Can Legality Verification Improve Good Governance in the Global South:

Lessons from Cambodia’s forest sector

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1. **Introduction**

In the last 25 years a range of scholars, operating from a myriad of disciplines, have endeavored to assess, conceptualize, and understand, the potential role of transnational governance interventions aimed at countries in the Global South who are asserted to suffer from weak state capacity or contain areas of “limited statehood” (Risse 2011c, b, Haufler 2001, Cutler, Haufler, and Porter 1999, Mol 2002, Hajer 1995). Within these broad trends, a range of actors, reinforced by a growing body of applied scholarship have focused on enhancing “good governance” in targeted states by drawing on, and championing, a particular class of transnational policy interventions that draw on economic incentives for fostering domestic support and influence. Two distinct, but related, forms have been used: a) the creation of public or private capital funds (commonly known as international finance mechanisms) and b) preferential treatment for accessing global value chains (referred to as eco-labeling, product certification, private authority and private governance). Over the last 30 years, this class of “finance and market driven” (FMD) policy tools have become, by far, the preferred approach to promoting targeted governance challenges in the Global south.

The result has been the development of a rich suite of interventions spanning the creation of international financing funds such as the Global Environmental Facility and Forest Carbon Partnership fund, to “non-state market driven” (NSMD) or private global governance (Cashore 2002) institutions that derive authority from demand along global value chains for products certified as produced in environmentally and socially responsible ways. These efforts have been developed, and applied, by a range of international organizations from development aid agencies such as USAID, GIZ, and CIDA, the World Bank, the United Nations Forum on Forests (Cashore and Irland 2013) the UN Environment Program (UNEP), the UN’s Food and Agricultural Organization (FAO), the World Resources Institute and even the World Business Council on Sustainable Development.

Two distinct, but related, questions motivate practitioner support for, and scholarly interest in, transnational FMD policy tools

1. How can they help fill perceived “governance gaps” in the targeted country?
2. How can they be designed to help ameliorate some of the world’s most pressing economic, environmental and social problems such as deforestation/land use change, livelihoods, and and climate change?

Curiosity about answering these questions among scholars has led to significant research on the effectiveness of the design of international aid programs (Buntaine, Parks, and Buch 2017, Nakhooda 2013). Deep empirical, conceptual and theoretical work has also unpacked the emergence of, and support for, an evolutionary trajectory of private governance innovations through which legitimacy (Bernstein 2004, Börzel and Hüllen 2005) might be enhanced (Bernstein and Cashore 2007). Related, others have whether, when, and how, NSMD governance interventions, such as eco-labeling (Gulbrandsen 2004a, Levin, Cashore, and Koppell 2009) might substitute, complement (Levin, Cashore, and Koppell 2009, Börzel and Risse 2005) or improve state-based authority (Ladwig and Rudolf 2011, Schneckener 2011, Borzel et al. 2011, Bernstein and Cashore 2004, Gulbrandsen 2004b). These research efforts include understanding how “capacity building” orientations such as providing technical resources, administrative “know how”, as well as the identification of procedural reforms supporting legitimacy and authority, might improve the ability of governments to achieve their substantive goals. Some scholars also turn to the instrumentalist potential of international, non-governmental and even business organizations for helping implement public policy decisions through service delivery (Börzel and Risse 2005) or law enforcement (Ladwig and Rudolf 2011, Schneckener 2011, Borzel et al. 2011). Other private governance scholars focus specifically on whether new governing arenas outside the traditional state might be fostered by multi-stakeholder voluntary standard setting bodies that emphasize inclusionary and transparent processes (Cashore 2002, Bartley 2003).[[1]](#endnote-1)

Taken together, a generation of research and scholarship has indeed found positive accounts regarding including some voices in the design of public and private policies, but likewise strong empirical evidence that finance and market-driven interventions end up falling short of what creators and supporters had hoped. Yet, instead of responding to this evidence by eschewing finance and market-driven interventions, creators and supporters end up “going back to the drawing board” in an attempt to tinker to improve their effects, or to create new finance or market driven tools.

Given this evidence why do so many transnational efforts continue to draw on financing and market-driven tools as a way to ameliorate challenges facing the Global South? The purpose of this article is to shed light on this question by assessing the emergence of transnational legality verification initiatives, which draw on global supply chains to promote compliance to domestic laws. Legality verification in general, and the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) program in particular, represent some of the latest myriad of efforts in a three-decade old project to promote “good governance” through finance and market driven policy tools. For analytic traction, we assess the way in which transnational efforts to promote FLEGT have played out, and are relevant for, forest governance challenges in Cambodia. We argue, drawing on Cashore and Nathan (2019 In Progress)that the persistence of a good governance “norm complex” explains the ongoing use, and proliferation of, finance and market driven mechanisms in general, and the turn towards legality verification in particular, as the preferred groups of tools with which to improve governance in countries asserted to suffer from limited statehood or weak capacity. It is in this context that we locate FLEGT as part of a longstanding transnational efforts to address Cambodia’s perceived governance gaps, especially concerning its forest sector challenges.

We elaborate this approach and argument in the following steps. Section two reviews the heuristic, normative, and explanatory elements of the good governance norm complex. Section three reviews the emergence of legality verification in the broader suite of transnational finance and market driven interventions that have emerged to address countries in the Global South. Section three then reviews the impact on one key strand of legality verification efforts that draws on both financing and markets for compliance and effectiveness: Forest Law Enforcement, Governance and Trade (FLEGT) efforts championed by the EU through Voluntary Partnership Agreements (VPAs) that promise market access, and development assistance, for countries putting in place reforms justified on their basis to fill some type of governance gap. We conclude by reflecting on the value added of their argument for identifying new knowledge and explanations for the proliferation of finance and market driven policy tools on the one hand, and increasing frustration over their effects by their own creators.

1. **The Good Governance Norm Complex**

Cashore and Nathan (In progress) posit that a “good governance” norm complex strongly permeates, and justifies, the ideas of actors involved in championing transnational interventions in countries who are perceived to suffer from “weak” states and/or “limited statehood”. In other words, in addition to longstanding and well researched role of neoliberal norms that account for a shift to market mechanisms over traditional regulatory approaches (Bernstein 2001, Humphreys 2006, Dimitrov 2005), there also exists a parallel set of norms that champion the ways in which transnational actors from the Global North, conceive of the governance challenges facing countries in the Global South. Cashore and Nathan’s identify three distinct, but related, dimensions of a “good governance” norm complex. First, a heuristic framework has emerged that articulates five governance components with associated subcomponents: “capacity building” (resources, analytics, technical, administrative efficiency and law enforcement); governance procedural norms (inclusiveness, accountability and transparency); policy output adjudicating norms (equitable, coherent, balanced); credibility (authority and legitimacy) and outcomes (livelihoods, economic growth, and environment) (Figure 1). Second, there is a discernible normative motivation among transnational actors that each of the subcomponents is normatively important to champion in its own right. Third, there is a causal belief that any good governance subcomponent is synergistic with the others (ibid).



Source: Cashore and Nathan (2019 In Progress)

Cashore and Nathan identify two conceptual, paradoxical, and unresolvable challenges within this norm complex. A **“procedures and substance paradox”** refers to the expectation that ***substantive*** outcomes desired by transnational organizations ***before*** the intervention is unleashed - such as reducing deforestation or improving livelihoods, are at odds with the ***procedural*** reforms that are, by definition, supposed to identify substantive decisions following stakeholder input. A “**capacity building paradox” identifies a belief that** almost any type of capacity building effort will improve “good governance” and contribute to solving the myriad of problems facing developing countries,[[2]](#endnote-2) but shows that this is theoretically and empirically impossible. For example, when a target country is subject to institutional and/or inter agency conflict, then capacity building efforts could be expected to be as likely to exacerbate as much as resolve them. Likewise, influential, international capacity building efforts could be reasonably expected to undermine some substantive goals over others. The most obvious example is the goal of biodiversity conservation, which in almost all projects aiming at capacity development, including those from the World Bank, takes a back seat to economic growth infrastructure “capacity building” projects and associated asserted improvements in the local peoples’ livelihoods. Likewise the very formalization and legibility processes (Scott 1998) that underline capacity building efforts undermine, by their very nature, informal or traditional approaches. Cashore and Nathan (in progress) review empirical research on one or more good governance subcomponents to reveal the results of these paradoxes when transnational actors unleash finance or market driven transnational governance: simultaneous **countervailing, negative, and non-existent impacts.**[[3]](#endnote-3)

Cashore and Nathan argue that the good governance norm complex is so engrained within most transnational efforts, that when empirical evidence and “lessons learned” exercises reveals a range of countervailing, negative, or non-existent impacts that confront the norm complex’s causal beliefs, transnational actors treat this as a tool *design problem*. The result is either an adaptation of the existing tool, or the creation of a new one. This leads to the proliferation of finance and market driven policy interventions, and, subsequently, calls for “coherence” to address the fragmentation. This, in turn, leads to a series of tragic efforts to “learn from” previous experiments about how to achieve good governance reforms, rather than interrogating the inherent paradoxes of the norm complex itself.

1. **The Emergence of Finance and Market Driven Transnational Solutions for Promoting Good Governance in the Global South**

The emergence of, and interest in, finance and market driven initiatives as a means to foster “good governance” can be traced back as far as post-World War II liberal economic and development order. Recognition that unanticipated negative outcomes, such economic growth coinciding with loss of biodiversity conservation and community rights, (ARD 2004), led transnational organizations to champion (The World Bank 2017), or embed, social and environmental stewardship within their development models (Ruggie 2002). The result was a series of finance and market driven “policy experiments” that would come to reinforce key components of the good governance norm complex in including subcomponents such as “transparency”, and capacity building subcomponents including “rule of law”, enforcement, and technical knowledge.

Arguably nowhere is the manifestation of this orientation more prevalent than in efforts to promote good governance in domestic forest sectors around the world. Since the early 1980s a range of initiatives have been designed to improve forest sustainability governance through finance and market mechanisms. These include the International Tropical Timber Agreement (Gale 1998) which attempted to promote sustainable development through South to North trade flows. Importantly, following the failure of the Rio Earth Summit to agree to a global forest convention, the United Nations focused attention on generating international financing of through technology and knowledge transfer as a way to improve governance through “national forest programs” (UNGA 1992). The good governance norms were reinforced in the (non-binding) statement on global forest principles And, given the absence of a global forest convention, leading international and non-governmental organizations, led by the World Bank and the World Wide Fund for Nature championed “good governance reforms” by designing, and creating, the “Forest Stewardship Council” (FSC) certification system that turned to market incentives to foster compliance with economic, environmental and social goals and standards. The idea was that these “non-state market driven” NSMD systems that created economic incentives to fill “good governance” gaps (Bernstein and Cashore 2004, Toyne, O'Brien, and Nelson 2002, Brown 1999) that would be synergistic with the World Bank’s traditional approach to international finance incentives (Luttrell and Brown 2006).

However, following frustrations with the impacts of NSMD forest governance, transnational actors began to experiment with a range of efforts that “doubled down” on the use of financial and market driven tools. For much of the 2000s this took the form of public and private financing to promote “reduced emissions from deforestation and degradation” (REDD+)[[4]](#endnote-4) championed by the World Bank, the United Nations Environment Program and a number of countries’ development agencies. These were followed by legality verification that we probe below. And, recent frustrations over legality verification have now turned to “no deforestation commitments” along global supply chains (FAO 2005, Lawson 2014), which has been heralded as the latest and greatest way to promote good governance. Unlike previous collective institutional approaches, these latest efforts, reflecting 1980s boycott campaigns that were deemed at the time to fragmented to be effective, target individual firms to offer purchasing commitments to purchase goods that have not contributed to deforestation. This shift, in turn, to some market-driven organizations to completely changing their original missions. For instance, frustration over its previous approaches led the Tropical Forest Trust, which was originally created to help companies in Southeast Asia achieve compliance to the FSC through a “step wise” approach, broke from the FSC to focus on helping firm’s meet more targeted sustainability commitments (Moraga-Lewy 2016). Yet frustrations about impacts led to yet another “smarter” redesign (Moraga-Lewy 2018), including change its name to “Earth Worm” in January of 2019. The rationale was to reflect its learning about a new (and asserted “better”) approach for addressing biodiversity conservation and livelihoods (Gerhardt 2014). In particular, reflecting the good governance norm complex, the new mission statement that *synergies* that can be found among market-based supply chains that can, if an intervention is designed well, integrate deforestation, carbon emissions, challenges and social issues to achieve a “balance between human activities and the health of ecosystems.”[[5]](#endnote-5) Standing back, the result was an incremental shifting from collective forms of governance to focus on individual firm’s sustainability goals. However, what has remained highly durable during this time is the causal belief that the championing of finance and market driven policy tools is the most effective, and efficient, to promote, and find synergies among, the myriad of “good governance” sub components.

*Legality verification’s origins and approach*

The reason legality verification is an important tool with which to assess the preoccupation with finance and market driven policy interventions is that it draws on, but also eschews, different features of the “non-state market driven” (NSMD) global governance. Similar to “good forest governance” NSMD initiatives, LV’s mechanism for weeding out illegal logging is to track legal wood along global supply chains that cut across multiple jurisdictions. Likewise, third party auditing, rather than relying on traditional enforcement agencies, emerged as potential mechanism to assure legal compliance. However, unlike NSMD systems, LV efforts seek to improve the ability of developing country governments to enforce their own substantive policy requirements, explicitly reinforcing, rather than detracting from, national sovereignty. As a result, sovereign governments are increasingly allowing non-domestic organizations to act as auditors for environmental compliance, mirroring trends in other arenas such as election monitoring (Hyde 2011) which led Cashore and Stone to distinguish its negative impacts on “procedural” sovereignty” in ways that reinforced “substantive authority” (Cashore and Stone 2014).

|  |  |
| --- | --- |
| **Table 4.0: Key Features of Legality Verification as TBG** | |
| Role of Governments | Sovereignty reinforced, not challenged |
| Policy Scope | Relatively modest |
| Assurance | Third party verification |
| Role of Markets | Tracking along product supply chains |

Source: Cashore and Stone (2012), drawing on Cashore (2002)

The motivation for the transnational legality verification and its policy design orientation, are sometimes explained by frustration with previous transnational finance and market driven interventions designed to enhance a range of “good governance” components including fostering “sustainable development” by balancing economic growth, livelihood, and environmental outcomes (European Commission 2003b, Ituarte-Lima, McDermott, and Mulyani 2014), to promote enhanced governing legitimacy and authority, and to do so by fostering policy output adjudications, and that fostered transparency, inclusiveness and accountability. For these reasons those deliberating about how to design legality verification tools had significant concerns about the need to enhance, as previous efforts had attempted, a range of capacity subcomponents including financial resources, analytical skills, technical knowledge, administrative efficiency and law enforcement - by this time centered around the “anti-corruption” discourse (World Bank 2005). Owing to frustrations with past market and financial driven initiatives, legality verification was innovative because the substantive orientation was not focused on imposing behavioral requirements from international bodies, but on helping countries, perceived in some ways as “weak” owing to asserted capacity, limited statehood and other “governance gaps”, achieve compliance to their own domestic laws and policy. Hence, there was a greater emphasis on capacity building, alongside procedural and output components, that did not challenge the sovereign authority of nation states to decide what to do inside their own boarders.[[6]](#endnote-6) The result of this approach meant that there was much more interest on the part of a wide coalition of global forestry stakeholders not only because of frustration with previous efforts to fill governance gaps by promoting non-state market driven global forest certification systems (Bernstein and Cashore 2004, Gulbrandsen 2004c), but because it was seen as much more cooperative, creating economic incentives for legal firms to participate, and which tended to reinforce, rather than challenge, state authority.

Two different types of overall approaches have emerged under the LV banner. First, a rather approach targeted purchasing of legality verified products along global supply chains. All that was required was to have a single purchaser anywhere along a global complex value chain form buying to selling require legality verification as a condition of purchase for signals to revert all the way down the supply chain to producers. Specific efforts to target the multitude of possible influences included government and retailer procurement policies. However, the most influential and effective target was at the level of a good produced in one region, and then at the point of transfer into a domestic market. The idea was that if legislation could be passed forbidding the importation of illegally harvested wood by a country or set of countries whose consumers purchased wood products forbidding the importation of illegally harvested wood products, this would create incentives for producers in the South to follow laws in the countries in which they operate. The logic for supporting these legislation is that it would also provide economic relief for domestic producers in the North whose prices were being deflating owing to (cheaper) illegally produced products from foreign competitors. Policy designers therefore worked to develop legislation banning illegal imports, which created a number of “Bootleggers and Baptists” coalitions that resulted in legislation banning importation of illegal wood products in the US, the EU, and Australia (Australian Government 2012, USDA 2013, European Commission 2003a, 2005, 2010b). (These efforts were also supported, indirectly, with a range of financing efforts through relevant development agencies designed to assist producer countries and companies in meeting these new requirements).

*The FLEGT experiment*

The second variation of legality verification, known as FLEGT, was championed by the European Union, following their frustration with forest certification systems limited impacts, including a basket of both finance and market driven incentives. The FLEGT program targeted special access to EU markets to countries who in engaged in bi-national “voluntary partnership agreements” (VPAs) in which states institutionalized a range of good governance components, especially around capacity building, enforcement as well as a range of governance principles subcomponents especially around transparency, inclusionary processes and balance. The VPA efforts also came with significant EU funds for capacity building and technology transfer (Kiss, Castro, and Newcombe 2002, Scotland and Ludwig 2002).

The VPAs include deliberations between the EU and host country over what constitutes legal timber, and on how to establish legality assurance systems. The producer state assumes responsibility for assuring the legal source and production of wood, and of granting a license to each consignment of verified as legal when exported to the EU (European Commission 2010a, 2005). The EU assists the partner states in developing their timber tracking and licensing systems by providing technical knowledge and resources justified as strengthening their governance capacity. These approaches are asserted to have a positive influence on transparency and inclusion by reducing “corruption”, which generally refers to a wide range of behaviors, including private “side payments” (Amacher 2006, Dickerson 2002) and that are asserted to lead to adverse social and economic impacts (Wiersum and Oijen 2010). Importantly, policy designers did link the FLEGT/VPA approach to the narrower class of instruments focused on simply banning illegal logging imports agreeing that that VPA countries’ will be issued an export license that will be considered to have met all requirements of the EUTR (European Commission 2010a).[[7]](#endnote-7) The comprehensive orientation of the FLEGT approach led a number of non-governmental environmental and development organizations to become increasingly involved in, and supportive (Buckrell 2005).

1. **Cambodia**

Cambodia has long been the target of transnational efforts designed to improve “good governance” in in general, and its forest sector in particular.

While the initial focus of what/whose initial focus? was geared towards providing technical knowledge and resources to champion democratic constitutional reforms, frustrations about their results led transnational actors to champion financing and market-driven mechanisms with which to promote “good governance” by filling some type of asserted “gap” in one more of the good governance norm complex’ subcomponents (The World Bank 2017). It is, for these reasons,that any assessment of FLEGT as reinforcing a “good governance norm complex” must first be located in ahistorical sweep of broader phenomenon in which market and finance driven experiments came to orient, and dominate, such transnational efforts.

*How the good governance norms complex in Cambodia reinforced transnational finance and market driven instruments*

Interest in promoting good governance in Cambodia in general, and its forest sector, in particular, can be traced as far as the provisional UN government of 1991-1993 (Blunt 2005, Chandler 2003, Kato 2000). The UN involvement is key, since it marked one of the first attempts to foster the promotion of liberal multi-party democracies (RGC 2010, Miller 2004). The result, following the UN government, was Cambodia holding its first democratic elections in 1993.. Over time, a one-party state has resulted in significant authority in some arenas, but also contested and fragmented governance in others (Morgenbesser 2017, Turton 2004, Chandler 2003).

The political and economic system introduced in Cambodia in the beginning of the 1990s, was no doubt a product of the neoliberal “Washington consensus” and led transnational organizations such as the World Bank and country level donor agencies link integration of economic development efforts with good governance reforms (e.g. World Bank 1989 – I have the reference). The rationale for this integration was the failure of the World Bank's structural adjustment programs during the 1980s that mainly relied on the market as an alternative to the state. Towards the end of the 1980s, however, there was a new focus on facilitating the market through effective legislation and otherwise by ensuring good governance (Hydén, 2007; Cheema et al., 2007; Shah and Shah, 2006, Nathan and Boon 2007). According to the Washington Consensus, there was still a belief in the private market to ensuring economic growth and social improvements but the rationale was that both would benefit from, and reinforce, state capacity and legitimacy. The expectation was that an increasingly wealthier population, - and in particular the private market - would be able to demand social services that an increasingly resource rich state would be able to provide. As a result “effectiveness problems” what effectiveness problems???? were expected to have been resolved (Aubut 2004).[[8]](#endnote-8) Accordingly, UNTAC’s aimed at assisting Cambodia to (re) “build its institutions and restoring capacity for good governance” (Hughes 1996: 73) and to “create a new Cambodian government with domestic and international legitimacy,” (Hughes 1996: 80) and other of the specific good governance subcomponents such as “rule of law” and “economic growth.” Cambodia therefore started out with a constitution based on liberal democracy and a market based economy within the framework of a constitutional monarchy (RGC constitution).

However, only few years later, it was clear to most that while Cambodia’s macro-economic growth rates from 1995 and up till today became one of the fastest in the world …. [insert as footnote: from 1995 to 2017 Cambodia’s GDP grew by an average of 7.7 percent per year, ranked the 6th fastest domestic of all countries in the world (World Bank 2018b).[[9]](#endnote-9) Today, a greater share of income stems from value added clothing manufacturing, diversified agriculture product, and rubber, with the bulk of these exported to lucrative foreign markets (World Bank 2018a).] .[[10]](#endnote-10) ]

…..it’s political system was heading towards what can in reality best be described as a one-party authoritative state. At the same time its economic growth model, which has not changed much since then, could be criticized for contributing to a “wild west” approach in which global capital is so welcomed that it trumps consideration of local peoples’ access to resources as well as of the environment. The result, is what some refer to as “land grabbing” as capital has flocked in to promote mining, exploit forest resources, and convert forests to other extractive or commercial uses. The result is that Cambodia’s deforestation rate is one of the highest globally (NASA Earth Observatory 2017). Meanwhile, and arguably as a result, inequality is rampant, with the absolute number of individuals ranked as “near-poor” (*ibid*) in spite of a considerable decline in estimated poverty rates, are still estimated to be as high as 4.5 out of approximately 16 million people

*The good governance design challenge: synergizing growth with equality, balance, and capacity*

In response to these countervailing impacts of success in supporting transnational investment and financing between economic growth on the one hand, and livelihoods and environment, on the other hand, led some applied scholars, working on a number of good governance sub component indicators, have reinforced the good governance norm complex by focusing on *design* challenges of extant efforts to attract global capital. For instance, Sothan (2018) argued, following research on government financial aid versus private sector engagement, that transnational efforts ought to focus governments in creating “good governance” principles, such as low taxes and a legal enabling environment emphasizing “open trade” in order to attract capital, rather than directly providing “foreign aid” which he found to have negative long run economic impacts. Likewise others targeted domestic and transnational efforts to identify which crops and sectors, such as rice might foster the greatest likelihood of economic diversification, enhanced manufacturing, and employment even in times of “weak governance” (Chhair and Ung 2004). In part for these reasons, in the 1990s Cambodia “took steps to liberalize the environment for private sector investment” (Grimsditch 2016) which “included reducing restrictions on foreign companies and passing measures to make it easier for companies to register and receive necessary licenses, permits and approvals” (ibid). These initiatives have been credited with improving Cambodia’s capacity to rely on the private market? in which “all sectors of the economy are open to private investment” including “agriculture, real estate, energy, transport, communication, manufacturing and extractive industries” (Grimsditch 2016). Reinforcing these efforts, Hang (2013) found that constraints to growth can be traced back to good governance challenges including “corruption, lack of dispute settlement mechanisms, limited law enforcement and tax administration.”

At the same time, efforts to build such “strength” in these governance sub components in turn, created inverse impacts on other good governance subcomponents such as equality and participation. For example, Grimsditch (2016) found that capacity enhancing of these pro-growth initiatives led to “land conflicts” resulting from “violations of the rights of farmers and indigenous people”. Likewise, resource capacity to build roads and other infrastructure projects caused biodiversity loss (Arcus Foundation 2019) and “unmitigated” “environmental damage” following mining practices contaminating ground water (Grimsditch 2016). This capacity also led to worker disputes over compensation and working conditions (*ibid*). Likewise, widespread research has found that economic growth not only resulted in increased inequality (VOA Cambodia 2013) but in strengthening authority through the emergence of powerful elites (Ear 2017).

Yet, even these critiques revert the good governance norm complex as the answer, rather than the cause, of these countervailing impacts. For example Transparency International (2017) targets “corruption” as a technical issue in Cambodia which focusing on specific good governance subcomponents, will shift negative outcomes into positive ones. Grimsditch (2016) focuses attention on designing trade liberalization policies being designed more carefully such that “irresponsible” investment” can be weeded out that will enable synergies with human rights, poverty alleviation and biodiversity conservation. Others champion “global peace indexes” and, more specifically, “freedom of assembly” rules, to create synergies (VOA Cambodia 2013). Likewise Lopez (2002) argues that while international aid was originally designed well to foster positive change, its current approach has worsened because it has focused “economic development … on the unsustainable exploitation of these resources” in ways that were “inequitable” and that “*excluded* the majority of the population from the country’s forests, fisheries, and arable areas.”[[11]](#endnote-11) It is for these reasons that Ear (2017) targets the *design* “ of massive aid on development and governance” which, he argues, requires greater attention to “accountability”, “political stability”, “effectiveness”, “rule of law” and the “control of corruption” to overcome undesired outcomes.

Yet designers face a conundrum in doing so as tensions existing between the asserted need to help improve a “weak state” by focusing on capacity and “rule of law”, with the need to stop a “strong state” that is able to turn to the military police “to violently put down garment worker strikes” (VOA Cambodia 2013). In fact, Marshall and Thul (2012) find that dynamics between strong and weak has practical importance in addressing key countervailing aspects of the good governance norm complex. For instance, Cambodia can be simultaneously a strong state with authority to act, but a “weak state” in that it has ambiguous and overlapping contradictory jurisdictions. They found, for example, that while laws “[forbid] economic land concessions greater than 10,000 hectares” the Cambodian government can overrule these laws, which explains their granting of “China’s Union Group” 99-year lease on 36,000 owing to a “2008 royal decree” which can trump statutory land use designations. To be sure, some applied scholarship explicitly confronts the paradoxes of the norm complex itself. For example, Rock (2013) finds that Cambodia “opted for a set of democratic institutions with a strong majoritarian bias that privilege efficiency and accountability ***over*** representativeness.” He finds empirical evidence that policy design necessarily results in different, and inverse relationships between subcomponent goals. Likewise Hak, McAndrew and Neef (2018) find that “economic land concessions (ELCs)” while a *key tool for growth*, “worked to legitimize local land exclusions in the name of national economic development”. These resulting design efforts to create synergies through “communal land titling processes” were they found, unable “to provide indigenous villagers with effective legal mechanisms to counteract ELCs and land encroachment by internal migrants”. Moreover, the emergence of “cash crops” that flow from these growth-oriented efforts, they found also undermined cultural practices by contributing “to livelihood and land use transitions from a reliance on forest resources in 2003 to a dependence on cash crops in 2012” (ibid). Despite these exceptions, the vast majority of applied scholarship in Cambodia treats inverse relationships among so many of the good governance norm complex’ sub components as a design challenge or capacity issue.

Indeed, the bias towards design challenges has been reinforced in Cambodia by transnational efforts to improve domestic governance through the introduction of the “Sustainable Development Goals” (SDGs). The 17 SDGs, which were deemed better designed than their predecessors, the Millennium Development Goals (MDGs), and are expected to work in synergistically with each other. For these reasons practitioners and scholars are now focused on how to best “implement them” without interrogating their possible inherent paradoxes (Cashore et al. 2019). These global dimensions also play out in the Cambodian discourse. For example, with leader Hun Sen has explained that the government would better design economic land concession policies to create synergies with livelihoods and equality by drawing on, and implementing, the SDGs (VOA Cambodia 2013).

*Transnational Influence on The Cambodian Forest Sector*

Please be aware that the following interventions belong to the Period 1995-1999

This broader context about the way in which transnational actors have both attempted to address, and been relied upon, to promote growth through “good governance” is key for understanding how transnational actors, including the World Bank came to focus on improving challenges in Cambodia’s forest sector over the last 20 years (Billon 2002, 2000). Similar to broad macro efforts, the World Bank championed “sustainable forest management” in Cambodia with which to foster economic growth in ways that attempted to create synergies among a variety of other good governance subcomponents including administrative resources with which to promote local rights to resources, legality compliance initiatives under the auspices of “anti-corruption” efforts, and forest dependent communities through poverty alleviation. This backdrop explains the World Bank’s support for large-scale timber concessions, which were asserted to foster economic growth, sustained yield forest management, and generate stable sources of tax revenues.

However, resulting empirical evidence found that this approach had countervailing impacts on other good governance components, such as livelihoods, transparency, inclusion, and balance. In particular, “cut and run” practices of the companies, conflicts between the concessions and local people, much resulting from the marginalization of rural forest dependent communities , and unexplained declines in national tax revenues from the concessions, the World Bank and other transnational actors shifted course. Facing pressure from the World Bank and other donors, the Cambodia Government, initiated a ban on all logging in forest concessions (Government of Cambodia 2001b). The idea was to stop overharvesting, and “buy time” for more responsible development that would take into account sustainable yields and incorporate other good governance components. The result, however, was that the vast majority of timber companies, facing no prospects for meaningful fibre supply, vacated the country.

Please be aware that the following interventions belong to the Period 1999-2005

These developments caused the transnational actors to head back to the design drawing board (World Bank 2004). In the beginning 2000s, the World Bank and other donors encouraged the Cambodia government to reform the forest administrative system (Government of Cambodia 2001a, RGC 2000, 2001d, b, c, 2002) by fostering “good governance” subcomponents of “inclusion”, “openness” and “transparency” and “balance” by “decentralization” including as a means to include local communities in forest management (Government of Cambodia 2003, Nathan and Boon 2003).[[12]](#endnote-12)

Please be aware that the following interventions belong to the period 2005 onwards

However, this simply reinforced the broader growth project by the Cambodian government itself granting land concessions to real estate and non-forest extractive industries which resulted the conversion of forest land to industrial agriculture, rubber, and other plantations (RGC 2005)resulting in significant and widespread further clearing forests (NASA Earth Observatory 2017). This, in turn, and in contradiction to the ideas behind the forest reforms, led to widespread evictions of local communities (Milne and Mahanty 2017). Hence, the economic concessions possibly focused on diversifying growth beyond forests, resulting in worsened environmental and livelihood problems.

These trends are exacerbated by contradictory rules and jurisdictional competition. For example, although the Ministry of Agriculture, Forestry, and Fishery (MAFF) has the formal authority to grant economic concessions following bureaucratic reforms in the beginning of the 2000s.[[13]](#endnote-13) However the Ministry of Environment (MoE) and other agencies have ignored this formal requirement by also granting formal concessions (Neef and Oldenburg 2014). And, while concessions granting by a Minister requires approval from the relevant Provincial Governors and the Prime Minister’s office, there is no approval process from lower levels of the Ministries, such as MAFF’s Forest Administration, which is responsible for overseeing the development of management plans for production forest, or MoE’s general department, which is responsible for protected forest (RGC 2005). Similarly, local administrative units within MAFF and MoE dealing with forest plans and forest protection profoundly lacked financial resources, and technical knowledge, to ensure enforce whatever problems the government agencies deemed important.

As a result, concessions granting has conflicted with, and trumped, local forestry plans and protected areas designations.

Perhaps even more challenging is the informal and formal role the Military plays in contributing to interagency conflict and confusion. For example, local military units have regularly been found to overrule the Forest Administration and local communities by simply entering and clearing community forests for their own gain (Un and So 2009, Schoenberger 2017).[[14]](#endnote-14) At the same time this fragmentation story is countervailed by the constitutional provisions common in many developing countries that all forest land belongs to the state. As a result, efforts to promote economic growth through large scale concessions generally have greater institutional authority than efforts to foster local claims to customary rights (RGC 2001a, Schoenberger 2017).

The following is from 2005 onwards, up til today!!!!

In response, local and international organizations, UN agencies, and development partners promote a range of reforms designed to better promote a range of good governance subcomponents. Currently, the key target is to promote balance, equity, and livelihoods to stem the negative impacts of non-timber concessions on forest dependent communities and the environment (Human Rights High Commissioner 2012).

This is during the period of 1990-1999:

However, eventually the emphasis turned to “rule of law” issue such as loss of tax revenues from the “cut and run” timber concessions that undermined capacity building, eliminating contradictory rules and “corruption” as the key culprit in the negative effects.

This is from the end of 2000’s:

These efforts were joined by transnational environmental groups, who as early as in the 1990s but increasingly so during the last decades came to assert key culprits in deforestation and forest degradation as largely owing to “illegal activity”,

Recently, for instance, EIA 2018 has allegedly documented that Vietnam imports timber (round wood) from Cambodia in spite of the fact that such traffic is against Cambodian laws.

(EIA 2018). And [iben insert reference] have argued that 90% of all wood harvested in Cambodia is “illegal”. The prescription is to redesign, - this time focusing on the “the rule of law” component of the good governance norm complex.

*The emergence of “illegal logging” as the latest governance challenge*

t is against this backdrop of historical events that demonstrate the paradox of assuming synergies of a good governance norm complex, that we can now turn to assessing transnational influence in targeted specifically in current governance initiatives in Cambodia’s forest sector. A key pivotal moment that targeted the international community around Cambodia’s forest challenges can be traced back to 1999, when the World Bank led a group of transnational donors who drew on traditional financing models to foster “rule of law” aimed at reducing forest crimes through international monitoring and reporting, championing state revenues, and fostering “sustained yield” logging practices intensified (World Bank 2004). The challenge however, was that scholars and practitioners have asserted that the behavior of both the Cambodia military and government officials, could be characterized as “extralegal” in some sense since they were asserted to have received economic benefits to resource owing to their privileged positions (EIA 2018, Global 2007, Global Witness 2015). The result was ambiguity over what “crime” or type of “corruption” was to be weeded out. While the Cambodia government was enticed to support the initiative from the outset because of the promise of millions of dollars in “structural adjustment” financing, the imposition of a transnational advocacy organization, Global Witness, as the “independent” international auditor created significant conflict about just what “crimes” were to be reduced, and just what problem definitions were to be ameliorated. When Global Witness focused on the ways in which government officials benefitted economically from forest concessions, the Cambodian government ended up banishing Global Witness from the country (Luttrell and Brown 2006). The result was the imposition of “caretaker” auditor, and the collapse of the agreement following the first five-year commitment period. Yet, the lessons “learned” for improving each initiative reinforced the good governance norm complex by turned to “design” challenges with the “independent variable” (i.e. the intervention itself), and/or, asserted synergies among dependent variable subcomponents, including widespread norms that enforcement of the “rule of law” would create synergistic environmental, livelihood, and economic growth outcomes.

Indeed, the “lessons drawn” from transnational organizations’ efforts to improve good governance in Cambodia over with REDD+, also help understand the approach and design to subsequent approaches to legality verification. For example, a leading transnational organization that emphasizes market-oriented approaches to foster local rights to resources and biodiversity conservation, Forest trends (Forest Trends 2015) posited their belief that the inability of transnational REDD+ financing efforts to address Cambodia’s land and resource challenges was owing the government’s failure in developing “… legitimate and transparent institutions” that they further posited, that if strengthening would lead to the “[rewarding of]… legitimate agriculture that is practiced within existing laws– and penalizing producers that harvest natural forests under false pretexts” (Tucker 2015). They further posited the belief thatfostering these “rule of law” reforms would be synergistic with a range of outcomes, as in they would lead to “*better* land use planning and, ultimately, sustainable forestry practices” (Tucker 2015).

Analyses such as these that point to synergies, also helped create the justification for global legality verification initiatives in Cambodia, since they were treated as “prerequisites” for the REDD+ experiment to be effective, rather than interrogating the turn toward financial and market mechanisms as the preferred transnational tool, and the paradoxes inherent in the good governance norm complex itself. These findings, however, are inconsistent with research on the multiple and contradictory effects of REDD+ as an approach that finds that “many REDD+ schemes appear to have fueled social conflict” while having minimal or no impacts on climate emissions themselves (Milne et al. 2018) which they argue stems, in part, from “the prevalence of overly simplified codification systems for REDD+ implementation that mismatch targeted societies and landscapes” and a “ consequent dissonance between REDD+ objectives and outcomes” that render REDD+ as a “blunt as tool for change” unlikely to provide a ‘solution’ in the global climate regime

*Legality Verification as Reinforcing the Good Governance Norm*

Our broad historical sweep of finance and market driven transnational interventions in the Cambodia case demonstrates the way in which a good governance norm complex has treated the subcomponents as largely synergistic, and any inverse and countervailing or negative outcomes as a problem with the intervention itself, which, tragically, has now led to the confusing proliferation, and building, of a range of interventions and unintended consequences. Yet as our framework and review makes clear, looking for new good governance designs that change focus from one good governance component to another is unlikely to overcome the procedural/substantive and capacity building paradoxes noted above.

*Plausible logics*

The most recent transnational financing and market-based initiative that has been suggested for Cambodia is legality verification in the form of FLEGT. Currently there are not any fixed plans for the EU and Cambodia to enter into a VPA, but there have been initial negotiations. While the negotiations have stalled for some years, environmental organizations are currently calling for the EU and Cambodia to start negotiations again. According to them, the success of Vietnam’s VPA depends on the possibility to stop illegal import from Cambodia and to stop rent-seeking behaviors by officials at both sides of the border between the two countries. They, thus see the VPA as a policy tool to ensure good governance and the “rule of law” in timber trade.

However, given our review, a number of discernible “plausible impacts” would be expected to occur if FLEGT was to be fully implemented in the Cambodian context. First, at the broadest level, we would expect that even if FLEGT should succeed in improving the “rule of law” in the forest sector, this would be likely to have “no impact” on the non-timber concessions and therefore no impact on improving the plight of forest dependent peoples or on reducing deforestation and forest degradation. And, unless literally billions of financing to Cambodia were made permanent, it is hard to see how legality verification would improve the capacity and enforcement challenges where previous large-scale World Bank financing efforts had been unable. Likewise, even if FLEGT would manage to improve democratic legitimacy of forest governance due to stakeholder engagement in government processes, there would be a risk that this would add to the Cambodian Government’s authoritarian regime. And, likewise, there is reason to believe that enhanced capacity for enforcing the “rule of law” would simply reinforce a neo-liberal regime that has been asserted to cause so many of the inequality and inclusionary processes fostered by a range of transnational actors. Indeed, where FLEGT has gained traction such as in Indonesia, concerns are that it has made it easier for large multinational firms to meet requirements, further reducing the ability of small timber companies to compete. Thus, legality verification tend to benefit larger companies, which is not good in an equality perspective (Obidzinski, Dermawan, Andrianto, and Hernawan 2014)

Similarly, given the inter-agency and intra-jurisdictional challenges that go the heart of domestic governance issue in Cambodia, combined with the strength of the one-party state, it would be as plausible, if not more, to expect legality verification efforts to reinforce the challenges rather than resolve them by supporting, say, the forest administration over other agencies.

It seems possible that FLEGT through its attempts of creating transparency through establishing timber tracking systems might indeed foster new options for rent seeking behaviors by the authorities, since supply chain tracking in Cambodia might produce more “nodes” along the supply chain where documents are handled by government officers. They will get more opportunities for rent-seeking behaviors every time they have to give a permission, a license, or a stamp in a document to a citizen or a private company who want to prove that their timber is from legal source. (Sikor and To 2011) have argued that this a likely outcome of timber tracking and licensing systems in Vietnam.

Finally, we argued that LV has its characteristics and strength in tracking along product supply chains. Much of Cambodia’s illegal logging is driven by demands from Vietnam and China, to cover their demands for wood to meet the demands of the US and the EU for flooring and furniture. Based on this, a Cambodian VPA could be expected to make a difference both for timber legality in Cambodia and Vietnam. In the Cambodian case, however, there are several complications. First, (since transnational actors’ requirements have resulted in) several logging and export bans, there is no significant export of timber from Cambodia that can be tracked. Second, the LV logic is based on the presence of a private forest sector to be regulated by the state, but *formally* (again partly as a result of transnational actors’ interventions that resulted in logging companies packing their tents), there is no wood producing private sector in Cambodia that can be regulated. Third, if, as often asserted, government officials themselves play an important role in illegal export to Vietnam through their rent-seeking behaviors, then a government sanctioned licensing system will carry less weight, since it will then be an instrument for government officers mainly to control government officers themselves. A positive effect of the VPAs could possibly be that it could put a pressure on transnational actors as well as on the Cambodian Government to allow logging and export of round wood again and in this way reduce “illegal” logging and related trade in Cambodia. While legalizing export of round wood would hardly make a difference in terms of reducing deforestation and forest degradation, it could at least lead to increased transparency in the sector in the longer term.

*Beyond Cambodia*

The example of LV’s more complex impacts is also born out by a range of research elsewhere in the region and the world, the findings of which have reinforced a myriad of positive, negative, countervailing and non-existent impacts of the legality verification efforts to promote “good governance” has played out elsewhere to be sure. For example (Obidzinski, Dermawan, Andrianto, Komarudin, et al. 2014) and (Lesniewska and McDermott 2014) find that in Indonesia, in spite of attempts in Indonesia to organize small-scale timber operators into cooperatives for group certification, good governance through legality verification tended to, where it had any impact at all, reinforce the substantive interests of large-scale private sector timber operators on behalf of small-scale operators is highlighted again and again throughout this issue. Others found that from Indonesia (de Jong et al. 2014) to Cameroon (Carodenuto et al. 2014)to Ghana (Carlsen 2014) small scale operators tend to conduct “informal” or “grey” operations LV may work to marginalize their livelihoods. In fact, (Lesniewska and McDermott 2014) argue that the main concern of Indonesia’s forest dependent rural communities are the processes through which state-allocated land concessions are facilitating the conversion of forests to palm oil plantations. These “legal” concessions expand on the expense of local communities’ access to forests and land as well as on the expense of natural forest, and therefore can serve to threaten local communities’ livelihoods. Yet others have found inverse relationship owing to the role of LV in generating broader stakeholder engagement in sub-Saharan Africa (Overdevest and Zeitlin 2014a, Overdevest and Zeitlin 2014b), even if substantive impacts have been modest.[[15]](#endnote-15) Likewise Carodenuto and Cashore (2018) found that VPA designs in Cameroon failed to take into account historical patterns and political conflicts among competing environment, livelihood and economic growth goals.

*Evidence to date*

It is against this a backdrop that transnational efforts turned to legality verification in general, and FLEGT in particular, with which to find an improved and more appropriate transnational design.

In 2010 MAFF officials notified the Cambodia EU delegation in Cambodia of their expressed interest in entering negotiations with EU about a Voluntary Partnership Agreement. As a result, representatives from the Cambodian Forest Administration took part in VPA pre-negotiations, but by 2013, these talks ended, largely owing to frustration over the pace of deliberations, increasingly scarce resources, and growing skepticism that legality verification was going to achieve promised results, talks petered out. In 2015, the EU made an attempt to restart negotiations (CHAN 2015), but these efforts also fell short of what organizers had hoped (European Forest Institute 2018, Gan 2017). In 2019, some advocacy organizations have again raised the idea that that EU should restart VPA negotiations with Cambodia, given the EU recently signed a VPA with neighboring Vietnam. However, the EU has yet to attempt to restart negotiations. It is unclear whether these “fits and starts” are owing to recognition that that FLEGT might not be able to manage the inherent paradoxes, or whether transnational priorities have been placed elsewhere. What is clear from our review that any efforts to develop FLEGT that have a substantive orientation designed to improve either the environment or forest dependent peoples, must first identify the inevitable inverse impacts, as well as clear plausible logics for why these efforts might trump the causes of the degradation and culture in the first place.

1. **Conclusion**

Our review of the promotion of good governance among transnationally oriented organizations and institutions, and the role of non-state actors championing these through the use of financial and market mechanisms in particular, adds a new dimension to existing empirical and theoretical accounts of emergence, fragmentation, and effects: that an ***engrained “good governance”*** norm complex (which are reinforced by beliefs that it is an appropriate *ends*, and a *belief* in a set of causal expectations about its potential as a *means* to achieve other desired results), may explain, in part, four decades of transnational efforts that turn to finance and market driven interventions to improve asserted and perceived governance challenges in the Global South. The result has been that both scholars who are intrigued by the role of finance, markets, and private governance initiatives as filling governance gaps, and practitioners advancing these tools in the name of improving the plight of the people and their government in a targeted country, tend to view empirical research on countervailing, negative, or non-existent impacts within various subcomponents of the dependent variable, as less about positive and synergistic assumptions that go to the heart of the good governance norm complex, but rather that problems with the independent variable: i.e. instrument design.

At the scholarly level, this phenomenon resulted in scholars such as Risse (ibid: 27), to develop generalizable propositions about the factors that those designing transnational interventions would need to take into account to be effective. He focuses on those cases where the “the reality of governance in areas of limited statehood” (ibid: 29) , [requires] some type of “multilevel governance, including shared sovereignty.”[[16]](#endnote-16) From this, he posits that to be influential, transnational and non-state interventions must provide “functional equivalents” to the state and that “the contribution of non-state actors to the provision of collective goodshas to substitute for governance by governments rather than to complement it*” (ibid: 18).* Likewise Börzel and Risse (2010) and Borzel et al. (2011) argue that public-private cooperation and private self-regulation is “only effective” under the shadow of hierarchy, which can, in *some cases*, trigger a ‘race to the top’ concerning social and environmental standards. While laudable for teasing out the conditions through which transnational governance might be employed, the overall project is to focus on those factors that lead to positive effects, rather than interrogating the inevitable range of positive, negative, countervailing and non-existent effects reviewed above. It is in part for these reasons that the concepts of concepts “weak” and “strong” and “limited statehood” have been criticized for conflating (developing) states together in spite of the vast differences in capacity and state structure (Jackson 1996, Kolstø 2006, Dunn 2010, Ezrow and Frantz 2013). This, in turn, has led to call for more sophisticated theorization of state dynamics than these concepts allow for such as the concept “areas of limited statehood”. At the practitioner level this has led to a “doubling down” on the need to formalize good governance as a way to create synergies among environment, livelihoods, and economic growth (Tucker 2015)*,* rather than interrogating the contradictions in the synergies themselves.

At the practitioner level, our contribution calls for a fundamental rethinking of the Faustian bargain implicit in the norm complex characterized by an active presence of intervening to solve problems, the ? and the design of new experiments is favoured and championed rather than problem solving themselves . To be sure, recent evaluation impacts are starting to crack the surfaces of the good governance norm complex. For example, a recent World Bank’s evaluation of their “good governance” efforts in Cambodia found that “projects aiming at strengthening accountability should pay more attention to the political economy” which requires “a better understanding of the underlying structures of power, interests, incentives, and institutions that could enable or prevent changes is needed” . However, ultimately they doubled down on reinforcing subcomponent synergies and technical tinkering (The World Bank Not dated) by asserting that such a political economy approach would led to recommendations that the “Ministry of Finance’s support to the decentralization agenda”, that it would have reinforced the need for the Ministry of Labor to provide “incentives regarding the sustainability of the Arbitration Council”, and the Ministry of Interior support “strong, independent monitoring by civil society organizations” which, they argue would have led to more synergistic and “ realistic and strategic objectives” (The World Bank 2009).

Clearly, if transnational efforts are to have more traction, more work needs to be done to unpack explanations for this norm complex. Recognition of this calls for a return to the important work on causal beliefs (Haas 1992, Sabatier and Jenkins-Smith 1993) held among epistemic communities – in this case applied good governance scholars and practitioners – as explaining why so many efforts to make weak states stronger assume that attention to any one of the components of good governance reviewed above is likely to have a positive effects in improving the strength of states to governance, when, the empirical evidence finds a much more complicated relationship. What we can say is that the role of beliefs about causality, rather than causality themselves, presents a critically important research question that is most certainly relevant for placing in context whether, when, and how, transnational finance and market driven interventions might simply exacerbate, rather than address, specified environmental, social, and economic challenges. Failure to do so means that good governance scholars may be culprits in a myth creating system that is sitting on empirical and theoretical quicksand. Doing ? requires expanding a largely managerial and technical approach to managing good governance to include political and policy analysis capacity more consistent with the complex, dynamic, and historical world in which specific interventions must be situated (Howlett and Ramesh 2017, Kekez, Howlett, and Ramesh Forthcoming 2019)

Hence, research tells us that in many cases, it is not a question about tinkering to solve the game of whack-a-mole (reference needed), but that the game itself is not winnable – rather there are inherent impacts, from whether transparency is applied to those making the adjudication (knowledge of those involved in transparent) from transparency in honest opinions (that emerges from confidentiality i.e. lack of transparency about who are involved); to on the ground negative impacts of extractive industries on biodiversity that the ‘balance’ norms of good governance cannot wish away (Auld and Gulbrandsen 2010, Ackerman and Heinzerling 2004, Tribe 1972) nor formal inclusion of disempowered communities can resolve (Rodriguez-Garavito 2010, Turner et al. 2003) . These themes have also been raised by students of transnational financing and market driven governance seeking to assess their ability to improve governance and critical challenges.

Over all we can make three broad conclusions. First, much more careful attention is required to assessing, and reflecting, on how the particular historical governance challenges in a particular country might be influenced by the particular form of transnational governance intervention in question. Second, and related, the broader literature that largely assumes that procedural ‘good governance’ reforms such as transparency, openness, and inclusion will generally improve legitimacy and therefore State capacity in relation to solving substantial problems, must be reoriented to assess the conditions through which legitimacy itself is either irrelevant, or could be exacerbated as much as improved. Third, scholars and strategists must draw on promising extant research be open to assessing how a range of ‘on the ground’ problems from deforestation to degradation to livelihoods, might be shaped, both positively and negatively from transnational governance. Doing so may also open up creative strategic doors for reversing asserted negative effects, rather than biasing research to assuming positive outcomes (Humphreys et al. 2017).

What is clear from this review is that greater theoretical, conceptual, empirical and causal attention must be placed on carefully distinguishing different types of international influences (the independent variables) but also the types of governance challenges they are being championed to address (the dependent variables). It is simply not the case that substantive policies will all move in the same direction with a particular type of global market mechanism. For all these reasons what is clear is that we need much more nuanced attention to the design of global interventions, the nature of domestic challenges, and potential for either making things worse, making them better, or having no effect at all. Failure to apply such a systematic framework may help explain why, despite 30 years of well-intended efforts to promote good governance and on the ground problem solving such as deforestation and degradation, there is a growing frustration about the slow pace of change in domestic settings.

Second, strategists must be careful to identify more clearly whether, when and how, the proposed form of TBR might ameliorate or exacerbate, different types of challenges. Finally, it should not be assumed, as the vast majority of literature on ‘good governance’ does that attention to norms of transparency, inclusion and openness, will necessarily lead to enhanced legitimacy within a domestic context. In the case of Cambodia, it does not seem immediately obvious that such requirements within LV systems will have any discernible effect on stakeholder and citizen expectations of legitimacy of either state. In fact, as efforts to promote these norms may exacerbate conflict, we could easily expect legitimacy to be undermined, as enhanced. Hence, the importance of unpacking these complex processes is critically important for those seeking to draw on these claims to foster good governance in a non-western domestic setting of a purported ‘weak state’ (Boesen and Kjaer 2006). We also note that there may be a bias in measuring the dependent variable in both directions. Supporters might point to multi-stakeholder deliberations in hotel rooms as examples of empowerment when the vast majority of members of civil society has no idea that they occurred, while detractors might argue that these efforts reinforce global extractive capital, when they have no influence either way.

What we can say is that it is highly problematic that 100s of millions of dollars of funding have been spent on finance and market driven “good governance” interventions that are based on implausible causal expectations and that are inconsistent with empirical evidence and complex historical processes Correcting this efforts requires the development of a framework with which to theorize, and empirically assess the range of potential positive, negative, or non-existent impacts that could be expected to occur given the nature of the historically derived domestic challenges in question, and the type of market or financial mechanisms being drawn on to shape domestic standards. To be sure, there is no easy way out of these challenges, which are everywhere, but prescribing courses of action that ignore them are particularly pernicious for reinforcing the ineffectiveness, and corresponding fragmentation, of finance and market driven policy interventions.

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**Endnotes**

1. While both projects promote “good governance” in some way, the former reinforces, while the latter challenges, sovereignty Westphalian authority as the only game in town. The result is that the former draws on “policy mixes” for identifying practical ways in which non-state actors might provide functional help, while the latter requires attention to the interaction of public and private governance “spheres” (Cashore et all 2019). [↑](#endnote-ref-1)
2. Woo, Ramesh and Howlett’s work on capacity focuses especially on the need to move capacity beyond technical considerations to build “legitimacy”. In this sense, their research confronts the good governance norm complex because it does not assume that a focus on technical issues usually the focus of design questions will necessarily improve legitimacy. Still, they largely assume a positive relationship between developing the capacity to build legitimacy, and building more effective and influential tools – when our point is that there are always going to be countervailing impacts. Howlett’s recent work reinforces or emphasis on the need to challenge the synergistic assumptions by calling attention to the “Darkside of Policy Design” (Howlett 2019). Where we differ is that it is not so much there are “bad outcomes” per se, which are almost always have some type of normative subjective evaluation that gives rise to particular problem definitions in the first place, but rather, policy tools will always have a range of countervailing and negative impacts from what policy designers had intended. For example, we show below that much of the good governance norm complex has reinforced growth over biodiversity conservation or local rights, even when the formal problem definition used to justify the financial or market driven instrument was to address biodiversity or local rights. Our analysis does not find that focusing on economic growth over biodiversity is “dark” per se, since individual and collective values will view these outcomes quite differently. Our point is the current good governance norm complex has hidden these complex relationships that, if instrument design is to better address specified problems, need to be made transparent. opened up. [↑](#endnote-ref-2)
3. We thank Michael Howlett for expanding our initial focus on epistemic communities to include instrument constituencies and discourse coalitions. Cashore and Nathan (*ibid)* posit that the norm complex emerges for three related reasons. First, longstanding international relations literature has found that *epistemic communities* of scientific experts over particular problems such as, ocean pollution or fisheries loss, can be subject to the coalescing of a normative consensus about what type of interventions are most appropriate, even when “forward looking projections” would have offered a more nuanced account (Haas 1992, Sabatier and Jenkins-Smith 1993). Second, and similarly, *instrument communities* emerge around specific tools or interventions that can lead to beliefs in the importance of building the intervention, even when evidence that the intervention itself is failing to have the effects that originated its motivation in the first place (Mukherjee and Howlett 2015).Third, and related, *discourse coalitions* can also emerge not only around problem definitions, but also around “cause and effect” normative orientation, such as looking for generalizable/ahistorical “drivers of deforestation” or “scaling up” projects that reinforce the good governance “check box” heuristic approach. [↑](#endnote-ref-3)
4. See (Nathan and Pasgaard 2017, Bradley 2011, Biddulph 2011, Yeang 2010, Un 2010, Milne et al. 2018). [↑](#endnote-ref-4)
5. Earthworm explains in their rebranding that they still emphasize “working … closely with its members (brands, companies and producers of commodities ranging from palm oil to rubber, timber, cocoa, minerals and pulp and paper) to implement change that works for both people and the environment” (Earthworm 2019) Our thanks to Nora Moraga-Lewy for her helpful feedback on this section [↑](#endnote-ref-5)
6. However, as Cashore and Stone (2014) have clarified, LV does not embrace national sovereignty concerning policy mechanisms. They are decidedly determined by a range of transnational evaluations that ultimately influence whether, and how global tracking of legal products will occur. Instead, LV only needs to find a way to remove illegal supply (or a portion of it) from global forest products. LV efforts differ from certification in that they encourage national governments to develop wide-ranging standards governing their own environmental, social, and economic priorities. [↑](#endnote-ref-6)
7. [↑](#endnote-ref-7)
8. As Aubut (Aubut) elaborates, “In combination with the post-Washington Consensus and the focus on institutions and public sector management in the 1990s, a new policy agenda focusing on a more selective allocation of aid based on the quality of governance …in recipient countries has come to be regarded by many as the key to aid *effectiveness problem*. Indeed, many donors, both multilateral and bilateral, have pledged to favour potential aid recipients having a better quality of governance.” (italics added). [↑](#endnote-ref-8)
9. Clothing, agricultural, and rubber were main sources of exports during this time (World Bank 2018a). [↑](#endnote-ref-9)
10. For example, poverty rates defined as “XX”, dropped from 47.8% in 2007 to 13.5% in 2014 The World Bank (2018c) [↑](#endnote-ref-10)
11. To be sure, they do acknowledge that “reforms will face strong resistance from the elites, as institutional and social change may prove politically and economically onerous.” [↑](#endnote-ref-11)
12. For example, the Sub-decree on Community Forestry was designed, and justified, to enable “communities to manage, use, and benefit from forest resources, to support the Government’s policies of poverty alleviation and decentralization, to providing an effective means for Community Forestry groups to participate in forest related activities, and contribute to sustainable management of forest resources” (Government of Cambodia 2003). [↑](#endnote-ref-12)
13. The Sub-Decree also stipulates that Provincial/Municipal Governors can grant concessions smaller than 1,000 hectares, but this option was terminated in 2008 (RGC 2005, Neef and Oldenburg 2014). [↑](#endnote-ref-13)
14. Community forest is forest transferred to local community groups for shared management with the FA or in protected areas: MoE for periods of 15 years (RGC 2003). [↑](#endnote-ref-14)
15. (Bollen and Ozinga 2013) do argue that LV in six countries has resulted in a consolidation, “not dilution” of environmental and social sustainability requirements. [↑](#endnote-ref-15)
16. Risse (ibid: 27). According to (Risse 2011a):3, the concept of limited statehood needs to be strictly distinguished from the way in which notions of weak and fragile, failing or failed statehood are used in the literature. Thus, weak states are sometimes defined as states that has external sovereignty but lack internal sovereignty (Jackson 1996), or as states that have high scores on indicators such as corruption, human right violations, etc. (www). Sometimes they are equaled with fragile states that are close to a melt-down a sometimes, they are just seen as states that lack power to govern, The concept of weak states has been criticized, however for lumping very different types of States together. Thus, for instance, Vietnam could be characterized both as a weak state and as a strong state depending on perspective. Areas of limited statehood, on the contrary, concern those parts of a country in which central authorities (governments) lack the ability to implement and enforce rules and decisions or in which the legitimate monopoly over the means of violence is lacking, at least temporarily. There is, in other words, a governance gap which is due to a lack of “shadow of hierarchy.” The ability to enforce rules or control means of violence can be restricted along various dimensions: (1) Territorial; 2) Sectoral/policy areas, 3) Social, that is, with regard to specific parts of the population, and 4) Temporal ( (Risse and Lehmkuhl 2006) 4-5). It follows that the opposite of “limited statehood” is not “unlimited” but consolidated statehood, that is, those areas of a country in which the state is able to make and enforce central decisions.” It also follows that areas of limited statehood can be found in countries in the South as well as in countries in the North. [↑](#endnote-ref-16)