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Transnational Governance as the Layering of Rules: Intersections of Public and Private Standards

Tim Bartley

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The implementation of transnational standards — in codes of conduct, certification, and monitoring initiatives — necessarily intertwines with domestic law and other types of

rules. Yet much of the existing literature overlooks or obscures this fundamental point. Indeed, scholars often err either by treating private regulatory standards as transcendent or by viewing implementation as fundamentally a technical problem. This Article argues that understanding the operation of transnational private regulation requires attention to the layering of multiple rules (and the politics surrounding them) in a given location. It develops a framework for examining this layering and illustrates it by briefly looking at two major issues—community rights in sustainable forestry standards and freedom of association in fair labor standards — and their implementation in Indonesia. In various ways, these domains illustrate how conflict and complementarity between public and private standards structure the practice of private regulation.

About the article

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