

Chapter title: Business and Human Rights: The Efficacy of Voluntary Standards, Sustainability Certifications, and Ethical Labels

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Abstract: Voluntary sustainability standards (VSS) are social and environmental criteria developed by coalitions of non-state actors. Farms, factories, mines, fisheries, and other private sector entities pay a third-party auditor to verify compliance and sell their certified products to brands, buyers, retailers, and consumers with an ethical label signaling improved sustainability impacts. VSS are sometimes called sustainability certificates, multi-stakeholder initiatives, private regulation, or ethical labels. Examples include the Forest Stewardship Council (FSC), the Roundtable on Sustainable Palm Oil (RSPO), and Fairtrade. Since the late 1990s, VSS have proliferated and are now used in diverse industries and most countries. Do voluntary standards, certifications, and labels promote human rights? If so, how? This chapter highlights the mixed and highly context-specific findings about effectiveness, identifies the conditions under which VSS are more likely to be effective, and examines key debates about their current and potential role in promoting human rights.

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Business and Human Rights: Voluntary Standards, Certifications, and Labels

<a> Introduction

Karl Polanyi (1944) famously argued that when industrialization and globalization lengthen supply chains, the economic activities that comprise them are more easily “disembedded” from the fabric of social life. As market transactions become distant and opaque, it is more challenging for individuals or businesses to sanction unsavory economic activities, such as labor exploitation, forced labor, child labor, unsafe working conditions, indecent work, union suppression, or inadequate pay. Similarly, states find it more challenging to constrain the impact of business on human rights when companies outsource, offshore, and subcontract overseas. Perhaps it is unsurprising, then, that during the last wave of globalization (1994-2018) a new innovation emerged to constrain the impact of business on human rights: voluntary sustainability standards (VSS).

VSS offer the opportunity for market actors—such as suppliers, buyers, retailers, brands, and end consumers—to “opt in” to a regulatory regime that protects human rights to a greater extent than the state. Typically, they focus on the rights of workers (hired employees) and the wellbeing of smallholder farmers. Most also aim to promote environmental stewardship, and thus use the term “sustainability” to capture this dual mission of promoting human rights and the environment. Are VSS effective in promoting human rights in the context of business and globalized supply chains? This chapter shows that, although VSS deliver some benefits in select contexts—and likely generate some positive spillover effects—VSS largely fall short of achieving their objectives.

This chapter first describes the concept and origin of VSS. It then highlights some of the challenges to assessing whether or not VSS have been effective in promoting human rights. After offering illustrations of how VSS have at times been effective or ineffective in achieving human rights objectives, it argues that the impact of VSS is highly context specific. Thus, the majority of this chapter examines the conditions under which VSS are more likely to be successful in promoting human rights. It focuses on eight sets of factors that can impact effectiveness: 1) governance, representation, and the standards-setting process; 2) standards’ content, scope, and implementation; 3) auditing; 4) suppliers’ experiences; 5) behavior of buyers and brands; 6) consumer discretion and demand; 7) supplier country conditions; and 8) relationships among relevant actors.

Given these findings, the next section asks what role VSS can and should play in promoting human rights. The discussion highlights arguments on both sides of three debates: First, are VSS more impactful in democratizing regulatory decision-making or catalyzing corporate interests? Second, do VSS fill gaps in public regulation and/or do they shape the public regulations themselves? And third, would social justice and human rights objectives be better served by replacing VSS or by reforming them? The chapter closes with suggestions for future research.

<a> What are voluntary sustainability standards?

VSS are also referred to as private regulation (Bartley 2018), sustainability certificates (Marx 2018), sustainability standards (Fair World Project et al. 2020), eco-labels (van der Ven 2019),

non-state market-driven governance systems (Cashore 2002; Bernstein and Cashore 2007; Auld et al. 2009), regulatory standard-setting schemes (Abbott and Snidal 2009), private governance organizations (Fransen 2011), international accountability standards (Gilbert et al. 2011), voluntary sustainability standards systems (Tayleur et al. 2018), certification schemes (Tayleur et al. 2018), transnational private regulation (Bartley 2007), transnational market-driven regulatory governance initiatives (Grabs 2020), and multi-stakeholder initiatives (Brès et al. 2019). In his chapter in this volume, Andreas Rasche offers a detailed discussion of these terms in the section aptly titled “what’s in a name.” In general, these terms refer to initiatives that non-state actors, such as non-profit organizations (NGOs) and business associations, have developed outside of state and international legal systems to create social and/or environmental standards for private sector activities and certify the businesses that comply with them. Typically, these initiatives are governed by a “multi-stakeholder” body that includes representatives of various sectors, target global value chains, require participating businesses to hire a third-party independent auditor to verify compliance, and use a label to communicate compliance to consumers. Although many scholars have developed nuanced analytical frameworks that categorize these activities by form (participatory makeup and governance structure), scope (their reach in terms of product, industry or geography), and function (the role they are seeking to perform) (Bernstein and Cashore 2007; Gilbert et al. 2011; Baumann-Pauly et al. 2016; Baumann-Pauly et al. 2017; Lambin and Thorlackson 2018), there is no complete taxonomy for these initiatives (Gilbert et al. 2011).

In this chapter, “VSS” refers to the standards, verification, and certification systems created by coalitions of non-state actors for voluntary adoption by businesses aiming to communicate commitment to social, environmental, fair trade, or sustainability objectives. Commonly recognized examples include the Forest Stewardship Council (FSC), the Roundtable on Sustainable Palm Oil (RSPO), Fairtrade, Rainforest Alliance, and Social Accountability International (SAI) SA800. “VSS” does not refer to initiatives that companies develop for themselves, that states develop for the private sector, or that industries develop for the purpose of improving quality or marketing.

VSS emerged in the 1990s in response to a perceived failure of public governance (Gulbrandsen 2004). For many decades, social movement groups, human rights activists, and economic justice advocates had been pressuring states and international organizations, including the World Trade Organization (WTO) and International Labour Organization (ILO) to develop and enforce regulations to improve the impact of domestic and international business activity on society and the environment (MSI 2020). Frustrated with the public policy process and concerned about the impact that the late 1990s wave of globalization (marked by an increase in international trade and financial market liberalization) would have on human rights, civil society began appealing directly to corporations and consumers (Ruggie 2013). This wave of naming and shaming campaigns against corporations (see Frank De Bakker, this volume) and “political” or “ethical” consumer movements (Micheletti 2003; Barnet et al. 2011) ushered in a new era of private (non-state) voluntary (non-legally binding) regulation.

Some of the human rights issues targeted by VSS standards include: wage theft, sexual harassment and discrimination, human trafficking, child labor, forced labor, unsafe working conditions, un- or under-paid overtime, and union-busting. Labels that identify as “fair trade” focus on economic

rights.¹ The most rigorous VSS offer workers a fair price/wage, a fund for community projects, access to low interest pre-financing for business investments, and an advance commitment from buyers or long-term work contracts. They also verify compliance with ILO conventions; equal treatment of all workers; support for a formalized collective structure; paid leaves for vacation, maternity, sickness; retirement savings; inclusion of marginalized groups; capacity building; respect for indigenous culture; democratic decision-making; safe working conditions; freedom from hazardous substances; and the opportunity to fairly process grievances (see Fair World Project et al. 2020). In providing these benefits and ensuring these freedoms, VSS aim to provide more robust support for human rights than what is offered by the state.

By the 2000s, certifications had become the “gold standard” of non-state regulation (MSI 2020). Businesses began leveraging certifications to signal social and/or environmental commitments or capabilities (Potoski and Prakash 2005) and consumers relied on labels to guide them in “voting with their dollar” (Bostrom et al. 2019). VSS rapidly proliferated. According to Ecolabel Index, the number of VSS has grown by almost 400% between 1989 and 2016 (Marx 2018). Additionally, individual companies (such as Starbucks and Nespresso) created their own standards for social and environmental engagement, verifying compliance either internally or through third-party auditing (Giuliani et al. 2017; Thorlakson 2018; Thorlakson et al. 2018). In several cases, the proliferation of own-brand initiatives resulted in industry organizations consolidating initiatives to form a single, sector-specific standard (e.g., EuroGAP) (Lambin and Thorlakson 2018).

As VSS proliferated, the more rigorous certifications became concerned about other initiatives’ lack of rigorous standards, independent evaluation, benefits, impact assessment, and transparency (Fair World Project et al. 2020). In 2002, they established the International Social and Environmental Accreditation and Labeling (ISEAL) Alliance to improve VSS impact, credibility, uptake, and effectiveness by identifying best practices in social and environmental standards-setting and verification. ISEAL is now a standards-setting organization for standards setting organizations (Fransen 2015; Lambin and Thorlakson 2018).

Today, hundreds of VSS operate worldwide (Ecolabel Index 2020, Meier et al. 2020). Social auditing is an 80 billion (USD) industry (AFL-CIO 2013). Over 10,000 companies participate in VSS, including 13 of the world’s 20 largest companies by revenue (MSI 2020). About 80% set standards for a single industry while 20% operate in multiple industries. Approximately 40% certify agriculture, forestry and fishing; 27.5% mining and energy; 15% consumer goods, 7.5% industrials, 5% consumer services, and 2.5% technology. Most industry-specific VSS focus on agriculture, forestry, fishing, mining, energy, or consumer goods (MSI 2020). Crops are certified in 133 countries, covering about 1.1% of global cropland, increasing at an annual rate of 11% from 2000 to 2012 (Tayleur et al. 2018). The four crops with the greatest certified area, in descending order, are cotton, cocoa, oil palm, and coffee (Meier et al. 2020), though sector-specific market penetration figures vary. In coffee, for example, estimates range from 21% (Meier et al. 2020) to 40-50% of the global cropland (Lernoud et al. 2017). The result of this proliferation may best be

¹ “Fair trade” is the concept, movement, products, organizations, or businesses promoting the fair trade vision. “Fairtrade” is the certification managed by Fairtrade International (Raynolds and Bennett 2015, p. 5-6).

described as a crowded, fragmented field that collectively generates a ubiquitous presence (Bartley 2018).

Most VSS address both social and environmental goals (Auld 2014). These goals are often implicitly or explicitly associated with human rights. Labels identifying with fair trade, for example, aim to support the movement's mission to "transform international trade from a vehicle of exploitation to an avenue of empowerment" by "fostering higher prices and wages, stable markets and employment, better work conditions and environmental sustainability" in the Global South and "bolstering more equitable trade policies, business models and consumption practices" in the Global North (Raynolds and Bennett 2015, pp. 3). This objective most closely aligns with economic rights issues such as income, profitability, and business opportunities. Yet, fair trade certification also addresses social rights, such as working and living conditions, rights and benefits, community development, and environmental issues, such as conservation, biodiversity, and waste management (SCSKASC 2012; Fair World Project et al. 2020).

Similarly, although the Rainforest Alliance was established to address environmental issues, its standards address workers' rights (Reinecke et al. 2012). Most VSS address both process rights, such as freedom of association and collective bargaining, and outcome rights, such as wages, hours, benefits, health, safety, child labor and other issues related to working conditions (Berliner et al. 2015). They aim to regulate the rules that govern private sector activities (*de jure*) as well as the practices taking place in the business setting (*de facto*) (Berliner et al. 2015). Many VSS have publicly articulated the ways in which their objectives relate to the Universal Declaration of Human Rights, the International Labor Organization's Core Conventions, and the 2015 Sustainable Development Goals (Marx and Wouters 2018).

<a> Are VSS effective in promoting human rights?

 Challenges to assessing effectiveness

Evaluating the effectiveness of VSS in promoting human rights is challenging for several reasons. First, data are often incomplete, inaccurate, or biased because labor rights and working conditions are notoriously difficult to document and measure (Berliner et al., 2015; MSI 2020). Second, impact studies require a counterfactual control group which can introduce selection bias and questions of validity (DeFries et al. 2017). Third, impact studies are often designed and implemented by outside experts or leaders and may not include or empower rights holders to contribute to research design and implementation in ways that would improve data reliability (MSI 2020). Fourth, meta studies and literature reviews are hampered by inconsistent approaches to conceptualizing and measuring dependent variables (Berliner et al. 2015; DeFries et al. 2017). Many draw on certification uptake statistics and audit reports which may not reflect real implementation on the ground (Grabs 2020). Fifth, research efforts are uneven in the attention they give to various sectors, certifications, crops, or outcomes. While many studies examine the impact of VSS on smallholder coffee farmers, for example, few examine the experiences of small biofuel producers (Blackman and Rivera 2011; Loconto and Dankers 2014; DeFries et al. 2017). Finally, many studies make context specific arguments and warn against generalization (SCKASC 2012; Terstappen et al. 2013; Loconto and Dankers 2014). For example, a review of fair trade impact assessments finds that although farmers' and workers' lived experiences with certifications may

be significantly shaped by their gender, data are often not disaggregated in this way, leading to generalizations that may not hold true for a significant portion of intended beneficiaries (Terstappen et al. 2013). While several authors (e.g., Grabs 2020) have developed theoretical frameworks for analyzing the effectiveness of VSS in particular contexts, no approach has been applied in enough contexts (sectors, regions, etc.) to reliably assess the overall effectiveness of VSS on promoting human rights (Blackman and River 2011; Milder et al. 2015).

 Illustrations of effectiveness and ineffectiveness

Interestingly, VSS rarely study their own effects. In the last five years, only five of the 20 longest-established VSS have directly evaluated their impacts on rights holders (MSI 2020). There is, however, a substantial body of rigorous, context-specific third-party and academic research evaluating VSS effectiveness. Unequivocally, these studies show that even the most credible VSS are not guaranteed to generate positive impacts on human rights in any given contexts. However, their results illustrate that VSS can, in some contexts, be effective in promoting select aspects of human rights. This section examines the often mixed, inconclusive, highly nuanced, and context specific findings about the effectiveness of VSS in promoting economic human rights—the most common dependent variable in this body of research (Seidman 2007; Vinodkumar and Bhasi 2011). This section aims to highlight significant contributions to this literature.

VSS impact on economic rights varies greatly. In a meta study of publications on the impact of VSS on tropical commodities producers' incomes, for example, researchers found that of the 347 response variables related to income only 34% showed positive impacts while 58% showed no impact and 8% reported negative impact (e.g., investing more on certification fees than is recouped with higher prices) (DeFries, et. al. 2017). Similarly, a meta-analysis of 11 studies found that only four offered credible evidence that VSS generate income benefits, and among those four only two suggested those outcomes were consistent (Blackman and Rivera 2011). Chiputwa et al. (2015) conclude that although Utz standards have no impact, Fairtrade standards reduce poverty among smallholder coffee farmers in Uganda. VSS impacts on the livelihood of smallholder farmers at the production level are still widely debated (Hidayat et al. 2015). Studies generate a range of results, including positive economic effects (Bacon 2005; Becchetti and Costantino 2008; Beuchelt and Zeller 2011), positive social effects (Giovannucci et al. 2008; Elder et al. 2012), insignificant effects (Bacon et al. 2008; Valkila 2009; Ruben and Fort 2012), mixed results (Pirrotte, Pleyers, and Poncelet 2006), highly contingent impacts (Schleifer and Sun 2020), and negative impacts (Beall 2012). Studies of VSS impact poverty reduction and farmers' wellbeing generate mixed results (Mitiku et al. 2017). Ruben et al. (2009) and Terstappen et al. (2013) argue that increases in income are possible but not guaranteed. Oya et al., (2017) find that certification schemes have unclear impact on the economic wellbeing of farmers and workers because they increase prices and income from produce, but not wages or total household income. Multiple meta reviews of studies of VSS in Latin America show likelihood of higher prices, but argue that those prices do not necessarily translate to higher household incomes (Ruben et al. 2009; Barham and Weber 2012; Ruben and Fort 2012). Yet, recent studies from countries in Africa show more significant farmer income gains (Jena et al., 2012; Kleemann et al., 2014; Chiputwa et al., 2015). Mitiku et al. (2017) suggest that some certifications are likely to elicit higher prices but decrease yields, cancelling out this effect, and that in some contexts gains are disproportionately routed to businesses in consumer

countries. Overall, meta studies and literature reviews suggest that VSS can, but are not overwhelmingly likely to have a positive impact on livelihoods and income.

Studies focused on other aspects of labor, employment, and poverty generate similarly inconsistent findings. SCKASC (2012) find some evidence of improvement in working and living conditions; Terstappen et al. (2013) find evidence of job creation; and Schleifer and Sun's (2020) review points to positive—though weak and highly context dependent—impacts on food security. Gilbert et al. (2011) identify several studies pointing to the limited efficacy of auditing as a tool for identifying noncompliance and incentivizing shifts in factory safety (e.g., Locke et al. 2009; Stigzelius and Mark-Herbert 2009). Finally, Distelhorst and Locke (2018) identify several studies that show noncompliant export factories remain in supply chains after multiple audits and corrective exercises (Locke 2013; Distelhorst et al. 2015).

Across issue areas and methodologies, impact studies consistently find that VSS effectiveness in promoting human rights is highly context specific. Thus, a substantial portion of the literature on VSS and human rights focuses not on *whether* VSS are effective but *the conditions under which* VSS are more likely to positively or negatively affect human rights.

<a> Under what conditions are VSS more likely to promote human rights?

Many studies find that there are multiple conditions required for a VSS to be more likely to succeed. For example, Mena and Palazzo (2012) and Baumann-Pauly et al. (2017) argue that VSS success is contingent on the development of input legitimacy (the extent to which the standards are credibly justified) and output legitimacy (the extent to which the standards and processes effectively address issues). Marx (2013) points to the importance of decision-making processes (such as standards-setting), verification procedures (such as auditing), and dispute management (allowing interested parties to hold organizations to account after decisions are reached). He argues that each is necessary, none is sufficient, and when all are present they constitute a “strong institutional design” that improves the chances of VSS success. Bartley et al. (2015) find that VSS are more likely to succeed when there are supportive linkages between local actors and global systems, rules can constrain behavior in the face of alternative opportunities, key constituencies align, and the structures of consumption and production are conducive to longer term relationships and structures of accountability. Each of the following eight sections examines a factor likely to impact VSS effectiveness.

 Governance, representation, and the standards-setting process

VSS governance structures and decision-making processes may have a significant impact on effectiveness (Hachez and Wouters 2011). The literature on input legitimacy highlights the many benefits of inclusion, procedural fairness, consensual orientation, and transparency (Baumann-Pauly et al. 2017). By including the target beneficiary group in governance, VSS are more likely to cultivate sense of fairness and justice (Bain 2010), prioritize the needs of beneficiaries (Brown 2008; Jaffee and Howard 2010), enhance competitiveness (Locke 2013), align global perspectives with local values (Gilbert and Rache 2007), and, in the broadest sense, improve the democratic nature of multilayered governance (Gilbert et al. 2011). The individuals representing beneficiary

groups in high-level governance may also benefit from capacity building, negotiating experience, and empowerment (Cohen et al. 2008).

Despite these benefits, studies find that the majority of VSS do not aim to include workers and smallholder farmers—the intended beneficiary groups (Bennett 2017a). When they do, they are rarely given enough votes or power to alter policy outcomes (Bennett 2017a). Among the VSS that publicly disclose information about the composition of their primary decision-making body, 98% include both industry and civil society; 40% include government representatives; 13% include affected populations, and 33% include other representatives, such as other VSS, independent consultants, and socially responsible investors (MSI 2020). The commonly-used terms “multi-stakeholder initiative” or “roundtable” are thus largely misleading (Ponte 2014). As Bartley et al. (2015) point out, while it is tempting to simply attribute label proliferation to diverse perspectives on the pursuit of sustainability goals, “it is crucial to remember that these opinions are rooted in particular interests and agendas” (Bartley et al. 2015, p. 216). Industry-led initiatives much less likely than NGOs to transform private sector activity in ways that conflict with profit-oriented interests.

There are several challenges to input legitimacy. First is the question of which groups to include and in what proportion. “Civil society” is a broad constituency often without any clearly defined boundaries (MSI 2020). Stakeholders commonly disagree about which groups should be included (Sending and Neumann 2006; Brown 2008; Brown et al. 2012). Similarly, “producers,” “workers,” “labor organizers,” and “smallholder farmers” are diverse groups without clear leadership structures, and cannot be adequately represented by a few or a single person (Sutton 2013; Conscione 2014). Additionally, not all stakeholder groups are equally equipped or resourced to advocate for their constituencies—being at the table does not necessarily mean having bargaining power (Blagescu et al. 2005; Brown 2008; Ponte 2014; Baumann-Pauly et al. 2017; MSI 2020). At worst, stakeholders with greater resources and experience, such as corporations, may co-opt less powerful stakeholders, working against their interests, crowding out alternative value systems, reifying traditional power relationships, and limiting more radical transformations of human rights in business while touting the organization’s legitimacy (Busch and Bain 2004; O’Rourke 2006; Jaffee and Howard 2009; Jaffee 2010; Cheyns 2014; Cheyns and Riisgaard 2014; Nelson and Tallontire 2014).

Unfortunately, VSS that are more democratic and inclusive are likely to reach decisions more slowly, putting them at a disadvantage compared to the more streamlined VSS which are often aligned with industry interests (Ponte 2014; MSI 2020). ISEAL aims to improve governance norms through its Code of Good Practice for Setting Social and Environmental Standards which advocates for the identification of stakeholders via stakeholder mapping; the development of a strategy to proactively approach and involve the identified stakeholders; the bringing together of several major stakeholders on a more or less equal representative basis in a decision-making process; the opening up of the decision-making process to all interested parties not initially identified in the first round of the stakeholder mapping; and the deployment of consensus-based decision making in order to ensure that all interests are included. Research suggests these efforts are worthwhile: aligning with marginalized groups can improve participation and reduce motivation to launch a competing organization (Sippl 2020); balancing stakeholder interests can help maintain CSO participation (MSI 2020); including non-industry groups can improve

enforcement (Bartley 2018) and reduce discrimination against small players and actors in the South (Ponte 2014); and including rights holders can improve the chances of creating regulations aligned with their interests (Hachez and Wouters 2011).

 Standards content and scope

A standard is a written, technical document that defines the characteristics that must be present in a product or service and the procedures to control the conformity of the product or service to these characteristics (Fair World Project et al. 2020, 120). “Ambitious” standards aim to significantly alter the conventional course of behavior and/or outcomes (Kok et al. 2019). However, a substantial literature focuses on how content may be “weak” and scope “limited.” Studies show that standards may fail to address key issues; be weaker than applicable local, sectoral, or national laws; fall short of human rights standards; use ambiguous language that presents the opportunity for poor implementation; rely on resources or information that are unavailable; make key standards optional; target issues that are narrow or tangential to the root of human rights abuses; impose burdens on the target beneficiary groups; shift responsibility to less reliable actors; or apply standards to a limited aspect of business or supply chains (Mares 2010; Bennett 2019; Kok et al. 2019; MSI 2020).

Research shows that VSS may misrepresent the strength of their standards, creating a gap between claims and reality, a phenomenon called “decoupling” (Jamali 2010; MacLean and Behnam 2010; Aravind and Christmann 2011; Bromley and Powell 2012; Bird et al. 2019). VSS suggest that their standards are sufficient for addressing the most important human rights abuses in the industries or supply chains in which they operate by using the terms “sustainable,” “fair,” “equitable,” or “responsible” in their name or mission, even though the best possible outcomes would fall short of those goals (MSI 2020). Similarly, they may boast “decent,” or “living” wages or “fair” minimum prices even though the standard does not require the wage to exceed the legal minimum (Bennett 2018; NCP 2019) or sets a minimum price which may not cover the costs of production (Fair World Project et al. 2020). Standards for freedom of association are also regularly decoupled or misrepresented, as VSS often allow management to organize and control worker committees and company unions, limiting workers’ right to organize, bargain, and strike (Seidman 2007; Anner 2012; Bartley and Egels-Zandén 2016). A third area in which standards are commonly weak is dispute settlement and grievance mechanisms (Marx 2013). When auditors report non-compliances, VSS may provide opportunities for remedy or find the severity of a number of issues does not meet a threshold for withholding certification (Connelley et al. 2011; Payne et al. 2013). One literature review and empirical analysis of 18 VSS concludes that most grievance mechanisms fail to meet internationally recognized criteria for effective access to remedy, are not communicated in languages or formats accessible to rights holders (if communicated at all), and lack clear timelines, processes, and transparency protocols (MSI 2020).

Research on standard ambition argues that low standards are more likely to lead to high levels of participation but generate little impact, while high standards are more likely to generate significant impact, but only for few beneficiaries (Gulbrandsen 2005; Bernstein and Cashore 2007; Auld 2014). It also suggests that high, exclusive standards may incentivize the generation of new VSS that can broaden participation (Smith and Fischlein 2010; Auld 2014; Sippl 2020). Grabs (2020)

shows how some initially ambitious VSS that elicit high prices for certified goods may become weaker if the market cannot bear a greater supply of rigorous, certified products at that price point.

 Auditing

Auditing has traditionally relied upon a uniform check-list approach. Auditors visit a factory, farm, or other facility, and use a questionnaire to ensure that results are systematic and comparative. Studies find evidence of bribery, extortion, falsification of records, altering practices when auditors are present, and coaching workers to deceive auditors (Boiral 2003; Christmann and Taylor 2006; Bartley 2018). The majority of VSS do not require any unannounced audits (MSI 2020). Scholars suggest that this approach to auditing may overlook important structural issues unrelated to the checklists, provide few opportunities for target beneficiaries to voice concerns, lack relevance to unique local realities, minimize the role of power differentials between workers and managers, and fail to safeguard whistleblowers (Marx 2013; Koenig-Archibugi and MacDonald 2017; MSI 2020). The audits may do more to ensure that managerial systems are in place (e.g., statements in support of unions) than to evaluate whether or not they are being used, how, and to what end (Bartley 2018).

Several studies aim to identify the conditions under which audits are likely to generate valid results. Research shows that auditors are less likely to record non-compliances when they have audited the facility previously, when audit teams are less experienced or less trained, when audit teams are all male, and when audits are paid for by the entity being audited (Berliner and Prakash 2015; Marx and Wouters 2016; Short et al. 2016). Findings also suggest that audit firms are more likely to be lenient when they are selling other services to the entity being audited, when they lack internal controls, and when they are auditing subsidiaries and branded entities (as opposed to independent facilities) (Pierce and Toffel 2013). Other studies point to inadequate auditor training (Hugill et al. 2016). Human rights and labor standards may be less rigorously enforced than environmental and land standards (Bartley 2018). Bartley (2018) identifies three issues that underlie many of these auditing problems: brands demanding fast, cheap audits and hoping for compliance; a high bar of proof for non-compliance that enhances the risk of plausible deniability; and auditing firms that attract business with low fees then engage in bribery and extortion. Ironically, one positive externality of audit falsification is that workers, through the experience of being “coached” to give answers that signal compliance, learn what they should have been experiencing in a certified workplace (Bartley 2018). Despite the increasing evidence about the inherent limitations of VSS approaches to monitoring, most VSS have not adopted alternative modes of verification (MSI 2020).

 Suppliers’ experiences

Most VSS certify farms or facilities that produce goods for global supply chains. The anticipation of economic benefits often motivates suppliers to participate (e.g., Pyk and Hatab 2018). However, compliance typically requires significant investments, audit fees, and/or annual certifier fees (Mook and Overdevest 2019). Studies across contexts and VSS reveal evidence of a “sustainability-driven supplier squeeze” (Ponte 2019)—factories and farms increase the cost of production in order to comply with standards but are not guaranteed (and often do not receive) prices or wages commensurate with those investments (De Janvry et al. 2015; Grabs 2020). To

mitigate the risk of not finding a buyer for certified products, many producers adopt multiple certifications which increase the costs of compliance and auditing, a phenomenon called “audit fatigue” (Eberlein et al. 2014; Fransen et al. 2016; Grabs 2020; MSI 2020).

For the reasons described above, VSS disproportionately attract more privileged suppliers, as opposed to the most vulnerable. Several studies across different contexts have noted that VSS attract suppliers who already have market access, technical support, bureaucratic infrastructure, capital for investments, cooperative organization, or economies of scale, as well as individual smallholders who are already healthful, integrated into supply chains, or otherwise have most of what is required to become certified (Terstappen et al. 2013; Loconto and Dankers 2014; Garrett et al. 2016; Mook and Overdevest 2019). Suppliers may pay to certify their full crop or facility, but only receive a premium price for a portion of the crop or product. This can occur when there are too many certified products on the market or when a different certification becomes more in demand (Grabs 2020; Fair World Project et al. 2020; MSI 2020). For these reasons, many studies suggest that VSS are better suited to larger producers over small growers (Johannessen and Wilhite et al. 2010). Tayleur et al. (2018) found that commodity crop certifications (excluding organic) for example, were not typically concentrated in areas most in need of poverty alleviation and have poor coverage in 31 countries classified by the World Bank as low income.

Some suppliers may respond to the pressures and costs of certification by exploiting labor in ways that are difficult for auditors to detect (MSI 2020). Others may forgo certification and sell products on the conventional market, even if they are already in full compliance with VSS (Ponte 2002). For some groups, the exclusion of qualifying producers due to these types of barriers to entry diminish VSS as a credible signal of value (Kayser et al. 2018). VSS can improve producer access to certifications by providing training, networking opportunities, micro-loans, infrastructure, technology, and increased financial incentives (Brandi et al. 2015; Hidayat et al. 2015; Grabs 2020).

 Behavior of buyers and brands

In today’s globalized economy, many buyers can change suppliers with relative ease. To promote human rights, ideally buyers would leverage this dynamic by rewarding VSS-certified factories with long-term contracts and more business. This is sometimes the case, particularly in the apparel sector (Distelhorst and Locke 2018). However, this dynamic also allows buyers to pit suppliers against each other to produce goods at the lowest price. In this “race to the bottom,” suppliers may aim to lower the costs of production by compromising human rights, outsourcing to unsupervised subcontractors or homeworkers, and/or engaging in audit fraud (Locke 2013; NCP 2019; MSI 2020).

Some studies suggest that long-term, direct, durable, highly communicative, and mutually beneficial relationships between buyers and suppliers can improve the efficacy of VSS in promoting human rights (Locke 2013; Rueda et al. 2017; Bartley 2018). Other studies show how stable, trusting relationships may set the table for persuasion, exhortation, and less credible threats of exit, arguing that brands are less likely to punish a long-term partner for non-compliance (Amengual et al. 2019). Unfortunately, firms rarely exercise their power to terminate a contract because of non-compliance (Starmanns 2017; Bird et al. 2019), weak enforcement (Potoski and

Prakash 2005; Christmann and Taylor 2006; Aravind and Christmann 2011), or corruption (Montiel et al. 2012).

Whether buyers engage suppliers erratically or with long term contracts, “responsible purchasing practices” can influence human rights outcomes. Suppliers are more likely to comply with VSS when they have sufficient lead times, stable order volumes, and significant profit margins (Locke 2013; MSI 2020). They may also offer frequent, low-coercion enforcement measures (such as persuasion and problem-solving) and occasional, high-coercion measures (such as terminating orders from poor performers). Although retailers and brands may charge consumers higher prices for VSS certified products, they often do not pass profits on to the suppliers who incurred increased costs to obtain them. This value capture is referred to as “green accumulation” (Ponte 2019; Grabs 2020). Although responsible purchasing practices—particularly those of large brands and retailers, or “lead firms”—play an important role in improving human rights in global business (Bartley et al. 2015; Grabs 2020), they are not common and have thus been dubbed “the “missing middle” in incentives for labor compliance (Amengual et al. 2019).

Of course, not all buyers aim to leverage VSS in the effort to improve human rights. Some firms engage VSS for the purpose of abdicating responsibility, shifting accountability, appeasing activists, and mitigating risk of reputational harm for workplace conditions that are dangerous, illegal, or otherwise problematic (Short et al. 2016; MSI 2020). Furthermore, many buyers limit due diligence to first tier suppliers and do not require those first tier firms to subcontract with and/or procure from other VSS certified entities (Bartley et al. 2015). This raises questions about which individuals and communities transnational corporations have the responsibility to respect and protect (Mares 2010).

 Consumer discretion and demand

Consumers’ demand for ethical goods is one of the driving forces in brand adoption of VSS and other public-facing signals of commitment to human rights (Bartley 2007; Seidman 2007; Potoski and Prakash 2009; Schuler and Christmann 2011; Berliner and Prakash 2012; Auld 2014; Rueda et al. 2017; Bostrom et al. 2019). However, consumer demand for ethical goods has not kept pace with the supply of VSS certified products. Low demand can depress the prices received by suppliers and/or diminish the portion of their goods sold under fair trade terms or with certificates of ethical verification (Valkila and Nygren 2010; Potts et al. 2014; Pyk and Hatab 2018; Mook and Overdevest 2019).

Consumer demand for ethical products is limited by several factors (Bartley et al. 2015). First, not all demographics are equally capable of or interested in shopping and paying for ethical products (Brown 2013). Second, consumer spending reflects multiple values which may compete with human rights, including personal health benefits, convenience, and the environment (Brown 2013; Guthman and Brown 2016). Third, consumers are more likely to “ earmark” some types of purchases (such as food) more than others (such as electronics) as appropriate sites of consumer activism (Zelizer 1997; Wheale and Hinton 2007; Brown 2013; Bennett 2017b). Fourth, consumers may be unable to adjudicate between rigorous, credible VSS and weak, dubious VSS, a problem exacerbated by label proliferation, lack of transparency, and media exposés that cast doubt on ethically-oriented products (Harbaugh et al. 2011; Glasbergen 2018; Fair World Project

et al. 2020). Increasing demand is not a panacea, however. Shifts in individual consumer behavior may not necessarily aggregate to the extent required to impact buyers' decision making (Willis and Schor 2012). Dramatic increases in demand may also destabilize the market for certified goods, increase the threat of new, less committed VSS entrants, or lead existing VSS to compete for market share by becoming more narrowly focused (Auld 2014).

 Supplier country conditions

A country's regime type, national regulations, and public policies can affect VSS capacity to promote human rights. Based on research in China and Indonesia, Bartley (2018) suggests that although certification uptake may be widespread under authoritarian regimes, auditing in this context may be less credible, as auditees are accustomed to falsification in the face of surveillance and auditors routinely accept weak assurances. Democratic countries, on the other hand, may have lower certification rates because strong civil society organizations may provide more oversight, making auditing more costly, time consuming, and contentious. In contexts of widespread government corruption, VSS may face more distrust and scrutiny and hold less credibility or value, resulting in diminished rates of certification (Montiel et al., 2012).

Regardless of regime type, VSS are more effective when governments provide the basic requirements for doing business. These include the rule of law, sanctioning of regulation violators, clear contract and property law, land use planning, economic data, redistribution policies that address economic marginalization, and national standards that are harmonized with international labor laws and human rights conventions (Loconto and Dankers 2014; Lambin et al. 2014, 2018). Perhaps unsurprisingly, studies suggest that VSS are less effective—especially with regard to collective rights and freedom of association—in labor repressive regimes (Amengual 2010; Anner 2017). Unfortunately, many global supply chains, especially in apparel, now locate production in such locations (Anner 2017). Host countries can also support consumer demand and market recognition of certifications by including them in public procurement policies (Loconto and Dankers 2014; see Williams-Elegbe, this volume) or recommending them as instruments of due diligence (Mares 2010; see McCorquodale, this volume).

 Relationships among relevant actors

Some studies argue that VSS effectiveness is impacted by the dynamics between VSS and external constituencies (Bartley et al. 2015; Fransen and Conzelmann 2015; Bird et al. 2019). Berliner et al. (2015) show how workers, governments, businesses, and consumers each act according to their own belief system and incentive structures, and that human rights outcomes depend on alignments among multiple powerful actors. They illustrate this argument by showing how VSS are more likely to be influenced by global social movements when movement activists align their naming and shaming campaigns with workers' unions demands, government regulatory priorities, and brands' reputation management strategies. Other scholars point to the ways in which industry structure, relationships among VSS organizations, and public-private relations can create or constrain VSS efficacy (Seidman 2007; Potoski and Prakash 2009; Berliner and Prakash 2012).

<a> What role can and should VSS play in promoting human rights?

Given the mixed impact of VSS on human rights and the complex constellation of factors required to improve those outcomes, three debates have emerged around the current and desired role of VSS in business governance. The first asks how VSS can impact the political economy of international business; the second examines the functional role of VSS within the broader system of private sector governance; the third interrogates alternative ways forward. This section describes perspectives on each side of these debates, though most scholars' views are more nuanced and less polarized than presented in this overview.

 Democratizing decision-making or catalyzing corporate interests?

VSS create and increase space for non-state actors to participate in global economic governance, contributing to a multilayered “web” of global economic governance (Bernstein and Cashore 2007; Locke 2013; Ruggie 2013). Which actors populate those spaces, for whom do these actors advocate, and how does the resulting constellation of power compare to that of the public framework comprised of nation-states, intergovernmental organizations, and international law? One perspective is that VSS enhance the voices of a more representative range of stakeholders than the nation-state system by bringing civil society movements, grassroots organizations, and traditionally marginalized forces to the fore. They do this by supporting public deliberation (Mena and Palazzo 2012), privileging non-dominant sources of knowledge (Borzell and Risse 2005), including civil society (Bartley 2010), highlighting the experiences of marginalized groups, and advocating for the interests of the most vulnerable masses (Lambin and Thorlakson 2018). In this way of thinking, VSS can shift global economic governments in directions that serve and empower the masses, challenge traditional power dynamics, distribute wealth more equitably, and offer greater human rights protections.

The alternative perspective is that the spaces VSS create are largely populated by corporations, industry associations, and other traditionally elite groups. In this perspective, VSS do not relieve power asymmetries within and among states but instead reify and exacerbate them. Advocates of this perspective note that most VSS are led by NGOs and private sector entities from the Global North, which can exclude the perspectives of rights holders and entrench neocolonial dynamics (Schleifer 2013). VSS are also more likely to be supported by consuming-country governments than supplier countries, where most of the intended beneficiaries exist (Wijaya and Glasbergen 2016). In this perspective, VSS have more in common with corporate lobbying, campaign contributions, and union-busting (Anner 2017; Bird et al. 2019) than grassroots activism, and the rules they create have more in common with loopholes than regulations (Bartley et al. 2015). For this reason, a number of CSOs have withdrawn from individual VSS over concerns about inaction, ineffectiveness, and the resources they consume (MSI 2020).

 Closing compliance gaps or rolling out regulation?

Whether driven by rights holders or the business elite, what functional role do VSS play in regulating the private sector? Scholars have developed several frameworks for examining how VSS and other forms of non-governmental and/or voluntary regulations interact with the state-based legal system (Mares 2010; see Andreas Rasche's chapter in this volume). Lambin and Thorlakson (2018), for example, argue that public-private regulatory interactions can be categorized as: 1) collaborative, complementary, coordinated, synergistic, or symbiotic; 2)

substitution, superseding, or cooptation; 3) competition, antagonism, or chaos, and that interactions may shift over time and place. Despite this nuance, an important debate has emerged: Do VSS, overall, layer onto public regulation, closing coverage or compliance gaps and enhancing the efficacy of the legal system, or do they alter the trajectory of public governance?

In the first perspective, VSS supplement, complement, or complete public regulation by addressing aspects of governance that are challenging—if not impossible—for the state-based system (Gilbert et al. 2011; MSI 2020). VSS may close regulatory gaps where the direct applicability of international law to non-state actors remains limited (Kobrin 2009) or where international law is not easily translated to fit local contexts (Marx and Wouters 2018). In particular, VSS can provide monitoring, evaluating, and reporting in places where public law enforcement is weak (Amengual 2010; Marx et al. 2017; Nolan 2017). They may also support corporations to shift their engagement with or evasion of legal standards by creating clear benchmarks, explicit standards, and common language around rights-based governance (Mares 2010). Finally, VSS and the resources they provide may help corporate social responsibility teams within large firms to advocate for greater resources and more ambitious agendas (Kok et al. 2019).

An alternative view is that VSS shape legal regimes by prompting law-making, influencing the language and specificity of regulations, and altering approaches to enforcement (Mares 2010). By setting rules and affecting behavior of relevant members of society, VSS can be considered “governing entities” (Hachez and Wouter 2011). VSS may govern by developing policies that prepare the public and business actors for more stringent regulations (de Boer 2003). They can also develop, test, and model new ways of doing business (Fair World Project et al. 2020). Finally, they can serve as templates for new, government-initiated certification programs. For example, in Ecuador several provincial governments have drawn on the VSS model to create certifications for smallholder farmers that are free and reflect local realities (Clark and Martinez 2016).

 Replace or reform?

Given the debates about *who* governs VSS and *how* VSS influence public regulation, it is likely unsurprising that the way forward is also contested. One set of arguments focuses on the shortcomings of VSS and suggests they be replaced with approaches that are more likely to promote human rights, close governance gaps, hold corporations accountable for abuse, and deliver remedy (MSI 2020). In this view, credibility and influence of VSS have passed their peak and are beginning to wane as social movement groups and multinational corporations alike express frustration about their limited effectiveness and push for stronger public regulations (Baumann-Pauly et al. 2017; Fair World Project et al. 2020). VSS should be recognized for and limited to what they do well—facilitating experimentation, relationship-building, and learning (MSI 2020)—and replaced with alternative models of production that challenge the corporate form and place the target beneficiaries—rights holders—at the center of business regulation.

The suggested alternative models include democratically managed cooperatives, community-based extraction operations, and factories organized by independent labor unions (Bartley et al. 2015). Over the past decade, the rate of emergence of worker-driven models has increased, and with several prominent initiatives organized within the Worker Driven Social Responsibility (WSR) network which includes the Accord on Fire and Building Safety in Bangladesh, the Milk

with Dignity Program, and Fair Food (Bartley 2018; Blasi and Bair 2019). The WSR initiatives are designed by and for workers. Corporations sign legally binding documents committing to source exclusively from suppliers that follow legally enforceable standards. Another alternative is social dialogue—negotiation, consultation, and information exchange aimed at building consensus and supporting democratic involvement among stakeholders (NCP 2020). Some scholars point to deeper sustainability transformations, such as internalizing currently externalized costs of labor and reducing overall consumption (Grabs 2020).

A second perspective is that VSS are increasingly in demand and should be reformed to leverage their potential. This argument points to the growing number of ways in which VSS are incorporated into legal “due diligence” requirements. The concept of “due diligence” has traditionally referred to measures to safeguard corporate interests against various sources of risk. However, since 2008, when John Ruggie, the UN Special Representative of the Secretary General (SRSG) on the issue of human rights and transnational corporations launched the ‘Protect, Respect and Remedy’ framework, it has come to refer to corporate compliance with social expectations to respect the human rights of those affected by corporate activity (Martin-Ortega 2013, 2014; see McCorquodale, this volume). In the US, for example, the Modern Slavery Act requires businesses to issue an annual statement describing what actions they have taken, if any to ensure there is no modern slavery in their business or supply chains (Martin-Ortega 2018). In public procurement, VSS may play a more substantive role in the near future, as civil society organizations, media, and national human rights institutions raise concerns about the linkages between government spending and human rights abuse (Loconto and Dankers 2014; O’Brien and Martin Ortega 2019; Fair World Project et al. 2020; see Williams-Elegbe, this volume). There is also a discussion about whether or not it may be feasible for VSS to serve as a condition for preferential tariff rates in bilateral trade agreements, (Marx et al., 2017; Marx 2018).

Recommendations for reform include best practices related to each of the themes examined in the previous section. These include: bringing rights bearers into governance, incorporating local experiential knowledge and deepening participation (Keahey 2016; Mook and Overdevest 2019); improving transparency and rigor of standards, especially around wages, pricing, and worker organization (Bennett 2018; Grabs 2020); improved approaches to auditing and auditor training (Paiement 2018); clear standards and incentives for responsible purchasing and trade relationships (see betterbuying.org); and rewarding countries with strong laws and rigorous enforcement (Bartley 2018).

<a> Conclusions and future research

Research suggests that in some contexts voluntary standards, certifications, and labels can have some positive impact on human rights. However, it is clear that VSS are insufficient for improving incomes, livelihood stability, food security, poverty rates, or employment, and are unable to limit child labor, forced labor, human trafficking, sexual discrimination, or union suppression. Effectiveness appears to be highly idiosyncratic, context-specific, and contingent on numerous highly dynamic variables. It is unclear how VSS change the power dynamics related to human rights, and their interactions with public governance vary.

Given the number and scope of unanswered questions, this is a field ripe for research. In particular, studies should focus on identifying the conditions under which reforms to auditing may make enforcement more effective, understanding how state regulators adjudicate among similar VSS when including them in due diligence policies, and learning about the barriers to more worker-centric replacements, such as democratically-organized cooperatives. The covid-19 pandemic also presents an opportunity to examine the degree to which certifications may be effective in addressing employment stability in the context of economic recession or supply chain disruption.

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