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## FOREST CERTIFICATION AS A GLOBAL CIVIL SOCIETY REGULATORY INSTITUTION\*

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### INTRODUCTION

Forest certification is a process through which transnational networks of diverse actors set and enforce standards for the management of forests around the world. The central purpose of forest certification programs is to verify for interested outsiders that the management activities of certified enterprises are acceptable and appropriate. In doing so certification programs take on important public roles. First, they define what kind of behavior is acceptable and appropriate. They do this in various ways.<sup>1</sup> Some programs include considerable public input and participation, others very little. Some stress multi-stakeholder decision-making while others rely entirely on industry associations or firms. No major

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<sup>1</sup> As has been described at length elsewhere (e.g., Bass and Simula 1999; Meidinger 1999) forest certification programs follow two basic approaches to defining acceptable behavior. In the first, the certification program sets substantive performance standards to be met by all certified firms. The Forest Stewardship Council (FSC 2001), for example, requires that “forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest”. This requirement is further defined in national and regional standards, which establish concrete criteria and indicators for compliance. FSC certification also requires firms to respect applicable environmental laws, protect the well-being of workers and communities, and so on. (FSC Website) The second approach to certification is essentially procedural, requiring firms to implement environmental management systems (EMSs) with defined responsibility structures for planning, operations, monitoring, corrective action, and so on. Thus, the substantive standards to which firms are to conform are set largely by the firms themselves, although they remain subject to governmental regulations. The primary focus is on instituting organizational mechanisms in the firm for goal setting, planning, monitoring, and corrective actions. The cardinal example is the ISO14000 program established by the quasi-public International Organization for Standardization, which is based in Geneva but has affiliates in most countries. The motor of the ISO 14000 system is the “continuous improvement” requirement. The underlying assumption is that dynamic EMSs will achieve superior environmental performance over time, while facilitating greater efficiency and adaptability than substantive

certification program, however, relies primarily on the policy formation processes of government.<sup>2</sup> Second, certification programs establish mechanisms to enforce their policies, and to provide public assurances that they are being met. Again, most do not rely on existing governmental enforcement programs. Rather, they devise their own organizational monitoring, auditing, and adjudication<sup>3</sup> systems, and seek to establish credibility independent of government agencies.<sup>4</sup> Products from certified forestry enterprises are generally entitled to display a logo that is meant to signify their social propriety.<sup>5</sup>

The environmental policy-making and enforcement functions undertaken by certification programs have been performed primarily by governments for at least the past century, and longer in some societies. Hence the initial theoretical challenge is how to conceptualize certification programs. Given that they are not governmental initiatives, much of the existing literature describes certification programs as ‘market mechanisms’ or ‘market driven.’ But these descriptions are true only in the loosest sense, in that certification programs seek to achieve their goals by restructuring producers’ relationships to consumers through markets. At base, the groups that have pioneered certification programs, primarily the Forest Stewardship Council<sup>6</sup> and affiliated advocacy organizations such as the World-Wide Fund for Nature, Rainforest Alliance, and Friends of the Earth (Elliott 2000), have not

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standards. It is of course possible to combine substantive and procedural approaches, and many systems do so to some extent. The FSC, for example, has a modest EMS requirement, and the Canadian Standards Association places heavy stress on the EMS while incorporating modest substantive standards.

<sup>2</sup> I use the term “government” to refer to the multiple organizational structures of nation states, including their subunits and intergovernmental organizations. My use of the term reflects a desire to keep to a minimum the theoretical implications often associated with “the state” in Western, and particularly European thought, and also to allow for the great variability in agencies and institutions operating under the rubric of government.

<sup>3</sup> “Adjudication” here refers to decisions about whether particular cases meet general criteria, regardless of whether the decision maker is a judge, and administrative official, or an actor outside the government.

<sup>4</sup> There are some exceptions to this statement, primarily the emergent Pan European Forest Certification Council program (Sprang 2001) and the longer standing Lembaga Ekolabel Indonesia (LEI) (Elliott 2000). Both of these programs, however, have been driven by the civil society movement, and can be understood as catch-up efforts by governmental agencies to recapture a leading role in the field.

<sup>5</sup> The FSC logo, for example, is a somewhat deciduous looking conifer joined to the long side of a check mark. The American Forest and Paper Association recently changed its logo for the Sustainable Forestry Initiative from one containing both kinds of trees with a bear and fish circling them, presumably invoking an ecosystem image, to one of



<sup>6</sup> The Forest Stewardship Council is an international organization founded in 1993 to promote the sustainable management of forests around the world. Although it has received support from foundations, environmental NGOs (particularly WWF), and some governments, mostly European, it is a free standing organization which devotes its resources primarily to the setting of forest management standards and to the accreditation of certification organizations whose role it is to determine whether particular management organizations meet the standards. For more thorough descriptions, see the FSC website <http://www.fscoax.org/principal.htm> or Meidinger (1999:130-182).

been responding to market forces. Rather, they have sought to harness market forces to the pursuit of environmental protection and other social and ethical goals. Their objective has been to institute predictable, long term ordering of the behavior of forestry firms - i.e., "social regulation of the market" (Haufler 2001). Hence, while market forces are undoubtedly crucial to the success of certification programs, market constructs provide only a partial understanding of the social dynamics of forest certification.

One of the primary theoretical constructs used to conceptualize organized efforts to shape social behavior beyond the domains of government and market - and one occasionally invoked by promoters of forest certification - is that of 'civil society.'<sup>7</sup> The purpose of this paper is to elucidate both forest certification and the concept of civil society by locating forest certification in the larger context of civil society theory and practice. It first provides a general overview of the 'civil society revival that occurred during the past two decades. Next it summarizes the arguments that we are in the midst of the development of 'global' civil society. Within that framework, the focus shifts to the world of forest certification, which is described in terms of the basic elements of global civil society - actors and organization, substantive values, and methods. The paper concludes with a few brief thoughts on the likely implications of forest certification for global governance.

This paper is offered in conjunction with a second one (Meidinger 2002), which pursues one of the obvious implications of the analysis presented here - namely, that forest certification, in its effort to institute clear, enforceable standards for forest management, might fruitfully be viewed as a kind of non-governmental law making. After briefly reviewing the arguments for understanding civil society as a law maker, the paper brings some of the experience of legal scholarship to bear on forest certification. It argues among other things that it would behoove forest certification programs to become more sophisticated about the challenges of enforcing rules effectively, the need to learn and adapt based on experience, the challenges of creating consistency across highly varied situations, and the general challenges of achieving legitimacy. Together, the two papers seek to develop an understanding of the potentially sweeping implications and daunting challenges of forest certification for public governance.

## PERSPECTIVE

Because forest certification is a contentious, highly politicized field, a word on perspective is in order. Mine is primarily that of an academic researcher interested in two fundamental questions of institutional sociology:

1. How are social rules and standards made?
2. How are rules institutionalized in social behavior?

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<sup>7</sup> The term is used broadly here to include a variety of formulations which seem to be based on the same basic set of ideas, such as the "third system" discussion represented by Nerfin (1986) and Korten (1990).

The forest certification movement is a fascinating and potentially important arena for studying these questions because it may be one of the leading edges of emerging institutions for making and enforcing rules on a global scale.

At the same time, my interest as a researcher is not merely academic. One of my goals is to help understand how to build social institutions that promote environmental stewardship and social justice. This paper and its companion attempt to do so by clarifying some of the relationships between forest certification and global civil society, and by bringing some of the experience with governmental regulatory and legal institutions into the forest certification debate, which thus far has tended to be limited to foresters and environmentalists who think all they are doing is trying to promote sustainable forest management.

## **METHOD**

This paper is best seen as an exercise in imaginative social theory. It takes two general, contested, and “under construction” concepts - global civil society and forest certification - and seeks to situate forest certification in terms of them. Starting from the hypothesis that forest certification is part of a larger process by which institutions of global civil society are being constructed, it draws upon global civil society scholarship to illuminate important social dimensions of forest certification. At the same time, research on forest certification is used to suggest some of the prospects and challenges facing global civil society.

This methodological strategy is subject to important limitations. First, it entails a degree of arbitrariness. Another scholar following a similar method could focus on different factors within these broad frameworks and perhaps reach quite different conclusions. Second, it is inevitably “political.” To view forest certification as a form of global civil society governance is to stress the non-governmental pursuit of social accountability, and to highlight its potential for reducing or complementing governmental power. Moreover, the meaning and existence of global civil society are hotly contested. Although it is used as an analytical construct here, the term can also be used as a political slogan and an ethical ideal (Seligman 1992:201). Hence use of the term necessarily gets caught up in normative and ideological arguments, wittingly and unwittingly. Both of these limitations are mitigated considerably, however, by the fact that this paper will be part of a larger discussion of forest certification, global governance, and environmental law. It is likely to be complemented and challenged by other works, and its arguments will soon be grist for their mill.

## **CIVIL SOCIETY**

In the mid-1980s I had a memorable conversation with two colleagues in my university’s Native American Studies Program, Professors John Mohawk and Oren Lyons. We were discussing a possible joint course in American Indian Law. As we talked about Native land claims in the US, our conversation turned to the efforts of the Brazilian government at the time to remove indigenous peoples from their land in the Amazon rain forest. When I

expressed pessimism about the natives' prospects, Oren surprised me with his confident reply. He said something like: "The Brazilian government should know they can't keep doing that. The whole world is watching, and the whole world knows this is wrong. We'll see it on TV tomorrow, and we can make a lot of trouble for them." When I asked how such trouble would be made, he and John offered a variety of examples, including picketing Brazilian embassies, protesting at the UN (where Oren would soon be giving a speech), pressuring the World Bank, and possibly provoking consumer boycotts.<sup>8</sup> When I countered that the major media might not even publicize the land battles in Brazil, John replied with his usual droll humor: "Well, we have computers, too. Usually we just set our coffee on them, but we do know how to turn them on." The "we" they were referring to was a network of indigenous peoples and their allies around the world. Oren looked into the northern distance out my office window and noted that the Sami people of Scandinavia would be just as willing to join the battle as the Haudenosaunee,<sup>9</sup> since all indigenous peoples have essentially similar claims to justice among the peoples of the world.

My colleagues might resist being described as part of a civil society movement, since, like most indigenous groups in North America and perhaps around the world, the Haudenosaunee prefer to define themselves as sovereign.<sup>10</sup> Yet, the expectations, processes, and structures they were describing are very consistent with what is coming to be called global civil society. Before describing the global variant, however, it is useful to provide a brief overview of the traditional, more locally oriented concept of civil society.

## DOMESTIC

Like "sovereignty," the term "civil society" is an evolving and often contested construct whose meaning has varied in different times and places (e.g., Ehrenberg 1999). In modern academic discussions it generally refers to a sphere of social life that is public, but outside the sphere of government. Most references also exclude the realm of intimate associations, although American commentators sometimes include the family in discussions of civil society because of its important role in producing and reproducing fundamental societal relationships. In addition, with the exception of neo-liberals, most commentators treat civil society as distinct from typical market relationships, which focus on matching prices and quantities to facilitate the exchange of goods and services (e.g., Cohen and Arrato 1992). Diamond offers a relatively conventional definition:

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<sup>8</sup> I do not think whether they listed the possibility dealing directly with the corporations doing business in Brazil. Today they probably would mention this option in the same sentence.

<sup>9</sup> "Haudenosaunee" is the name used for themselves by the people whom the Europeans labeled the "Iroquois". The latter term, which translates as "real adders," came from the Algonquins, traditional enemies of the Haudenosaunee (Mohawk 1996).

<sup>10</sup> The Haudenosaunee are organized as a federation of six nations, (the Cayuga, Mohawk, Oneida, Onondaga, Seneca, and Tuscarora. (The Tuscarora migrated from North Carolina and joined the Confederacy in the early 18<sup>th</sup> century). They issue a single passport, which has been accepted by a number of nations around the world. (Personal communications from Oren Lyons and John Mohawk.)

[Civil Society] is distinct from “society” in general in that it involves citizens acting collectively in a public sphere to express their interests, passions, and ideas, exchange information, achieve mutual goals, make demands on the state, and hold state officials accountable. Civil society is an intermediary entity, standing between the private sphere and the state. Thus, it excludes individual and family life, inward-looking group activity (e.g. recreation, entertainment, or spirituality), the for-profit-making enterprise of individual business firms, and political efforts to take control of the state (1996:228).

Most theorists also portray civil society relationships as voluntary or un-coerced (e.g., Walzer 1995). Although the true degree of voluntariness of some civil society relationships is subject to question, they generally lack the sanctions associated with government directives. Nonetheless, civil society organizations have long been viewed as playing a powerful role in governing society. Gramsci, for example, depicted civil society organizations (epitomized by the Catholic Church) as achieving a high level of social influence by exercising cultural leadership (“hegemony”) despite their general lack of state power (Gramsci 1971; Nielsen 1995).

There are many types of civil society organizations. Walzer’s examples (drawn from recent Eastern European experience) include “unions, churches, political parties and movements, cooperatives, neighborhoods, schools of thought, societies for promoting or preventing this and that” (1995:8). Mertus adds “non-governmental advocacy organizations, humanitarian service organizations, . . . information and news media, educational associations, and certain forms of economic organization,” leaving the specific nature of the last to be filled in (1999:133). Conceptualizing the relationship of economic organizations to civil society is difficult, and may grow more so in the forest certification context, where trade associations and large corporations are becoming increasingly active (Kim and Carlton 2001). As Virginia Haufler (1999) suggests in a related context, it would not make sense to ignore business associations that are seeking to define the conditions of socially responsible commerce, even if they are driven by the quest for profit. Accordingly my working approach is to treat those aspects of business organization which are oriented to defining and institutionalizing public accountability outside government agencies as civil society actors.<sup>11</sup>

While the overall sphere of civil society is portrayed as either value neutral (e.g., Etzioni 2000) or limited to very general values such as freedom and tolerance (e.g., Keane 1988), specific civil society organizations are typically involved in “promoting or preventing this or that” (Walzer 1995:8). They can be characterized by a commitment to particular substantive values, or visions of good society, and their purpose is to promote those visions. Thus they regularly engage in moral evaluation, often using the “mobilization of shame” to achieve their goals (Mertus 1999:1367). Moreover, since civil society organizations promote moral evaluation, it is not surprising that they also are subject to it. Thus, their methods and strategies are inevitably vulnerable to critique, and they are frequently under pressure to improve them. Today the primary pressures are to be more transparent, democratic, and accountable (Mertus 1999:1367) and to eliminate exclusionary membership practices

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<sup>11</sup> The major risk, not addressed in this paper, is that business will so dominate civil society as to effectively destroy it (Ehrenberg 1999).

(Williams 1997). Although these pressures may follow logically from the premise that civil society organizations are voluntary in nature, they are equally present for governments and to a lesser extent for firms.

Of course, civil society is a normative concept as well as an empirical one. Much of its appeal to modern thinkers rests in its role as a bulwark for human dignity and self-determination against both the state and the market. Although this function was already important for De Tocqueville (1875), it was critical in the rebirth and elaboration of the civil society movement in Eastern Europe during the late 1970s and 1980s. There, activist intellectuals developed the idea of civil society into a vision in which groups could self-organize in semi-autonomous spaces outside the purview of the state. Their goal was not to “seize power” from the state, but rather to humanize the relationship between state and society by establishing new or renewed patterns of interaction in civil society (Michnik 1985). Their efforts became part of a larger European movement, which drew together Western European peace and Eastern European human rights organizations, and which Mary Kaldor (1999) portrays as the birthplace of the modern civil society movement, although this portrayal may be overly Eurocentric.<sup>12</sup>

The importance and successes of the Eastern European civil society movement helped bring the concept back to the fore in academic discussions around the world. Among other things, it led many theorists to shift from a focus on “government(s)” to “governance” (e.g., Rosenau and Czempiel 1992), although other academic currents too numerous to note also contributed to this tendency (Prakash and Hart 1999). Research on civil society tends to focus on (1) the types of actors involved, (2) the substantive values they pursue, (3) the processes and methods they use, and (4) their relationships to other sectors of society. Each of these topics is discussed in the next section. While government, civil society, and the market can be distinguished analytically, however, they are operationally intertwined. The three spheres are also mutually interdependent; shifts in one are likely to affect the others, and often are intended to do so. Therefore researchers focusing on one sphere are wise to trace its relationships to others.

## GLOBAL

In the course of the 1980s, various civil society and peace movements from different regions gradually drew together into a transnational network of relationships and activities. In fact, although not everyone recognized it at the time, regional and issue-specific civil society movements were coalescing into a general, world-wide one (Keck and Sikkink 1998). The goals, methods, networks, and social roles of the European civil society movement were increasingly linked to those of the indigenous peoples’ network described at the beginning of this section and to other social movement networks around the world (Wapner 1996; Keck

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<sup>12</sup> As indicated by my discussion with Professors Mohawk and Lyons, there was a contemporaneous and perhaps even earlier movement among indigenous peoples. A definitive account of the origins of the global civil society movement is not an objective of this paper, however, and might not even be possible, given that the movement seems to have sprung up from many relatively independent social arenas.

and Sikkink 1998; Taylor 1999; Florini 2000).<sup>13</sup> Implicitly attributing the movement with institutional durability, academics and activists alike began to talk about “international” and “transnational” and even “global” civil society. Thus, although the civil society had been conceived, born, and raised inside territorially bounded states, it leapt the bounds of the states, and arguably the received conceptual framework as well.

What, exactly, is distinctive about “global” civil society? According to Falk and Strauss, it is, quite simply, globalization:

Globalization has generated an emergent global civil society composed of transnational business, labor, media, religious, and issue-oriented citizen advocacy networks . . . . In one of the most significant, if not yet fully appreciated, developments of the post-Cold War era, global civil society - operating in collaboration with certain like-minded states - has become a formidable political presence in international life, pushing forward several key progressive initiatives in the international arena. (2000:194)<sup>14</sup>

### Facilitating Elements

Since globalization is a broad and somewhat wooly concept, it is helpful to list a few factors that seem to be key in the globalization of civil society. My goal is not to offer a persuasive causal account of globalization, nor even to rank factors in importance or time. Rather, it is to indicate that they have played causal roles and remain important characteristics of global civil society. These factors also play a central role in framing the strengths and weaknesses of global civil society regulatory programs.

1. *Global Information Technologies*. As Professors Lyons and Mohawk pointed out in the mid-80s, the rapid development of global information technologies was a critical factor in the creation of transnational coalitions and organizations. Included are technologies for gathering information (from traditional cameras to television cameras to satellite imaging to various kinds of emerging “real-time” sensors) and for communicating it (international newspapers and telecommunications systems, global television, the internet, and so on).

Critically important is the growing capacity of transnational advocacy groups to gather information, sometimes amounting to serious research, and communicate it on their own. Particularly important is their capacity to connect internationally marketed

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<sup>13</sup> Nonetheless, as Taylor and Seligman illustrate, there were still significant differences in the causes of those using the term. Seligman argues that whereas in the East it was used to advance the cause of individualism, in the West it was used to advance the cause of communitarianism (1992:203). Taylor provides an illuminating description of the typical differences in Latin America between locally based social movements and internationally based NGOs (1999).

<sup>14</sup> The initiatives they refer to include the global climate change framework convention, the convention outlawing anti-personnel land mines, and the agreement to establish an international criminal court. The authors go on to argue that the time is ripe for a “global peoples’ assembly”. (Falk and Strauss 2000:196-204)

products to the local conditions under which they are produced (Evans 2000:234).<sup>15</sup> These information technologies remain crucial to the operation of global civil society.

2. *Transnational Economic Structures.* It is a cliché that we live in a global economy, but a profoundly important one. The worldwide flow of raw materials and products, the integration of financial markets, the growth in multi-national firms and business alliances, and the creation integrated production chains running around the world, which are driving forces in globalization, also facilitate the emergence of global civil society. The emergence of worldwide production and consumption chains has increased the scope of both transnational interdependence and the externalities associated with market activities. People living on one side of the globe are increasingly dependent on decisions made on the other side. Decisions made on one side can have significant “external” effects on the other.

Such external effects can vary from the apparent reduction in employment in one region caused by increased employment in another, and perhaps increased profits in still another, to sea-level rises in low lying areas caused by fossil fuel burning and deforestation in other areas. One of the most striking current examples is the contamination of the arctic food chain by chemicals used as pesticides in temperate and tropical countries.<sup>16</sup> In every case, actions taken in one governmental jurisdiction give rise to assertions of interest and grievance by people living outside that jurisdiction. Often, they choose to pursue correctives outside the intergovernmental negotiation network through transnational civil society networks. The very interdependence created by transnational production and consumption chains gives civil society actors located in one governmental jurisdiction leverage over behavior in others (e.g., Evans 2000; Fung, O’Rourke, and Sabel 2001; Keck and Sikkink 1998). At the same time, the difficulty of exerting that leverage is increased by the complex nature of the economic relationships. Often, a multitude of individual firms are tied together by temporary, shifting relationships in which power and authority are dispersed along the production chain, only occasionally concentrating at the retail end (Conca 2001; Gereffi 1994).

3. *Reduced Roles of Governments.* Although the causes and degree are subject to debate, it is quite apparent that governments have scaled back their ambitions as guarantors of public welfare in recent decades. To some extent this may be a function of the growth of the transnational economic system described above, which leap-frogs governmental

<sup>15</sup> As Conca (2001) points out, this capacity to connect production conditions to consumption is made all the more essential by the enormous ‘distancing’ of production from consumption that comes with the creation of global production and consumption chains. Without the ability to create informational feedback loops, the capacity of civil society - or of governments, for that matter - to define, publicize, and attempt to ameliorate problems created by global production processes would continually lose ground to economic globalization.

<sup>16</sup> Inuit activist Sheila Watt-Cloutier put the case as concisely as possible: “I wonder how we have created a global situation where mothers in the Arctic worry about poisoning their children through their very life-giving breast milk, while mothers in other countries rely on these same chemicals to protect their children from disease. This situation is not only immoral, but must be deemed intolerable”. (Brown 2001:A17) Widespread agreement on this assertion has led to the adoption of the Treaty on Persistent Organic Pollutants, one of the few recent instances in which the intergovernmental policy system shows promise of responding effectively to transnational civil society movements.

jurisdictions and can punish governments that try to enforce a high degree of social accountability. Recurrent internal fiscal crises have also been important, as have 'neo-liberal' political attacks on visions of protective government. In any case, the reduced ambitions of governments have made room for expanded ambitions of civil society organizations (Lipschutz 2001), and perhaps even created a demand for them. Some governments have even invited civil society organizations to take over a larger role in public governance (Taylor 1999:285-286).<sup>17</sup>

### Salient Characteristics

Lipschutz's path breaking article started with a relatively open-ended definition of global civil society: "a set of interactions among an imagined community<sup>18</sup> to shape collective life that are not confined to the territorial and institutional spaces of States." (1992:398) Today, the website of the LSE Centre for Global Governance lists about a half dozen definitions (LSE 2000; Kaldor 2000) reflecting the discussion that has occurred since Lipschutz's article. They are basically consistent with Lipschutz's, but tend to add specific features. Most of the additional features are portrayed as typical rather than necessary (LSE Centre 2000), and are described further in the next section. They include self-organization, semi-autonomous engagement with state agencies, non-violence, a frequently high degree of social contestation, and networked structures. John Keane's definition pulls them together into a dynamic image:

a complex, conflict ridden, transnational process in which, across vast distances and despite considerable time barriers, individuals, non-governmental groups and organisations, charities, lobby groups, citizen's initiatives, local independent media, corporations, [and] trade unions non-violently self-organise and interact in ever more networked ways, usually with and against state and non-state bodies, to alter, even to 'denaturalize' the power relations embedded in existing social and political orders, even to create shared understandings among actors that we live in an emerging transnational, even 'global order'. (LSE Centre 2000)

## FOREST CERTIFICATION AND GLOBAL CIVIL SOCIETY

It requires little analysis to see that the above conception of global civil society is generally congruent with the world of forest certification. The primary purpose of this paper is not to offer a thoroughgoing analysis of forest certification in terms of civil society constructs, or to 'test' whether global civil society models fit forest certification better than other models. Rather, the purpose is to see how the global civil society attributes of forest certification can

<sup>17</sup> In United States domestic policy this tendency has taken a new twist with the Bush administration, which has sought to create a larger role for "faith based organizations" in the design and delivery of domestic government programs (White House 2001).

<sup>18</sup> The term "imagined community" is used not to imply that those who think of themselves as part of the community are deceiving themselves, but rather to note that the community's existence requires people to think of themselves as members of it. (See generally Anderson 1983.)

help us understand its policy implications and its relationship to law. Therefore, this section combines civil society scholarship with specific information about forest certification programs to create as sharp an image as possible of forest certification as a global civil society phenomenon.

## ACTORS AND ORGANIZATION

Forestry has long been a sector laying claim to social trusteeship, with many western societies according foresters special status as guardians of public values (e.g., Barton forthcoming). Forestry also has had important transnational dimensions for a long time, because much forestry culture has been transmitted around the globe from countries like Germany and (much later) the United States through professional education. In general, the forestry sector has enjoyed a high degree of professional and operational autonomy, often combined with cordial or even close relations with government. When the movement for forest certification emerged, the forestry establishment was suffering a rapid decline in public trust. The decline was tied largely to public perceptions that forests were being harvested at unsustainable speeds, or often simply destroyed. Although North American forests were rapidly being clear-cut, deforestation of tropical forests probably brought the process to a head. The process I discussed with Professors Lyons and Mohawk regarding Brazil was being replicated with local variations in other parts of South America, Asia, and Africa, with many communities losing their land and traditional source of livelihood (Barracough and Ghimire 2000). As it grew increasingly clear that the traditional system of intergovernmental negotiation was incapable of addressing the tropical deforestation problem, there was a broad search for alternative solutions. One strategy that took off was forest certification (Bendell and Murphy 2000; Elliott 2000).

Although the history of forest certification remains contested, it is clear that the prime mover was and is the Forest Stewardship Council (FSC), founded in 1993 but planned for several years before that. Organized by a loose alliance of high-end North American furniture makers, environmental organizations, and foundations, the FSC was designed to operate without government participation. Initially it may have been conceived as an environmentalist-industry partnership (Bendell and Murphy 2000), but the industry role was relatively limited, and the FSC quickly evolved into a “multi-stakeholder organization” which its founding Executive Director has insistently sought to distinguish from an NGO (Synott 1998).<sup>19</sup> In the eight years since its founding, the FSC has developed an elaborate, formalized stakeholder structure. Its primary governing body is an international “general assembly” composed of three chambers - environmental, economic, and social - holding equal voting power. Each chamber is further divided into a northern and southern sub-chamber, again with equal voting power. Among other things, the general assembly is responsible for approving regional and national forest management standards developed by regional and national working groups. Its other primary function is the accreditation of certifiers, who

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<sup>19</sup> Historical accounts of the Forest Stewardship Council and the American Forest and Paper Association Sustainable Forestry Initiative, are provided in Meidinger (1999).

have the formal role of determining whether forest management enterprises meet FSC standards. I have suggested that the role of certifiers is sufficiently significant that they might be viewed as the “judges” of the FSC system (Meidinger 2001a: 10164). They certainly perform functions similar in kind and importance to those of many administrative law judges in government licensing and permitting proceedings. Membership in the FSC is voluntary, although each applicant must find at least two existing members to support its application. The FSC currently has over 450 members, approximately two-thirds of which are organizations (FSC Website 2001).

The FSC has provoked the rapid development of contending certification systems, some of which claim to have predated the FSC, but none of which did so in the form of a functioning certification program. The different programs are too complicated and variable to describe in detail here.<sup>20</sup> It suffices to note that some, such as the Sustainable Forestry Initiative (“SFI,” see AF&PA 2001) of the American Forest & Paper Association (“AF&PA”), are closely aligned with the forest products industry. Others, such as the Pan European Forest Certification Council (“PEFC,” see PEFC 2001, Sprang 2001), are also industry based, but involve a much larger government role, reflecting the traditionally close cooperation between government and the forestry industry in Europe. Depending on how one counts, there are anywhere between a half-dozen and fifteen different certification programs (CEPI 2000).

All of the forest certification programs self-consciously operate in a larger context best described as a sprawling, largely unmapped, highly changeable, loosely networked social field in which there are several centers of activity that closely monitor each other. It includes many environmental organizations, large and small production, wholesale, and retail firms, trade associations, professional certifiers, labor unions, human rights organizations, indigenous groups, government agencies and officials, consultants, charitable organizations, citizen activists, academics, research institutes, community groups,<sup>21</sup> and undoubtedly many other types of actors. Simply categorizing all of the participants is a serious exercise in social theory (e.g., Elliott and Schlaepfer 2002, Cashore 2002). Relations among them involve a complex, shifting mix of mutual observation, direct communication, trust, distrust, mutual adjustment, cooperation, coordination, and competition. All of the actors are clearly aware that they are part of a larger arena of forest governance and regulation. It is possible (but not clear) that shared educational experiences are also an important source of linkage. Empirical research characterizing these relationships and their history would help considerably in understanding the governance capacity of the network, as it has in the case of ozone policy networks (Canan and Reichman 2002).

The forest certification network is linked to other civil society policy arenas, such as labor, human rights, and community development in a variety of ways, including shared

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<sup>20</sup> See generally, Bass and Simula 1999; Hansen and Juslin 1999; Meidinger 1999; Sprang 2001.

<sup>21</sup> Lucy Taylor provides an insightful analysis of the ways in which social movement community groups have become linked to each other as well as to transnational NGOs and funding sources in course of the global civil society movement. She also describes some of the ways in which social movement organizations have had to transform themselves to deal with the more ambiguous, less clearly good versus bad problems that have come with the democratization of many Latin American governments (1999:283-286).

members, funding sources, communications channels, and in some cases political goals. The forest certification network is also linked to specifically certification-oriented activities in other policy arenas, apparently reflecting a growing focus on organizational methods and techniques in global civil society at large. The linkages occur both through the exchange of information, ideas, and sometimes resources (Dalton and Rohrschneider 1999), and through participation in organizations such as the giant International Organization for Standardization ('ISO'), the tiny International Social Environmental Accreditation Labelling Alliance (ISEAL 2001; Meidinger 2001b), and the intermediate European Organization for Conformity Assessment ('EOTC'). Large foundations also appear to provide important linkages among social and environmental labeling organizations.

## SUBSTANTIVE VALUES

As noted above, civil society organizations generally promote particular values. For the most part, these tend to include social justice elements and at least some concept of the proper ordering of society. In the forest certification arena, most if not all actors embrace the value of "sustainable forest management." The question is, what constitutes sustainable forest management? There is considerable disagreement with regard to this question, as some groups promote more environmentally protective standards while others promote less protective ones, some promote community oriented standards while others promote industry oriented ones, and so on.

There are several other interesting commonalities in value, however. First, many actors in the arena behave as though they believe that a single definition of sustainable forest management is both possible and desirable. Such an assumption does not seem to characterize most other policy arenas.<sup>22</sup> If my characterization of the forest certification network is correct, it is hard to say why that would be so. One possibility is that forestry is such a long-standing and heavily professionalized sector of civil society that many participants have been socialized into the shared assumption that there are generally correct forest management policies and decisions. A second possibility, more grandiose but potentially shared with other civil society movements, is that humankind as a whole holds certain fundamental values that civil society organizations should promote. This might be similar to the "conscience of humanity" standard invoked in civil society debates on human rights and peace (e.g., Falk 1997; Barkan 2000)<sup>23</sup> and possibly to natural justice (Schwartz

<sup>22</sup> Indeed, Matthias Finger argues that one of the major shortcomings in the emerging global system in which international NGOs play an expanded role is a dissolution of shared values: "Substantive political objectives, . . . such as equity, justice, and human rights, are increasingly replaced by expressive objectives, that is, basically the call of various actors for the right to express themselves" (1994:57). This, of course is an empirical assertion that could be empirically tested, although to my knowledge it has not been. It is also possible that international environmental NGOs have realized the need to coalesce around shared objectives, and have started to do so since Finger wrote.

<sup>23</sup> Interestingly and importantly, substantial evidence from opinion polls indicates that there is essentially global agreement on the necessity of protecting the environment. The level of support for environmental protection, including the willingness to accept added costs, does not seem to vary significantly among affluent and less affluent nations (Dunlap et al. 1993; Dalton; Rohrschneider 1999).

2001) and social contract (Dimento 2001) analyses, which are receiving renewed attention environmental policy circles.

A second area of convergence in certification programs is that the definitions of sustainable forest management espoused by the various actors seem to have moved in tandem with each other over time. In broad outline, they have moved from a “sustained yield” or “cropping” conception of forestry (in which the goal was to provide a constant and predictable stream of outputs - usually timber), to an ecologically-oriented one (in which the goal was to preserve the structure, function, and composition of forest ecosystems), to one explicitly linking the viability of forests to that of local communities and other social groups that depend on them. This pattern suggests that there is a broad value dialogue in the certification arena. Indeed, much academic work has been devoted to comparisons between the standards of various certification programs, evidently based on the assumption that they can be evaluated according to a common metric (e.g., CEPI 2000; Rametsteiner 2000). Moreover, some researchers argue that certification systems have a built in tendency to compete with each other, thereby “ratcheting up” definitions of best practice (Fung, O’Rourke and Sabel 2001).

Third, the values being promoted are not limited to matters of trees and ecosystems, but also, as in other policy arenas (Walzer 1995), include visions of the “good society.” The guiding principles and formal organization of the Forest Stewardship Council, for example, express a commitment to protecting the viability of forest communities and the health and employment of forest workers. They can be understood as one expression of the vision of “sustainable development” - linking environmental, economic, and social viability - that has grown out of the global discussion of environment and society in recent decades. Conversely, the standards of the AF&PA’s SFI program do not include comparable responsibilities to communities and workers. Rather, they stress the autonomy and economic viability of individual firms, implicitly asserting that the most sustainable system will be the one that retains maximum autonomy for business. The ISO, similarly and more emphatically, makes the firm the center of environmental policy making (see generally, Meidinger 1999). In sum, each certification program encodes and promotes a vision of proper social ordering, and thus seeks to change or reinforce patterns of authority well beyond forestry.

## METHODS

Kaldor argues that the modern civil society movement is characterized as much by particular methods of organization and policy making, as by substantive ideals (1999:475-476).<sup>24</sup> This

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There is a related idea in the traditional corpus of international law, which holds that nation states are under an inherent obligation to the international community (*erga omnes*) not to engage in aggression, genocide, slavery, or racial discrimination - and possibly to safeguard the earth’s ecological balance (Kiss and Shelton 2000:25).

<sup>24</sup> With regard to Eastern Europe, Kaldor cites especially a reliance on (1) self-organization, (2) non-violent protest, (3) dialogue, and (4) compromise. While these methods also seem to characterize forest certification, their importance as markers may not be as great as they are in Kaldor’s implicit contrast to state based processes. Defining self-organization in the conventional sense as ‘phenomena which appear to determine their own form

certainly seems to be true for forest certification programs, and probably for a much larger subset of contemporary civil society movements. Of course, the central idea of forest certification is itself an organizational technique involving the application of publicly announced standards to individual forest enterprises by specialized social actors with defined responsibilities, and this technique is being deployed by civil society actors in a number of social sectors beyond forestry (Haufler, 2002; Meidinger 2001b). Beyond the core technique of certification, however, the certification movement can be characterized as an agglomeration of linked methods and techniques that are relied upon to some extent by all forest certification programs.

The first is stakeholder oriented policy making. Individual certification programs vary greatly in the amount and locus of participation, but all require it somewhere and to some extent. The FSC system is by far the most elaborate, with the three-chamber, north-south structure discussed above, along with considerable public input requirements in the regional standard setting processes and individual certifications. Yet, despite its far reaching implementation of stakeholder models, there are places where the FSC system remains strikingly non-participatory and non-transparent, particularly at the level of the individual certification (see Meidinger 1999:160, 179; Rehbinder 2002). The programmatic vision, however, is broader and seems to be moving toward realization.

On the other end of the spectrum is the ISO (ISO 2001) family of processes, including the AF&PA Sustainable Forestry Initiative (AF&PA 2001), all of which require some public comment process, and some of which have occasionally utilized focus groups, but little more. Even in these programs, however, the boundaries are becoming more permeable. Actors outside firms are increasingly likely to be conceptualized as stakeholders. And it usually seems possible, if often difficult and costly, for interested parties to gain at least some input to decision processes. The growing use of stakeholder processes may reflect larger “transnational democratic tendencies” that Falk describes as a “feature of the international legal order at the end of the 20th century” (1997:334). But this assessment remains a bit optimistic at the moment, and much remains to be seen regarding the role of stakeholder processes in certification programs.

A second method common to forest certification programs is a heavy reliance on science and professional expertise, both for defining standards and for legitimating them. The field is at least as powerfully shaped by the professional views of foresters and ecologists as are state-based regulatory systems - perhaps more so. A large part of the debate about

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and processes’ (Maturana and Varela 1980), one can look around forest certification arena and describe much of it as self-organized. The Forest Stewardship Council, after all, simply started itself up and declared itself to be in the business of accrediting certifiers and approving certification standards, and did so according to procedures set by itself. People and organizations then proceeded to join and otherwise participate in FSC processes. Similarly, the PanEuropean Forest Certification Council and possibly even the American Forest & Paper Association’s Sustainable Forestry Initiative could be described as self-organized. Yet the programs, particularly the PEFC and SFI, were built in considerable part by pre-existing organizations and interests and based on long-standing views of sustainable forest management. So the question arises, self-organized in relation to what? Depending on one’s perspective, it is possible to portray forest certification either as primarily self-organized or as a natural outgrowth of long-term processes. The same kind of critique applies to the methods of non-violence, dialogue, and compromise. All are common attributes, but only part of the story.

certification standards is framed in scientific terms. For example, the debates about clear felling and chemical use focus heavily on the effects they are predicted to have on forests. Scientists assert a special relationship with the future in making arguments about alternative policies (Sand 2001), and most of the key actors in the field are scientifically trained. At the same time, there seems to be a widely held sense that science cannot fully resolve the questions at stake, and that they will necessarily involve value judgments and the balancing of interests.

It is perhaps not surprising, therefore, that juxtaposed with science and expertise is the third method common to certification programs: use of public relations and marketing techniques. These have included shaming mechanisms such as public protests, picket lines, mock “chain saw massacres” outside retail stores, announcements over store intercoms extolling the store’s record of destroying rain forests, and so on (Bendell and Murphy 2000; Carlton 2000). They have also included standard marketing techniques such as focus group testing, mass media advertisements<sup>25</sup> and trade fairs, as well as public commendations, the most important of which is the eco-label itself. The eco-label is intended to signify “good,” “responsible,” “sustainable,” or sometimes even “exemplary” forest management, depending on the program. It is used to mark a product for the public as having environmentally and sometimes socially appropriate origins, a ‘pedigree,’ as it were. Thus, a piece of certified mahogany can be distinguished from an apparently identical piece that might have been produced in violation of a sustainable management plan, environmental laws, native land rights, or worker safety laws, depending on the certification program. The purpose of the label is to enhance access to consumers by sellers of properly produced products while inhibiting access by sellers of improperly produced ones. Similar labeling strategies have appeared in many other sectors, including foods, textiles, and a whole set of “fair trade” products for which primary producers are certified to have been paid a living wage and accorded locally appropriate labor standards (see generally Diller 1999). Labels are becoming so important that the ISO and EU have devoted major efforts to developing guidelines for them (ISO 2001; EOTC 2001), and at least one separate alliance of environmental and social labeling organizations has emerged (ISEAL 2001).

A fourth important organizational methodology is the use of environmental management systems (EMSs) to pursue the objectives of certification programs. The central idea is that each forest management organization should develop a system for considering its environmental impacts, planning which ones to reduce and how, implementing the plan, monitoring its success, and making adjustments over time.<sup>26</sup> These processes must be

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<sup>25</sup> The FSC, for example, has placed advertisements featuring Pierce Brosnan and Olivia Newton-John in *People* and *Playboy* magazines. The AF&PA is planning a major \$25 million ad campaign as this is written (Kim and Carlton 2001).

<sup>26</sup> Ironically, as noted in the section on adaptability, environmental management systems seem to constitute the main opportunity for implementing adaptive management in certification programs. The basic idea of adaptive management is that social organizations should consider their goals, plan how to meet them, implement their plans, monitor their performance, reconsider their plans, and make appropriate changes (Lee 1993). At the broader programmatic level, certification systems seem not to have established mechanisms for adaptive management. Although it could turn out that the larger debate about sustainable forest management will play part

formally provided for by the organization, and particular individuals assigned responsibility for carrying them out. The FSC has placed relatively low emphasis on management systems to date, evidently out of a desire not to make it too difficult for small, indigenous, or community based enterprises to attain certification, but other certification programs stress them. Many EMS requirements include a commitment to “continuous improvement” (although there is contention about what must be improved - the management system or organizational performance) and to compliance with applicable laws. Thus, the basic idea of the EMS is to harness the organizational dynamics of the forest management enterprise to the objectives of the certification program. This appears to be a significant organizational innovation, and a very intelligent borrowing by civil society organizations of a market based method.

Fifth, certification programs use formal principles and law-like codes to define their standards and structure their operations. These are exemplified by the FSC’s hierarchical system of principles and criteria, indicators, and national standards, as well as its many statutes, procedural requirements, and the like. (Most of these provisions are available on the FSC website, FSC 2001). For example, FSC Principle 6 provides as follows:

Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest. (FSC 2001)

That principle is then given concrete meaning in regional standards and criteria, such as the following draft criterion from the northeastern region of the US:

Management systems shall promote the development and adoption of environmentally friendly non-chemical methods of pest management and strive to avoid the use of chemical pesticides. World Health Organization Type 1A and 1B and chlorinated hydrocarbon pesticides; pesticides that are persistent, toxic or whose derivatives remain biologically active and accumulate in the food chain beyond their intended use; as well as any pesticides banned by international agreement, shall be prohibited. If chemicals are used, proper equipment and training shall be provided to minimize health and environmental risks.

Other than being stricter, this criterion is formally indistinguishable from the regulations promulgated by government environmental regulatory agencies, and there are over a hundred other such criteria for each region. Thus, the reliance on legal forms for managing the FSC program is considerable. Although other forest certification programs tend to be less formally elaborate and specific, all of them appear to be moving in the direction of increased codification. The codes cover the operation of both the certification program and the certified organizations, defining a broad range of roles and responsibilities for the actors. Again, the use of principles and codes is being replicated in many areas of civil society, including human rights, labor standards, and fair trade, not just in the civil society organizations, but also in the firms. There are countless organizations involved in developing codes and implementation systems and in assessing compliance.

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of that role, at present certification systems have not made plans for monitoring and revising their own performance.

Finally, forest certification programs increasingly rely on what they define as ‘independent, third-party certifiers’ to assure compliance with their principles, criteria, and standards. Different programs have different ways of accrediting certifiers and defining their independence. Some do not require third-party certification.<sup>27</sup> But they all are moving toward the use of third party certifiers, and the underlying principle seems to be gaining ground in the forestry arena. As with the other methods described above, the use of independent certifiers or auditors seems to be gaining ground in other civil society sectors as well.

## ROLE IN GLOBAL SOCIETY

The overall picture that emerges is one of forest certification in particular and civil society in general replicating and expanding the kind of regulation often performed by governments, and extending it to a transnational level. In doing this, civil society organizations do not focus on lobbying governmental or inter-governmental agencies; rather, they create their own systems to operate in parallel with governmental ones. They often take a primary role in defining problems, conceptualizing solutions, and shaping public culture, consistent with Finger’s portrayal of international environmental NGOs generally (1994:60), but also go on to establish implementation structures for their programs (Meidinger 1999; Sasser 2002). Of course, the civil society regulatory system’s coverage is spotty and its efficacy untested, but the basic pattern and impulse are evident. The key reasons for the growth of civil society regulation are described in the “facilitating elements” section above: global information technology, global economic integration, and reduced government capacity. Governments have a particularly difficult time establishing regulation at the global level because there are a huge number of factors that can derail negotiations among states when each state must consent to be bound and when there are many issues of contention among the states. Transnational certification programs arguably have a better opportunity because they focus on a narrower range of issues and have fewer veto points.<sup>28</sup>

Still, the situation is more complicated than forest certification displacing government regulation of transnational problems for efficiency reasons. Rather, certification programs seem to be involved in many complex interactions with government programs. In the first place, certification programs appear to have stimulated increased activity and innovation by government agencies as well, engaging them in sustainable forest management debates and sometimes in mounting their own certification programs. Second, a growing number of governments are subjecting the forests they manage to certification, evidently using the

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<sup>27</sup> Certification is commonly classified as either first-party (self-certification), second-party (typically a trade association or customer), third-party (a separate certification organization) and even fourth-party (a government or multilateral agency) (Gereffi, Garcia-Johnson, and Sasser 2001).

<sup>28</sup> Conversely, Picciotto suggests that they may be at a relative disadvantage because they not have the option of achieving compromise solutions based on trade-offs (1997:1045).

process to improve either the quality or the legitimacy of their management. Thus, certification programs can be seen as regulating both businesses and governments.<sup>29</sup>

Third, certification programs do not necessarily displace government regulatory programs; rather, they tend to incorporate them and extend them. All certification programs require efforts to comply with applicable government made laws. At least in the near term, therefore, certification programs can be seen as likely to strengthen governmental regulatory programs where they exist, and possibly to lay the groundwork for them where they do not.<sup>30</sup> This raises the possibility that forest certification should not be seen so much as a corrective or a challenge to governmental legal systems, but either as an extension and amplification of them or as portents of a more complicated, multi-centered transnational governance system.

## CONCLUSION

Overall, the emergence of multiple forest certification programs together with similar developments in other sectors suggests that the global governance system may both be growing in extent and changing in structure. Forest certification and other civil society regulatory programs have brought a significant increase in the number of actors involved in developing and implementing transnational governance institutions. They now operate out of many centers and interact in variable, partially open-ended ways. They have created linkages among more actors, from local to global, north to south, market to state to civil society, than previously was thought possible. They are drawing creatively on organizational methodologies developed for other purposes. And finally, in their effort to establish global standards for environmental and social behavior, they are testing the possibility of creating a global citizenry with shared understandings of public responsibility and accountability. It is impossible to predict the extent to which these efforts will succeed, but it is clear that we stand to learn much from them, and that the stakes are high.

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<sup>29</sup> For a conceptual analysis of the various ways in which governmental, business, and non-governmental organizations regulate one another, see Scott 2001. For analyses of the different ways in which certification and government regulatory programs can interact, see Meidinger (2001a) and Wood (2002).

<sup>30</sup> This hypothesis raises a set of questions that can be mentioned but not meaningfully addressed in this paper: which governmental regulatory systems will certification further? And to what degree does global forest certification privilege particular concepts of proper forest management, presumptively European and North American ones?

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