norms of justice available (in this context the UN conventions on human rights and the ILO conventions on labour rights, and their application in the local labour regulation of producer countries), and take from them the cue to strengthen the position of the worker in relationship to management in business.

Second, sociologists of law influenced by *legal realism* (see Llewellyn, 1951) hold that in practice regulation may be indeterminate and not always predictable on the basis of expected references to common norms of justice. Specifically, the school of *Critical Legal Studies* (see Kennedy, 1976) holds that regulatory outcomes may be the product of power asymmetries, therefore preserving the status quo in terms of strong and weak parties in society. This observation fits nicely with a variety of political economy approaches problematizing the relation between rules and the ruled in the global economy (both 'leftist' in Marxism, see Cox, 1986; and as 'right wing' in the Chicago School, see Stigler, 1988). From such a perspective, the powerful have an innate tendency to influence regulation to their own perceived advantage, and as such there is, from the perspective of the political process, no clear-cut empirical distinction between the actors in the field being regulated and the development of regulation (compare Underhill, 2007).

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[16] In the famous words of Weber.
[17] There is disagreement of course about whether any of these norms are undisputable, but they may be a principle at work nevertheless.
[18] Other examples of regulation compensating inequality *vis à vis* owners of capital are consumer protection regulation and tenancy laws.

These starting premises are relevant in particular for private regulation analysis, since it is in private regulatory development and practice that rule takers can be rule makers, implementers, and enforcers at the same time. Specifically here the risk is apparent of the most powerful using their resources to directly capture regulation, establishing and operating rules and systems to their own liking, with disregard for the weak. Private regulation, for instance, is therefore prone to the *fox guarding the henhouse* problem, in particular with reference to the actual operation of regulation and the assigned responsibilities of the parties involved. Can we trust the powerful to uphold common norms of justice?

A power based analysis of regulation should therefore not only ask what standards are put forward in private regulation and what systems are provided. It should also ask who does what in regulation. From the perspective of law as the corrector of inequality, it is necessary to identify those elements that compensate the power asymmetry between the actors regulated; second, from the perspective of the tendency for the powerful to control regulation, it is necessary to identify those elements in regulation where regulatory capture leaves the powerful with the possibility to advance an agenda not in line with the object of regulation, as reflected by common norms of justice.

4. The argument

Understanding developments within private labour regulation requires looking at interactions between professionals linked across organizations, divided over organizational purpose (business or activist, or different types of activist groups and different kinds of firms), as well as over policy issues (preferring specific forms of regulation, denouncing others). These divisions play out in different types of social interaction between different types of organizations and policy coalitions. First, it plays out at the negotiation table when new private regulation is being developed. There, activists and company representatives, depending on their organizational and personal agendas, decide on how labour should be regulated, resulting in the design of both more and less stringent forms of private regulation. Second, the divisions play out in the more or less contentious forms of pressure and bargaining towards business support for existing private regulatory organizations, where differences between (managerial expectations of) organizations play out maximally. Third, divisions play out in the 'marketplace for private rules', where businesses and activists compete for the predominance of their favoured approach to private regulation, and the market is slowly divided into two broad coalitions favouring more and less stringent regulation.

Focused on these dynamics, this study's broad argument can be summarized in a nut-shell as an answer to the overarching question about what drives developments in private labour regulation. Such developments can be explained by the rival and competitive interaction between more and less

stringent private regulatory organizations and their business and activist supporters, which results from the orchestration of societal pressure on the industry by activists. Interaction between groups is at first influenced by uncertainty, meaning that actor positions are more fluid and interaction dynamics inform regulatory outcomes, in particular in the making of a first generation of private regulatory organizations that produce different degrees of stringency. Routines and expectations then slowly develop that increasingly inform actors' pursuit of newly developed private regulation, business support for existing private regulation, and evolving competition and cooperation between private regulatory organizations and their supporters. A key variable informing both activist group and business strategies is their relative organizational proximity to either the point of production or the point of consumption, leading to preferences for higher or lower degrees of stringency.

This answer to the general research question, of course, needs to be broken down into several, more detailed answers. First the descriptive parts to the three sub-questions are elaborated, followed by the explanatory parts. This will be done using headings in which the main sub-findings, in line with the inductive nature of this study, are presented as propositions.

a. Descriptive argument

Putting the descriptive argument into the interrelated framework presented in Chapter 1, see Figure 7, this section answers the sub-research question's descriptive part clockwise, starting from the top.
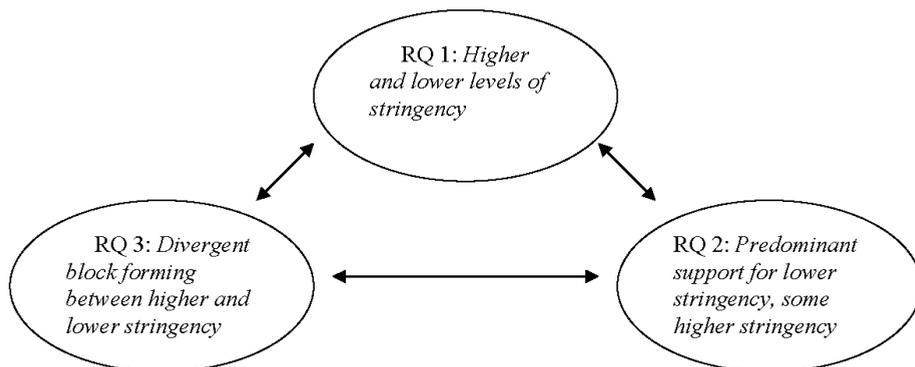

Figure 7. Descriptive answers to sub-research questions

RQ 1: Describing differences in the content of private regulation: standards and control

Differences between private regulatory approaches can be organized around the level of stringency, however this notion of stringency should not merely apply to the level of standards adopted, but also look at what actors do with these standards, since private regulation involves actors whose

behaviour needs to be regulated acting as regulators themselves. The understanding of stringency is therefore extended to also involve the diversity of policy instruments and, most significantly, the division of tasks within private regulatory organizations. This division of tasks affects stringency to the degree in which it counters or strengthens the existing balance of power in the production chain that makes for labour abuse. More business control of procedures, decisions, and information strengthens the capacity of businesses to keep *business as usual*. More societal control counters business power and institutionalizes watchdog and fire alarm elements that push regulatory performance more in line with set aims. This elementary decision in the institutional setup of private regulation is also the subject of policy debates between activists and businesses in the CSR movement. Accordingly, different positions on a scale of laxity and stringency can be identified for industry initiatives, differences that go beyond the usual division between multi-stakeholder governed and business governed organizations. As it turns out, most organizations can be placed on the left hand and in the middle of the scale, towards lower and medium stringency, while a minority of organizations have higher stringency scores. In short, *differences in private labour regulation can be understood as varying degrees of stringency, measured on the basis of the degree of labour standards, degree of policy specificity, and degree of control of procedures by different types of actors.*

RQ 2: Describing firm preferences for private regulation: high roads and low roads
Companies predominantly develop CSR policies out of protective concerns. Activists are important in this respect since they raise the salience of the labour conditions issue and orchestrate societal pressure against companies. Companies generally display their preference for a particular type of private regulation after choosing multi-stakeholder or business governed regulation; the nationality of the regulatory organization; and the type of policy, specifically the choice between taking responsibility for the implementation of standards, or leaving this responsibility largely with the suppliers.

The overall result of these choices is a predominant preference for less stringent private regulatory organizations that are governed by businesses only, and have business controlled regulatory procedures. Notable members of this group are large retailer companies, and specifically companies catering to lower ends of the consumer market, competing on cost. A minority group of companies prefers higher levels of stringency, governed by multi-stakeholder assemblies and with regulatory procedures divided among business and societal actors. Among them are high street market brand firms and some retailers, as well as global sporting goods brands. In sum, patterns of business participation show *predominant preferences for less stringent private regulation and minority preferences for more stringent regulation.*

RQ 3: Describing interaction between private regulatory organizations: rival block forming

The field of private labour regulation for the clothing production chain has become fragmented with firms applying different approaches to private
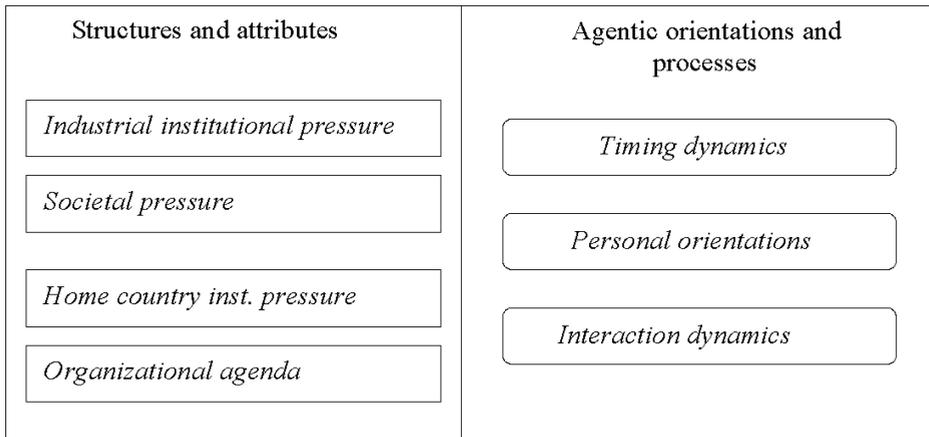
regulation.

Structures and attributes	Agentic orientations and processes
Industrial institutional pressure	*Timing dynamics*
Societal pressure	*Personal orientations*
Home country inst. pressure	*Interaction dynamics*
Organizational agenda	

Figure 8. Explanatory toolkit

A clear division of the regulatory 'market' into different private regulatory organizations catering to specific segments of industries has not yet emerged. Currently, regulatory organizations often aim for similar membership goals, and the development of political rivalry as well as policy disagreements on the right way to regulate stimulate a more or less open form of regulatory competition. This competition is both for business support, in terms of participation in a particular regulatory organization, as well for operational legitimacy in general among 'audiences' of both activists as well as, more distantly, consumers. In this competition for legitimacy, the crucial factor has become the question of adherence to notions of multi-stakeholder governance of a regulatory organization – what can be termed 'multi-stakeholderness'.

However, the contours of a division are visible in the development of both arm's length policy adjustments and emerging institutional connections between different existing private regulatory organizations, managed through different cooperation efforts. What emerges is a divergence between private regulation with higher levels of stringency and those with lower levels of stringency. In the process, notions of multi-stakeholderness are being adapted to apply to governance procedures that increasingly put societal groups at a distance from decision-making.

Concluding, *private regulatory competition for operational legitimacy results in a division between a more and less stringent type of regulation.*

b. Explanatory argument

All descriptive findings to the research questions (the 'balloons' in Figure 7) in turn may be connected to specific causal chains. This section depicts the different elements of these causal chains as belonging to an explanatory toolkit made up of the different elements of the general theoretical approach elaborated in section 3 (see Figure 8). Structural and fixed attribute factors are juxtaposed here with agentic and process factors. Different sets of factors then collide to make for different mechanisms (see next page), which are further elaborated below. The time line on the right of the page shows that as time goes by, structural patterns acquire predominance in driving political interaction, as a result of the increasing institutionalization of the field: 'sharp corner squares' are increasingly crowding out 'round corner squares'.
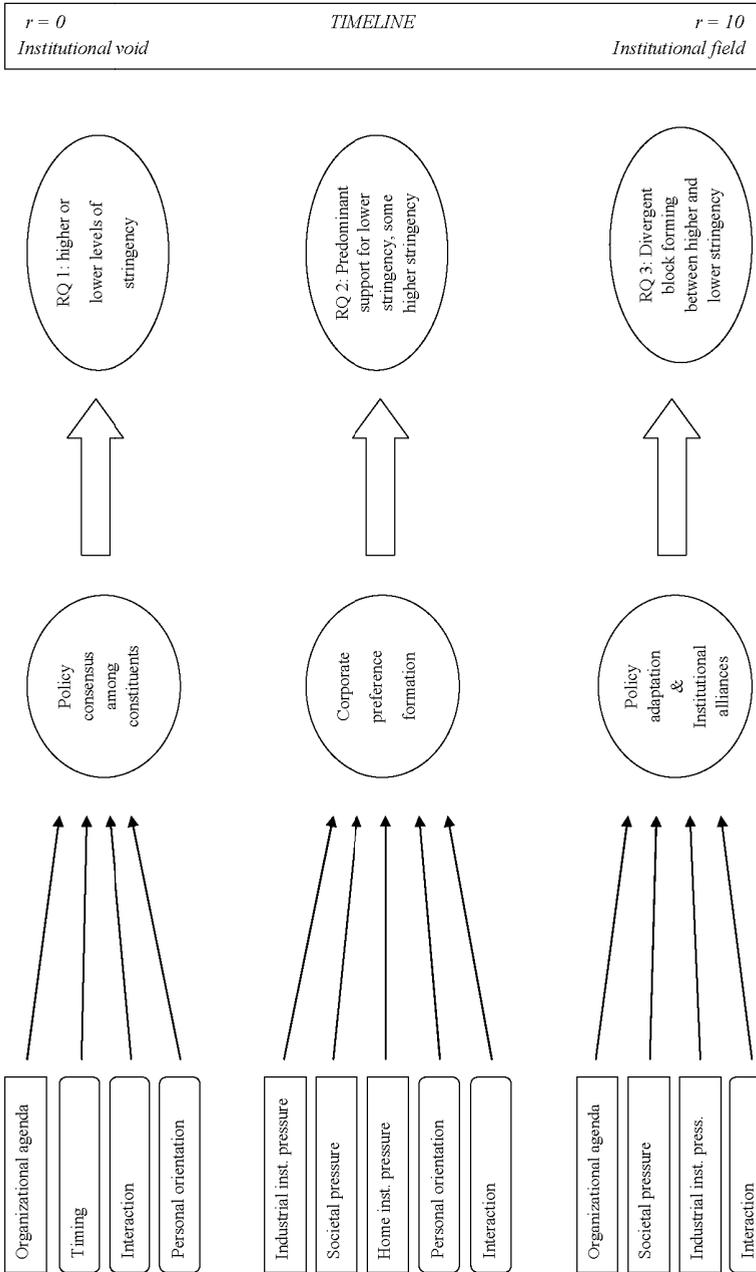
Figure 9. Explanatory factors

RQ 1: Explaining stringency differences in the development of private regulation: phases, dynamics and agendas

The reason why certain private regulatory organizations are more stringent than others firstly lies in the historical process of the development of private regulation. In the negotiation phase of a new private regulatory organization, several aspects are relevant in understanding what policies are adopted.

First, there is the matter of *timing*. As noted, the institutional void of private regulatory design makes for high levels of uncertainty among negotiating actors. This creates slightly different negotiation dynamics in comparison with private regulatory design at a later stage, when several regulatory organizations have been established. The difference is that actors may be more or less knowledgeable about the topic of regulation, the regulatory approaches available themselves, the policies of other actors involved in negotiation, and the possible repercussions of different regulatory options for their organizational goals. Accordingly, one should distinguish between two broad phases in private regulatory development. The first has a longer phase of experimentation, changes in membership, and a highly significant role played by dynamic factors in the establishment of consensus. The second phase is marked by more limited members, shorter phases of negotiation, high levels of imitation and adaptation of already existing approaches, and a lesser significance for personal orientations and interpersonal relations in bargaining.

Accordingly, the *organizational agendas* and *agenda setting* of actors negotiating private regulation matter, to a higher or lower degree. Important in the process of negotiation is the moment at which ideas are being launched that frame further discussion. Most often these ideas come from the group initiating the negotiation for a new regulatory organization, and reflect the position this group has on the topic. If the frame, put into a policy proposal, manages to capture minimally sufficient support among available groups, it will form the basis of a new private regulatory organization. Groups in negotiation that are not happy with the terms of discussion then leave the table and may re-appear in negotiations for a different regulatory organization. In first phase negotiations, this may be a somewhat chaotic process of trial and error. In later phases, the selection of negotiation partners is likely to already steer the consensus in advance, with likeminded groups seeking each other out.

Accordingly, regulation of higher level stringency is designed in the first phase when labour activist groups successfully structure frames of discussion, receiving sufficient support from their negotiating partners; lower stringency results when business or consumer groups do so, or when the absence of predominant frames steers the discussion towards a lower common denominator. In the second phase, in a more straightforward manner, higher stringency is designed by groups of likeminded labour activists, while lower stringency is designed by likeminded business or consumer

groups. In sum, *differences in private regulation evolve because of time-specific articulation between negotiating actors' agendas and process dynamics in negotiating private regulation.*

RQ 2: Explaining firm preferences towards private regulation: institutional attributes and interpersonal relations

Increasingly, firms are confronted with critique from societal actors about possible misdoings in their supply chains. The reception of this critique varies in the industry across firms, according to the position firms occupy in the *market* (branding, high street or retailing, cost competing) and in the *production chain* (more or less involvement in productive circumstances). Moreover, variation can also be found in the *home country market* in which companies reside, where variations in the strength of local subsidiaries of activist networks, and the concomitant resonance of both global justice issues and private solutions to these issues among a wider audience of citizen-consumers and politicians, may be crucial. These institutional variations say something about the likelihood that (a) firms will respond constructively to the critique of, most significantly, activists, and (b) whether firms will develop a preference for higher or lower level forms of stringency. The dynamic between societal pressure and firm response is thus dependent on the multiple institutional embedding of companies.

Furthermore, this study once more identifies in the process dynamics of interaction the significance of *personal orientations* and interpersonal relations in the elaboration of corporate strategy towards private regulation. The significance of persons is likely to be higher in the case of firms treading the middle ground on the scales of commitment to high street and cost competition market focus, as well as the scale for branding and retailing strategies.

It is therefore possible to expect higher sensitivity to societal pressure from high street and brand firms, who perceive themselves as more easily confronted by scrutiny from their consumers. Moreover, their residual involvement in supply chain productive practices through the efforts of design and quality standard measures makes them more inclined to take responsibility for labour conditions as well. By contrast, mass retailers and discount firms sit at a much larger distance from the point of production and have less to fear from their immediate economic stakeholders at the point of consumption. Firms treading the middle ground rely on managerial preferences for their selection of private regulation. Activists then are key in steering higher levels of participation in private regulation by firms, but they do not always get what they want, since firms may prefer other solutions than those proposed by activists. In short, *firms develop different private regulatory strategies due to variation in responses to societal critique mediated by industrial and national institutional attributes and personal orientations*.

RQ 3: Explaining the direction of regulatory competition: institutional attributes and new policy coalitions

The division that emerges between two blocks of regulatory organizations can be explained, first, through general pressures towards convergence, from governments, suppliers, and activists, and by keeping in mind the interests of (increasingly confused) consumers and investors. These efforts at convergence are, however, not leading to a comprehensive harmonization of the field of regulation, but to a division between harmonization efforts. This is, secondly, because of emerging understandings between clusters of regulatory organizations and the businesses and activist groups that support them.

Generally, the lower stringency group of organizations is supported by activist groups dedicated more to advocacy agendas at the point of consumption, striving for clear consumer choice in sustainability. Business support for this group comes predominantly from mass retailer and/or discount companies with little involvement in production supply chains. This cluster of groups is called the *Post-Productionist* coalition, relatively unconcerned with circumstances of production and with hardly any contacts with clothing manufacturing workers. By contrast, the group committed to higher levels of stringency consists generally of activists who advocate more directly for workers in producing countries, and companies with higher stakes in the production within supply chains (because of design and brand quality demands and a more sustainability-minded consumer base). This cluster is called the *Productionist* coalition, focusing relatively more on production, workers' positions, and the politics of industrial relations within the context of global value chains.

While the Post-Productionist coalition predominantly focuses on the mainstreaming of private regulation and the increase of business support for private regulation, the Productionists seem more concerned with the quality of rules and procedures that, according to them, set the term for better working conditions. This divide signifies that the broad coalition of consumer groups and labour groups, so successful in initiating debates on private labour regulation and raising societal pressure on companies, may be in the process of falling apart. Therefore, *evolving block divergence is influenced by disagreements on the regulatory aim between supporters, exemplified by an emerging divide between a stringency focused Productionist and a mass support focused Post-Productionist business-activist coalition.*