Received: 29 December 2023 | Accepted: 30 January 2024

DOI: 10.1111/basr.12347

ORIGINAL ARTICLE

BSR Business and Society Review | WILEY

# The ethics of voluntary ethics standards

**Hasko von Kriegstein** | **Chris MacDonald**

Law & Business Department, Ted Rogers School of Management, Toronto Metropolitan University (formerly Ryerson University), Toronto, Ontario, Canada

**Correspondence**
Hasko von Kriegstein, Law & Business Department, Ted Rogers School of Management, Toronto Metropolitan University (formerly Ryerson University), 350 Victoria St., Toronto, ON, Canada, M5B 2K3.
Email: hasko.vonkriegstein@torontomu.ca

**Abstract**

Many nongovernmental forms of business regulation aim at reducing ethical violations in commerce. We argue that such *nongovernmental ethics standards*, while often laudable, raise their own ethical challenges. In particular, when such standards place burdens upon vulnerable market participants (often, though not always, SMEs), they do so without the backing of traditional legitimate political authority. We argue that this constitutes a structural analogy to wars of humanitarian intervention. Moreover, we show that, while some harms imposed by such standards are desirable, others are best thought of as a form of collateral damage. We thus look at the well-developed literature on just war theory for inspiration and find that the principles of *jus ad bellum* and *jus in bello* contain many insights that can be fruitfully adapted to the case of nongovernmental standard-setting. Consequently, we propose the *Ius ad Normam*—a set of principles that should guide would-be standard-setters in assessing whether imposing those burdens is ethically justifiable in particular cases. We also discuss how powerful multinational businesses often act simultaneously as standard-takers and standard-setters and explore the normative implications of this dual role.

**KEYWORDS**

just war theory, regulation, SMEs, voluntary standards

## 1 | INTRODUCTION

Regulating international business poses difficulties because the direct power of governments tends to be limited to their geographical territory.[1] So it is unsurprising that we are witnessing a proliferation of nongovernmental attempts at regulation (see Keohane & Victor, 2011). The label 'transnational new governance' describes the vast variety of governance activities being undertaken by agents other than national governments (Abbott & Snidal, 2010); "private actors are increasingly engaged in authoritative decision-making that was previously the prerogative of sovereign states" (Cutler et al., 1999, 16). The focus of this paper is on one particular element of transitional new governance, namely the establishment of voluntary standards related to ethics (for example, standards regulating labor practices, environmental sustainability, and CSR).[2] Over a decade ago, Gilbert et al. (2011, 23) wrote of "a proliferation of international accountability standards (IAS) intended to encourage and guide corporate responsibility, and to provide multinational corporations (MNCs) with ways to systematically assess, measure and communicate their social and environmental performance." Prominent examples include *Forest Stewardship Council* certification, *The Monterey Aquarium's Seafood Watch* eco-certification, and *Fairtrade* certification.

Insofar as adopting these ethics standards is truly voluntary, it can be reasonably disputed that they are a form of "regulation" at all. However, the ambition of many of those standards is effectively to minimize the degree of voluntariness. Those who establish new voluntary ethics standards often aim at making abiding by them a de facto necessity of doing business in a given industry. At their most successful, then, nongovernmental ethics standards become regulatory quasi-laws. As Büthe and Mattli put it: "for business purposes what is legally voluntary may be financially necessary" (Büthe & Mattli 2011, 137). And—importantly for our purposes here—such "voluntary" ethics regulations share with legislated regulatory standards the property that abiding by them will often be costly. Indeed, adherence to voluntary standards is typically more costly than abiding by laws because, in order to be certified, a company not only has to meet the requirements of a standard but also has to assume the cost of proving that it is doing so (Gulbrandsen, 2009).

Many attempts at nongovernmental ethics regulation are laudable in that they (partially) fill glaring gaps left by traditional regulation and thereby incentivize private actors to refrain from morally odious practices. Nevertheless, such attempts also raise a number of concerns. Some critics worry that ethics standards will be ineffectual, while others complain that they lack legitimacy (e.g., Bowen, 2017). In this paper, we take on a related but under-explored problem with private ethics regulations. As Van der Ven (2019, 15) points out, "standard setting is a profoundly political process capable of generating both winners and losers." Some firms gain competitive advantages from adopting new standards, while others lose market share from being unable to do so. Thus standard-setting is not a morally neutral activity but stands in need of ethical justification. The particular problem that we take up in this paper is the effect of standard-setting on *vulnerable* market participants who lack financial or functional capacity to become certified to voluntary standards. While such vulnerabilities may be displayed by businesses of any size, they are most likely in small and medium enterprises (SMEs). The cost of voluntary standards can constitute a barrier to entry or push existing companies out of business, and in

[1]There are exceptions, including the US Foreign Corrupt Practices Act.

[2]A recent Government of Canada study estimates that 1 in 5 products traded globally are now certified to some kind of independent industry or civil society-led standard (Bowles, 2011).

only some cases will that be morally justified. We argue that such effects increase the justificatory burden and propose that, to discharge that burden, standard-setters ought to abide by a set of principles similar to those developed by Just War Theorists. Our reason for borrowing from this perhaps unexpected theory is not that we think of business (regulation) as a form of war but rather that the decision whether to impose a nongovernmental standard bears some structural similarities to the decision whether to wage a war of humanitarian intervention.

In Section 2, we lay out the ethical challenge: ethics standards can impose significant economic costs on SMEs, including some SMEs that are not engaging in objectionable behavior. And, if such standards become sufficiently entrenched, these costs can become unavoidable despite the standard not being backed by a formal authority. In Section 3, we discuss which ethical frameworks are appropriate for organizations playing the role of standard-setter and standard-taker, respectively. We assume that for standard-takers, the appropriate ethical framework is morally constrained pursuit of self-interest. Standard-setters, on the other hand, should be guided by a different set of ethical considerations. We suggest that a useful inspiration for them can be found in just war theory (JWT). In Sections 4 and 5, we show how the principles of the *jus ad bellum* and *jus in bello* can inspire a framework to guide ethical decision-making in the context of standard-setting. In Section 6, we address the fact that the roles of standard-setter and standard-taker, while different in principle, are commonly played by the same organizations, namely, when large private actors holding positions of significant power within supply chains are themselves responsible for promoting ethics standards.

We pause here for a brief note on boundaries. First, we discuss standards that aim at increasing the moral standing of business practices in ways extraneous to product quality: things like improved working conditions, enhanced environmental sustainability, and various aspects of corporate social responsibility. We will refer to these generically as "ethics standards."[3] Some of what we have to say may apply to other kinds of voluntary standards including, for example, ISO technical standards. But, to be clear, we take no position as to whether our conclusions carry over to such realms. Second, we will focus on the potential effects of voluntary standards on SMEs. We believe that smaller enterprises are more likely to display the vulnerabilities that give rise to the challenges we explore.

## 2 | NONGOVERNMENTAL STANDARDS AND THEIR PERILS

### 2.1 | The quasi-mandatoriness of some standards

The term "voluntary" as applied to standards initially evokes two thoughts: first, that a standard is not sanctioned by a formal authority and, second, that organizations are thus free to decide whether to adhere to the standard. However, these two aspects can come apart. Formal authorities (such as governments) can issue standards that are merely suggested guidelines, or they can issue standards (such as laws and regulations) that, while meant to be mandatory, are insufficiently enforced (Heindlmaier & Kobler, 2022). In either of these cases, the standard in question is sanctioned by a formal authority, and yet, organizations are in fact free to decide whether to

[3]Occasionally we use the term "nongovernmental standards" to highlight the nongovernmental aspect; this is still shorthand for nongovernmental standards with explicitly ethics-related objectives.

**TABLE 1** The two dimensions of "voluntariness."

| | | Feasibility of non-adherence | |
|---|---|---|---|
| | | **High** | **Low** |
| Formal authority of sanctioning body | High | Unenforced laws; voluntary guidelines | Enforced laws and regulations |
| | Low | Truly voluntary standards | Quasi-mandatory standards |

adhere to it. The reverse is also possible. For instance, if consumers strongly approve of a standard, a lone abstainer in its industry might be at a substantial disadvantage (IDH, D. S. T. I., 2010). More commonly, a powerful private actor (such as a lead firm in a global value chain) makes certification to the standard a condition of doing business with them, which in turn is necessary to survive in the market. For example, when Chipotle Mexican Grill announced that it would cease using genetically modified ingredients at its over 2200 restaurants, this had substantial implications for the firms in its supply chain (Strom, 2015). It is for this very reason that standard-setters with ambitions to achieve significant industry-wide sway "often target large, multinational, downstream retailers that hold considerable leverage over [global value chains]" (Van der Ven, 2019, 5; cf. Gereffi et al., 2005). We will return to the question of such large players in Section 6. In such cases, standards are not sanctioned by a formal authority, and yet, organizations are in fact not free to decide whether to adhere to them. Table 1 summarizes the two dimensions of voluntariness just discussed.[4]

Our primary focus in this paper is on what we call *Quasi-Mandatory Standards*, that is, standards that combine low feasibility of non-adherence with low formal authority of the sanctioning body. These are standards that combine an imposition of costs (we discuss this aspect in Section 2.2) with a lack of recognized authority (we discuss this aspect in Section 3.2) and thus present a distinctive need for justification not shared by standards in the other quadrants.

## 2.2 | The burdens of standards and SMEs

Adhering to a standard is costly if the standard requires firms to deviate from the most cost-effective practices. In addition, if it wishes to be certified to a standard, there are costs associated with proving adherence (Narula, 2019). Typically, these costs are borne by the business, rather than by the standard-setting organization (Tencati et al., 2008). Thus, nongovernmental ethics standards have the potential to place burdens on businesses. This is unproblematic

[4]While Table 1 should suffice to illustrate the attributes of the standards we are interested in here, we acknowledge that it is overly simplistic. Both dimensions of voluntariness are much more continuous than the binary suggested by the table. This should be clear with regards to the feasibility of non-adherence where pressure to adhere can clearly come in degrees. With regards to formal authority, the picture is also more complicated than suggested by the table, because formal authorities can sanction standards in more or less direct ways. For example, standards that are introduced by private organizations can find their way into both public sector procurement requirements and public policy (van der Ven 2019, 11). Elsewhere, professional self-regulation by lawyers, accountants, and so on is often enabled by government edicts (granting to a particular profession both a limited monopoly over a field of practice and a limited right to self-regulate).

insofar as the standard is truly voluntary. However, most standard-setters are keen to move their standards toward being quasi-mandatory—since wide adherence to a standard is key to achieving its aims (Van der Ven, 2019). Thus, the more successful a standard-setter is on its own terms, the less truly voluntary the standard, and hence the more pressing the need to justify the imposition of related costs. We can bring the need for such justification into focus by noting that SMEs typically absorb disproportionate costs in order to be certified to non-governmental ethics standards. This is so for at least two reasons.

First, SMEs are more likely than larger organizations to bear entirely new costs in order to meet the detailed requirements of new standards. For instance, they may need to hire new personnel in order to put new processes in place and document compliance, whereas a larger organization might simply assign one more task to an existing compliance department (Von Weltzien Høivik & Shankar, 2011). Second, SMEs' margins tend to be smaller in absolute magnitude, and they find it more difficult to build up financial reserves (Lepoutre & Heene, 2006); hence, where new costs are borne by both SMEs and large organizations, it is SMEs that find it harder to absorb them.[5]

That voluntary standards can impose substantial and, in some cases, prohibitive burdens on SMEs is widely recognized, as evidenced by many "best practices" documents for non-governmental standard-setters asking standard-setters "to reduce barriers to certification for small firms." (Van der Ven, 2019, 16). There are two different ways in which a company may be harmed by a standard's becoming quasi-mandatory. First, a company may not be viable under the rules established by a given standard. That is, the practices of a business may be incompatible with the practices required by the standard. If a company's business model depends on Practice X, the standard requires avoiding Practice X, no substitute practice is readily available, and adherence to the practice is a market necessity, then the company has a problem. Suppose, for example, that the standard prohibits companies from producing uncompensated pollution-related externalities. If a business is currently viable only because it externalizes some of its costs (that is, if cleaning up its pollution renders it unprofitable), then from an economic point of view, the business does not actually produce value, and from an ethical point of view, its demise is desirable (Barocelli, 2020). Or, if a company's business model relies upon child labor in dangerous working conditions, compliance with a standard that requires avoiding such labor practices may drive that company out of business, which is likely a good thing. If the standard in question promotes an ethically worthwhile goal, that goal can straightforwardly justify the negative impact on companies unable to meet the standard in such cases. The elimination of companies that are reliant on objectionable practices is part of the intended effect of imposing an ethics standard in the first place.

On the other hand, it might not be adhering to a standard that threatens the viability of a company, but rather the cost of proving compliance. The costs of documenting practices, reporting, and having compliance audited can be substantial (Ward, 2008). In addition, some standards charge a licensing or certification fee (Gulbrandsen, 2009). And some SMEs may be unable to bear those costs. A small company in such a circumstance might be doing everything right (in light of the aims of the standard). Yet their inability to demonstrate this might effectively push them out of the market nonetheless. The harm done to such companies should be thought of as a type of collateral damage: It is harm imposed on innocents in pursuit of a

[5]This mirrors concerns with regard to government regulations. According to an OECD study, "[r]egulatory and formality costs have an increasingly disproportionate impact on smaller companies" (OECD, 2001, 8).

worthwhile goal.[6] Take, for example, the case of forestry certification in the Brazilian Amazon aimed at improving the sustainability of logging practices. The costs associated with certification are prohibitive for "the majority of Amazonian smallholders and communities. This includes those whose practices are arguably highly sustainable and beneficial for local communities." (McDermott et al., 2015, 140) Those types of cases demonstrate that introducing ethics standards is less ethically straightforward than may at first appear. We now examine potential justificatory frameworks for setting such standards.

## 3 | JUSTIFICATORY FRAMEWORKS

At the outset, let us distinguish between standard-setters and standard-takers. Importantly, this is not a distinction between types of organizations but between roles organizations may play; and even as roles, the distinction gets blurred in practice. Indeed, technically, pure standard-taking is impossible, since every organization that gets certified to a standard promotes the standard by increasing that standard's visibility and reach (however marginally), thereby engaging in a form of standard-setting as well. This is important to note, since many of the most important players in the story of nongovernmental standards are large organizations whose decisions to adopt a standard create ripple effects throughout global value chains (Ponte, 2022). Thus, the notion that an act of standard-taking can be simultaneously an act of standard-setting is no mere academic possibility. This presents its own set of challenges which will be addressed in Section 6. In the current section, and for the purposes of conceptual clarity, we will focus on situations in which an organization plays only (or primarily) one of the roles of standard-taker or standard-setter.

### 3.1 | Standard-takers

The archetypical standard-taker is a business organization that must decide whether to become certified to a standard. Doing so often comes with substantial material benefits. In high-income economies, certification may unlock access to the growing segment of consumers who value information about the products they consume and the processes by which they are made (Darnall, 2009). While consumers in poorer countries tend to be less sensitive to such concerns, firms operating in lower income economies are often (potential) participants in global value chains that require certification to some standard or other.

The decision of whether to adopt a standard poses no special ethical challenges for pure standard-takers beyond those associated with any business decision.[7] The appropriate justificatory framework for such decisions within a competitive market, we believe, is one of constrained adversarialism: that is, a framework that permits profit-seeking as the central

[6]Relatedly, a company's current practices may be morally unobjectionable but not in line with the details of an ethics standard. In other words, the company may operate according to the spirit but not the letter of the standard. In such cases, meeting the standard may mean a costly change in production processes which, from an ethical point of view, are needless. Such cases are also collateral damage in our sense.

[7]We note, again, that there are no truly pure standard-takers. Every organization that adopts a standard thereby adds to the standard's visibility and makes the standard more typical of the industry. But for small firms, these effects are negligible, and we can treat them as pure standard-takers in the same way that economic theory standardly treats individual firms and households as price-takers.

organizational objective but requires that legal and moral side-constraints be respected (Friedman, 1970; Goodpaster, 1991; Heath, 2014; von Kriegstein, 2016). In other words, pure standard-takers may look at the decision of whether to seek certification to a standard by focusing primarily on the question of whether it would be advantageous for them (MacDonald & Whellams, 2007). This, of course, should not obscure that businesses may be under independent moral obligations to avoid the behavior a particular standard seeks to curb. The point here is merely that, as pure standard-takers, businesses need not concern themselves with the possible adverse effects the widespread adoption of the standard may have on other businesses. To illustrate, imagine that a business is deciding whether to have its products certified as free of forced labor. We are not saying that the business is ethically free to decide whether to employ forced labor (manifestly, they are not) but rather that in deciding whether to apply for certification of their products, they need not worry whether other firms will be adversely affected because they cannot bear the cost of achieving certification.

## 3.2 | Standard-setters

Standard-setters present a different challenge and are the focal point of this paper. Typical standard-setters are nongovernmental organizations that produce and promote new business standards. This category includes well-established international organizations such as the International Organization for Standardization (ISO)[8] and the Forest Stewardship Council, as well as start-up initiatives ranging from very small (such as carbonfund.org) to very large (e.g., Friend of the Sea). The framework of constrained adversarialism is inadequate for standard-setters because creating a standard is not (merely) an attempt at succeeding in a competitive market. Rather, it is an attempt to change the terms under which that competition plays out. The justificatory framework for such attempts cannot make as much room for the pursuit of self-interest as in the context of pure standard-takers.

The obvious suggestion would perhaps be that standard-setters should adopt an impartial social choice perspective as exemplified by utilitarianism (or social cost–benefit analysis). Under such a framework, the establishment of a new ethics standard would be ethically justified just in case the net social benefit outweighed the net cost (Stewart, 1975). The problem with applying this framework is twofold. First, it ignores fairness concerns: Such a framework would sanction ethics standards that produced a net benefit, even if the costs were borne disproportionately by the smallest and most vulnerable participants in a given market. Second, this framework imposes implausible epistemic requirements. It is unclear whether any standard-setter would be in a good position to calculate what the net social benefits are and to price them accurately.[9] This is particularly problematic because nongovernmental standard-setters lack the political legitimacy of governments that might justify them in saying to those harmed, "We have weighed the pros and cons and decided that your losses are acceptable."

[8]Regarding this example, it is important to remember that the scope of this paper is limited to ethics standards. Historically, ISO was concerned mainly with product standards harmonizing internationally traded goods. In the 1980s, ISO branched out into "process standards" which, instead of specifying technical details of a product, aim to improve the processes by which organizations go about their business. (Murphy & Yates 2009, 46–88). From there, it was short step to standards focusing on ethical issues such as ISO 14000 (environmental impact), ISO 26000 (CSR), and ISO 37001 (anti-bribery management systems).

[9]These are classic objections to utilitarianism as a public policy tool. See Kymlicka (2002), 47–8.

This raises an interesting point of political philosophy. In democracies, governments (the archetypical regulators) generally gain what legitimacy they have via a mandate from an electorate. A duly elected government has the right—and unavoidable duty—to impose costs on some for the benefit of others. Putting aside the thorny question of whether governments that are not democratically elected can achieve the same legitimacy via different processes, it seems clear that nongovernmental organizations that promote ethics standards do not enjoy the presumptive legitimacy enjoyed by governments elected by the people or otherwise legitimized (cf. Grant & Keohane, 2005, 35; Black, 2008, 138). This does not necessarily imply that they lack legitimacy entirely. But the justificatory burden they bear with regard to imposing harms in the name of the common good is higher compared to governments because their legitimacy as an arbiters of competing interests is lower (Cashore, 2002).[10]

The legitimacy and political authority, or lack thereof, to be attributed to nongovernmental standard-setters has attracted ample attention in political science and related fields. Some have argued that the impossibility of obtaining democratic legitimization for nongovernmental governance implies that such efforts should be restricted as much as practically possible (e.g., Dahl, 1999). Others suggest that there are different ways of legitimizing efforts at transnational governance (e.g., Richardson & Eberlein, 2011). One suggestion, in that regard, is that nongovernmental standard-setters can enhance their legitimacy by producing a track record of successful policies (Scharpf, 1997). This works to the degree that a regulatory standard contributes to the public good based on value-free expertise and without significant distributive effects. But these conditions rarely occur (Büthe & Mattli 2011, 220), and this is particularly true in the context of ethics standards with potentially systematic detrimental effects on SMEs.

A more promising suggestion, for our purposes, is that legitimacy can be gained via procedural and deliberative processes. In this context, notions of stakeholder democracy are prominent (e.g., Bäckstrand, 2006; Scherer & Palazzo 2007). The idea is that thorough consultations with all affected parties help to, first, better identify what rules would best serve everyone; second, transform participants' interests in a way that diminishes conflicts; and third, provide a quasi-democratic justification for the decisions reached (see Bohman, 2000). We will take up this line of thought in Section 4, and incorporate it in our proposed principles for justified standard-setting in Section 5. However, it is worth noting that the bulk of the literature on the question of legitimacy is concerned with what Richardson and Eberlein call the "sociological perspective on legitimacy" (Richardson & Eberlein, 2011, 221). Thus, what most scholars are interested in is the important empirical question of what it takes for standard-setters to be perceived as legitimate by the community whose behavior they attempt to govern, which, in turn, bears on their ability to govern effectively (e.g., Bernstein, 2014; Bernstein & van der Ven, 2017; Cashore et al., 2004; Marin-Burgos et al., 2015). Examples of this kind of inquiry can be found in the literature on the "social license to operate" (e.g., Prno & Slocombe, 2012; Vanclay & Hanna, 2019). By contrast, in this paper, we are interested in the *normative* question of how a (potential) standard-setter should approach imposing economic harm on those over whom they do not have legitimate authority.

While the answers to the sociological question about perceived legitimacy and the normative question about justification need not converge (Beisheim & Dingwerth, 2008), it would be unsurprising if acting in (normatively) justified ways tended to increase an agent's level of perceived legitimacy. This explains why existing best-practice guidelines for standard-setting include many recommendations that almost any reasonable normative framework would

[10]See Atack (1999) for a useful sketch of the various sources of legitimacy for NGOs.

endorse. Thus, our own framework, elaborated in Sections 4 and 5, has substantial overlap with, for example, the recommendations made by the best-practice guidelines for eco-labeling as issued by organizations such as the ISEAL Alliance (ISEAL, 2014), or ISO (International Organization for Standardization, 2018). However, the issuers of those guidelines have an entirely practical aim, namely, to increase the likelihood that a standard will achieve its stated goal (ISEAL Alliance, 2013, 4). They are not in the business of moral justification. The very idea of governance through best practices is to provide value-free expertise (see Overman & Boyd, 1994). Our project is different. We are looking to provide a thoroughly normative framework for answering the question: How can we justify imposing (economic) harm to parties not subject to our legitimate political authority? We find such a framework in a surprising place: Just War Theory.

### 3.3 | JWT

We want to be clear that, in bringing the framework of JWT to bear on the context of private business regulation, we do not embrace a general analogy between business and war. While war metaphors are ubiquitous in public discourse about business and in business language itself, such metaphors are often misleading and arguably contribute to a climate in which ruthless business conduct is regrettably thought acceptable (Liendo, 2001). Thus, our contention is not that business is war and should be regulated as such. Rather, we think that many of the normative principles developed in the context of just war theory do not derive their plausibility from the specific context of violent conflict. Instead, we understand JWT as a set of principles governing the acceptability of imposing harm in pursuit of an important goal, where many of those harmed are outside of the political authority of the group doing the harming.[11] As we have seen, nongovernmental standard-setters can find themselves in precisely these circumstances. Furthermore, JWT itself began to change, from an explicitly Catholic doctrine to a secular one intended to be acceptable from a wide variety of viewpoints, in the wake of the Thirty Years War (Shiller, 2015). One effect of that war was the reduction of the status of the Catholic Church as a widely recognized international authority. Henceforth, normative theorizing about the imposition of harm had to be done while recognizing that those harmed might not be under the legitimate authority of those imposing the harm. This, again, is similar to the current problem of regulating a globalized economy in which the reach of traditional political authorities is limited.

Finally, another key similarity motivates our use of JWT. In war, there is an important distinction between combatants and non-combatants. While most theorists, along with international law, hold that there are circumstances under which inflicting harm on either group is permissible, it is generally agreed that the restrictions on harming non-combatants are much stricter and that non-combatants may not rightly be made the direct target of military action.[12] As we saw in Section 2, when an organization sets out to improve business practices in an

[11]This last factor is often thought to increase the justificatory burden above and beyond the first-order harm imposed, because an outsider imposing harm also infringes on people(s)'s interest in collective self-determination (Walzer, 2000, 53). While the existence of such interests is widely accepted, there is vigorous debate about how important they are, how legitimate, and what they entail. (See, e.g., Beitz, 1980; Caney, 2005; Fabre, 2012).

[12]See the first additional protocol to the Geneva conventions, especially articles 48 and 57. See also (Walzer, 2000, Part III).

industry by imposing a new standard, there are two ways in which this can harm businesses in that industry. First, there are companies whose business model relies on the objectionable practices the standard is targeting. Insofar as the standard forces them to forego gains previously reaped from such practices, those companies are being harmed. But as perpetrators of the objectionable practices that created the need for imposing the standard, such businesses are analogous to combatants fighting on the wrong side of a war (assuming that the standard targets practices that are indeed morally objectionable). Second, there are companies not engaged in relevant objectionable practices, who nevertheless incur economic harm from the standard, because they are forced to bear the cost of certification. Such businesses are analogous to non-combatants: They are hurt by a campaign aimed at solving a problem they have no part in creating. And, just as in the case of war, it is harm to them—collateral damage—that raises the justificatory stakes.[13]

JWT advances two complementary sets of principles. The "*jus ad bellum*" (right to war) principles concern the question of when it is ethically permissible to fight a war at all. The "*jus in bello*" (law in war) principles regulate how war, once begun, is to be conducted.[14] The distinction is not sharp, as the principles from the two sets often operate concurrently (Greenwood, 1983, 222–5). Furthermore, unlike war, standard-setting is not typically composed of a number of discrete harmful interventions, each of which might be evaluated separately according to a particular principle. For these reasons, we ignore the distinction in our context. What we suggest here is that nongovernmental standard-setters should follow a set of principles akin to those of both aspects of JWT. We refer to this parallel set of norms as the *jus ad normam* (the right to set a standard): a guideline for when and how it is justified to engage in setting an ethics standard in the face of the possibility of collateral damage.

## 4 | FROM WAR TO STANDARDS

As standardly conceived (see, e.g., Lazar, 2017), the *jus ad bellum* consists of six principles:

- Just Cause
- Legitimate Authority
- Right Intention
- Reasonable Prospects of Success
- Proportionality
- Last Resort

*Jus in bello* consists of the following three principles:

- Discrimination
- Proportionality
- Necessity

[13]This section glosses over several contentious issues in just war theory. While the categorical distinctions between combatants and non-combatants adduced here are part of international law, it is hotly debated whether this aspect of the law is morally defensible. For an overview of the debate (see Lazar, 2017, Section 4).

[14]There are also questions regarding the termination of a war and its aftermath. These are discussed under labels such as *jus post bellum* (Bass, 2004), *jus ex bello* (Moellendorf, 2008), or *jus terminatio* (Rodin, 2008).

We will briefly discuss how each of these principles can be adapted for the purpose of assessing the ethical propriety of introducing and promoting a nongovernmental ethics standard. We find that much of the underlying thinking contained in these principles carries over in some form to the context of nongovernmental standard-setting. However, not all of it does, and most needs to be significantly modified to fit the new context. In the next section, we present the *jus ad normam*, a list of five principles that would-be standard-setters should heed. These five capture the essence of the principles for imposing harm on those outside one's legitimate authority that we find in JWT, as applied to the context of setting ethics standards.

### 4.0.1 | Just cause

For a war to be just, its purpose must be. One must not, for example, wage war simply because it suits one's own interests. Analogously, a standard-setter must not impose a mandatory standard simply because it suits their own interest (cf. Singer & van der Ven, 2019, 10). The importance of this basic point is difficult to overstate. A common complaint about government regulation is that it is too often a tool that powerful special interest groups use in self-interested ways.[15] This concern carries over to nongovernmental regulation. An industry organization, for example, may try to enforce nominally voluntary standards as a means of erecting barriers to market entry or keeping potential disruptors at bay. This is exemplified by the 1986 attempt of the Consumer Protection Safety Association (CPSA) of Japan (a private regulator) to reduce international competition for Japanese ski manufacturers by introducing a new safety standard that specified physical attributes for skis (such as a minimum thickness) that the superior technology of European and American manufacturers had made obsolete (Rapoport, 1986). This was a case of using regulation to unfairly reduce competition—an unjust cause.

While the paradigmatic case of just cause in JWT is self-defense against an unjust aggressor, the clearer analogy to our context is the case of humanitarian intervention. The threshold for justifying war as a humanitarian intervention is quite high. Commonly cited is Michael Walzer's remark that humanitarian interventions can only be justified by "acts that shock the moral conscience of mankind" (Walzer, 2000, 107). Similarly, the United States Conference of Catholic Bishops states that "[f]orce may be used only to correct a grave, public evil, i.e., aggression or massive violation of the basic human rights of whole populations" (USCCB, 1993).

In the context of ethics standards, stakes need not be so high. The use of child labor in jurisdictions where it is legal and where the working conditions are not life-threatening would presumably not justify going to war under jus ad bellum. Clearly, this should not be taken to imply that an ethics standard forbidding child labor would lack "just cause." That said, standard-setters who risk causing collateral damage should do some serious soul-searching with regard to whether their goals are indeed laudable—whether their cause is truly just—and if so whether those goals are worth the potential harm to innocent companies. In particular, standard-setters need to ask whether the goals they pursue are subject to reasonable disagreement (Rawls, 1993). To the degree that they are, it becomes less justifiable to impose costs on nonconsenting parties. Imagine, for example, a standard certifying that food products contain 100% local ingredients. Given that the focus on "local" is controversial environmentally (Weber &

[15]This is part of what is known as the regulatory capture theory of regulation (see Stigler, 1971 for a classic treatment; cf Bartel & Thomas, 1987; Thomas, 1990).

Matthews, 2008), and sometimes suspected of serving as a fig leaf for xenophobia (Stănescu, 2010), the worthiness of such a standard might reasonably be questioned (Young, 2022), and imposing economic harm in attempting to make it quasi-mandatory would be ethically problematic.

The Rawlsian idea that values that are subject to reasonable disagreement should not be forced on those who do not share them may appear to be out of place in the current context. This is because, within the framework of political liberalism, such neutrality is required only of the state—not of private actors. Since the standard-setters we are considering here are private actors, should they not be free to be guided by whatever substantive normative beliefs they happen to hold dear (provided they are not inherently hateful or otherwise morally out of bounds)? We answer that this is true, as long as the standard is truly voluntary. We are not objecting to the creation of a private "local ingredients" label. Our contention is that a requirement of neutrality emerges when such standards move into the realm of the quasi-mandatory. This should not be surprising. After all, to the degree that nongovernmental standards become effectively mandatory, private standard-setters are taking on a role that is traditionally reserved for the state. In such circumstances, they become subject to the corresponding justificatory requirements.

### 4.0.2 | Legitimate authority

The proper authority principle dictates that only duly authorized political authorities of states may declare war. By definition, nongovernmental regulators will not satisfy this demand, if taken literally. The principle of legitimate authority is heavily contested in JWT itself, however; many commentators have argued that the question of whether one is justified in fighting a war should be answered with reference to individual rights of those affected alone. And while those rights also play an important role in answering the question of what constitutes political legitimacy more generally, the answer to this latter question should not be used to mediate our answer to the former (see, e.g., Fabre, 2008; Finlay, 2010; Schwenkenbecher, 2013).

As already noted, in our context legitimacy cannot come from traditional political authority. But that does not render the question of legitimacy moot. Standard-setters should strive to achieve the greatest possible degree of legitimacy for their standards. Without delving too deeply into the question of how nongovernmental organizations can improve and maintain their legitimacy, we argue that such legitimacy might result from the broad representation of various stakeholder groups, within the standard-setting process (see Atack, 1999; Bratton, 1989; Thomas, 1992). This same principle also implies a need for the highest degree of transparency when it comes to assessing whether firms meet the standard.

### 4.0.3 | Right intention

The principle of right intention—i.e., that a war cannot be just unless it is fought for the right reasons—is also controversial in JWT (and is not part of international law). Many commentators think that, if the war does in fact serve a just cause, it does not matter whether this is what motivates the people waging it. Likewise, in the context of ethics standards, having the right intention is not as important as the criteria derived from the other principles of JWT. In particular, a standard that achieves good outcomes should be considered praiseworthy, even if (some

of) its originators or supporters have dishonorable motives. For example, if Apple were to promote a standard encouraging the elimination of conflict metals from the manufacture of smartphones specifically because doing so would put it at a competitive advantage, such a standard would nonetheless be a good thing.

However, when standard-setters stand to gain from the adoption of a standard they ought to declare this, in order to facilitate assessment by other stakeholders, not least because such a state of affairs increases the burden of proof that standard-setters bear with regard to showing that they have met the other requirements of the *jus ad normam*. As van der Ven notes, an unwillingness to submit to public scrutiny is often a red flag with regard to the practices of a standard-setter (Van der Ven, 2019, 17). As we will see in Section 6, this is important particularly when thinking about organizations that are officially standard-takers but that are so powerful that their decision for or against adopting a standard makes a substantial difference to the extent to which the standard is truly voluntary.

#### 4.0.4 | Reasonable prospects of success

According to the "probability of success" principle, military action may only be required if there is a reasonable likelihood that it will succeed. This rules out futile wars that only inflict pain on both sides without hope of achieving an objective. This principle, too, is controversial within JWT because it seems to imply that a state cannot justly defend itself against an enemy it cannot hope to defeat. In our context, however, the principle is important and less controversial. It is less controversial because we are only concerned with standard-setters who have the ability to inflict serious economic harm via successful standards. This rules out hopeless underdogs by definition. This does not mean, however, that our standard-setters automatically fulfill the reasonable prospects of success requirement. Success in promoting a standard is not the same as success in achieving the aims of the standard. That is why the requirement is important. If a standard-setter is able to inflict substantial economic harm, it behooves them to do so only if there is reasonable hope that they will achieve their goal—that is, that they will succeed in changing in ethically important ways the way an industry does business. The principle requires standard-setters to engage in serious deliberation about the likely effects of their agenda: wide-eyed idealism is not enough. A standard that could not hope to achieve anything worthwhile would not justify any degree of harm at all.[16]

#### 4.0.5 | Discrimination

The *jus in bello* principle of discrimination states that in waging war one must always discriminate (i.e., distinguish) between civilians and combatants, and intentionally attack only the latter. While this is a widely acknowledged principle, it is surprisingly hard to draw a clear distinction between civilians and combatants in practice.[17] We need not enter into these debates here. The way that the insight behind this principle carries over to the context of standard-setting has already been discussed in Section 3.3. In imposing an ethics standard one can create

[16]A similar requirement is common in discussions of whistleblowing (see, e.g., Bellaby, 2018, 67–8).

[17]Is a janitor on a military base a combatant? What about an executive running a munitions factory? One wears a uniform, the other a suit; but this does not seem to track a morally relevant distinction.

two types of costs—one that is intended and one that is merely foreseen. Intended are the costs of abstaining from the practices the standard prohibits; merely foreseen are the additional costs of certification borne by companies that are already compliant with the standard. Insofar as costs of the latter type are unduly burdensome, the justificatory stakes are raised.

#### 4.0.6 | Proportionality, last resort, and necessity

We discuss the remaining four principles—proportionality (in two versions), last resort, and necessity—together, because they all point toward a common set of restrictions when adapted to standard-setting.

The fifth principle of the *jus ad bellum* (proportionality) requires that the good sought in waging war outweighs whatever harms are anticipated by the use of force. Similarly, the second principle of the *jus in bello* (also called proportionality) requires that unintended but foreseen harms resulting from how war is waged be proportionate to the military advantage achieved. These principles carry over straightforwardly to the context of standard-setting. If the introduction or promotion of an ethics standard has untoward side effects, it can only be justified if the goals of the standard are important enough to outweigh those harms. Moreover, if the introduction of the standard harms innocents (i.e., companies that are not engaging in objectionable practices), this can only be justified if entrenching the standard is an important step toward achieving its goals.

Under *jus ad bellum*, military force must be a last resort and can be justified only after all other avenues have been found unworkable. This is the only principle from *jus ad bellum* that does not plausibly carry over to the context of standard-setting. Voluntary standards need not be a last resort. In some cases, nongovernmental action may be less burdensome than, and just as effective as, other options. For example, it may make better use of industry knowledge and be less intrusive than regulation by the state. In such cases, a nongovernmental effort may be highly desirable. Thus, the better principle to focus on is the related *jus in bello* principle of necessity, which simply states that for any given objective, the least harmful means must be chosen. This, like the proportionality principles, carries over to our context seamlessly. Before imposing a standard that can be expected to have detrimental side effects, would-be standard-setters ought to consider whether the proposed standard truly is necessary or whether there are other plausible means that do not have those negative effects.

The upshot of the four principles discussed in this subsection is that standard-setters must, first, carefully weigh the burdens and benefits their standard is likely to bring about and, second, give serious consideration to alternative ways of pursuing their goals.

### 4.1 | The *jus ad normam*

Condensing the lessons from the discussion of the principles of JWT just above, we propose the following five principles as jointly constituting the *jus ad normam*:

- Pluralistic appeal

This is the analog to the all-important Just Cause clause of the *jus ad bellum*. First and foremost, ethics standards must not be used simply to erect artificial barriers to protect the

economic interests of established players in an industry. Furthermore, while the introduction of standards cannot plausibly be subject to constraints as stringent as those that apply to the use of military force, economic collateral damage (as discussed above) should not be inflicted willy–nilly. In particular, it should not be inflicted in pursuit of goals that are desirable only from idiosyncratic ideological points of view.

- Broad consultation

Nongovernmental ethics standards should result from a process of broad consultation. Straightforwardly we may think of this as a substitute for the JWT principle of Legitimate Authority. Since legitimate political authority in the traditional sense cannot be achieved by nongovernmental standard-setters, these organizations need to work hard to achieve legitimacy via broadly consulting with all relevant stakeholder groups. Broad consultation also provides an important safeguard in the service of securing pluralistic appeal. If the aims of a proposed standard are subject to reasonable disagreement, this will likely come to light during consultations with various stakeholder groups.

- Conflict of interest declaration

Organizations involved in standard-setting should declare any conflict of interest. This principle incorporates the insight underlying the Right Intention requirement of the *jus ad bellum*. Motivations may ultimately not matter much in assessing the ethical acceptability of ethics standards. However, the application of the other criteria of the *jus ad normam* is often going to present formidable challenges. Thus, knowing whether an organization has self-interested motives in promoting a standard serves as a crucial filter. The existence of such motives would not automatically preclude (their adoption of) the standard from being ethically acceptable (cf. Norman & MacDonald, 2009). It would, however, give stakeholders a reason to take a particularly close look at the other principles on this list.

- Measured response

Any proposed nongovernmental ethics standard should constitute a measured response to the problem it is intended to solve. This principle combines insights drawn from the JWT principles of Reasonable Prospect of Success, Proportionality, and Necessity. Standards that have the potential to inflict economic harm should be introduced and promoted only if they are likely to achieve their goals and if there is no other, less harmful, way of achieving them. We may think of this principle as requiring a cost–benefit analysis, which is to be undertaken after and only if the first three principles of the *jus ad normam* have been satisfied.

- Mitigation

Unintended side effects of voluntary ethics standards ought to be mitigated where possible. In a final nod to the JWT principle of Discrimination, we suggest that, wherever possible, standard-setters should take steps to mitigate any unintended harm. For example, standard-setters should strive to create ways for SMEs to achieve certification without taking on disproportionate costs. They may, for example, provide compliance training to small businesses free of charge or create

a fund to help pay for third-party certification for companies below a certain threshold of revenue.[18]

We submit that, taken together, these five principles constitute a plausible guideline that anyone thinking about introducing a formal, voluntary ethics standard should follow. Having been developed by tailoring the principles of JWT for the context of nongovernmental ethics regulation, the guideline is grounded in the recognition that potential standard-setters must justify the imposition of harm on parties outside their political authority.

## 5 | THE ROLE OF LEAD FIRMS

We earlier suggested that two ethical frameworks apply to two different kinds of decision-makers. For standard-takers, the question of whether to adopt a standard is basically a run-of-the-mill business decision. One function of markets is to take full advantage of dispersed knowledge by letting individual market participants make decisions based on their knowledge of their own situations. Thus, there is a presumption that individual firms are generally free to choose what product to make, and how to make and market it, and the decision of whether to adopt a given formalized ethics standard falls squarely within that realm. (This is, of course, not to deny that such business decisions are subject to both legal and ethical constraints). Standard-setters, on the other hand, are seeking to change the rules of the market and, because they lack any obvious political legitimacy, they ought to adopt the cautious principles of *jus ad normam*.

As noted in Section 3, however, the terms "standard-taker" and "standard-setter" refer to roles, and an organization might play both roles simultaneously. This is no mere hypothetical possibility. The most significant market participants when it comes to the adoption of nongovernmental standards are playing both roles. These are what the literature on global value chains refers to as *lead firms* (Kaplinsky & Morris, 2000). Obvious examples are large-scale retailers like Starbucks and Walmart that have near-monopsonistic power over many suppliers. While lead firms typically do not develop standards themselves[19] (though they might be more or less involved in their development), they can greatly increase the degree to which an ethics standard goes from truly voluntary to quasi-mandatory (Singer & van der Ven, 2019, 11).

The main mechanism by which lead firms move a voluntary standard toward being effectively mandatory is by requiring their suppliers to abide by it. In 2006, for example, Walmart pledged to sell only fish products in the United States that are certified with the Marine Stewardship Council (MSC) eco-label. McDonald's followed suit in 2007. Thus, any fishery supplying those two giant retailers is now forced to get MSC-certified (Wakamatsu & Wakamatsu, 2017). To a lesser degree, lead firms can also increase the degree to which a standard becomes quasi-mandatory simply by displaying and touting it prominently, thereby implying (sometimes with all their marketing might) that anyone not following this standard is behaving unethically. This, as well as the notion that such lead firms are both standard-setters and standard-takers, implies that both of our frameworks apply to them simultaneously. Even when they only intend to act as standard-takers, their prominence thrusts them into the role of standard-setters.

[18]As mentioned above, this is in line with recommendations in many existing best practice guidelines (see, e.g., ISEAL Alliance, 2018, 25).

[19]There are exceptions such as *Considered Design*—an eco-label developed by Nike and required of all its suppliers.

This conclusion might seem surprising, given that lead firms are not typically developing and administering ethics standards. However, not much rests on who initiates, develops, or formally administers a standard. What makes the *jus ad normam* the appropriate ethical framework for standard-setters is not that standard-setters create a standard but that they effectively make them quasi-mandatory. Thus, if a market participant (e.g., Walmart, Apple, or Starbucks) is sufficiently powerful, they ought to think of themselves as akin to standard-setters like ISO with regards to the ethical rules that apply to them in promoting a standard. That is, such lead firms cannot simply consider the adoption of an ethics standard as a move within a competitive market, the way smaller companies may. And this implies that they ought to see themselves as bound by the principles of the *jus ad normam*.

One might object that this argument, when taken seriously, would overgeneralize. Since any change in what a lead firm requires from its supply-chain partners has the potential to adversely affect some of them, it would seem that any such decision—even a decision about mere technical standards, for instance—would have to be subject to a full analysis in light of *jus ad normam*. But that seems absurd. Suppose, for example, a lead firm decides to increase the quality of its products in terms of greater durability and thus insists upon higher quality inputs from suppliers. This might be bad for some suppliers who struggle to deliver higher quality. Yet, surely, the lead firm need not apply *jus ad normam* to see whether their move toward higher quality is justifiable. Increasing the durability of their products is a commercial decision they should be free to make if they believe it to be the best business decision.

In response, it is worth pointing out that cases like the one just imagined are unlikely to produce the type of collateral damage we are concerned with in this paper. If a lead firm raises quality requirements for its suppliers, suppliers that already meet the new standard are typically not required to take on any new burdens to prove this is so. They simply become liable to be sued for compensation (and to lose their business relationship) if they demonstrably fail to deliver the required quality.

Even more to the point, it is important to remember the kind of claim that is being made when a company displays evidence (e.g., a label) of the kind of certification that we are concerned with in this paper. Such labels attempt to signify that the product has been produced in an ethically superior way. If, however, the labeling scheme runs afoul of *jus ad normam*, this claim is strictly false (that, after all, is the point of the *jus ad normam*). This is a structural difference between the case of increased product durability and the cases we are interested in. It is regrettable if a product's superior durability is achieved at a high ethical cost (e.g., by putting "innocent" suppliers out of business). But this does not undermine the claim that the product is, in fact, more durable. By contrast, if a product's supposedly superior *ethical* properties are achieved at a disproportionate ethical cost, the claim that the product is ethically superior is itself undermined. This structural difference prevents our argument from overgeneralizing.

Once this restriction of scope is clarified, we are comfortable with the implication that lead firms have some obligations that are traditionally associated with the government. For lead firms, the adoption of a nongovernmental ethics standard is a potent move. Insofar as a company can move a standard from being truly voluntary to being quasi-mandatory, doing so is in important ways like a legislative act. In deciding whether to do so, such a company should adopt a broad social perspective rather than a narrowly self-interested one. In other words, lead firms need to take seriously the fact that they are standard-setters as much as standard-takers.

## 6 | CONCLUSION

We have explored some ethical challenges that arise from the promotion of nongovernmental ethics standards. In particular, we have looked at cases in which imposing a standard—and hence, a set of costs—harms "innocent" economic actors. While not the first ones to draw attention to the problems discussed in this paper, we make a novel contribution by looking at them through the thoroughly normative lens of moral philosophy.

We argue that, because of a number of structural similarities, we can seek ethical guidance for standard-setters in something akin to the principles of just war theory. We do not mean to imply that "business is war." We look to JWT as a framework suitable to capture the ethical obligations of agents contemplating actions that may have serious negative, unintended but foreseeable consequences. It is in light of this parallel with JWT, for example, that we argue that standard-setting must have a purpose beyond self-interest, that proposed standards must constitute a measured response to the problems they hope to solve, and that efforts be made to mitigate harm to companies suffering unfairly from a standard's popularization.

In setting up the problem of "collateral damage," we have explored four issues that should be of wide interest in the context of transnational new governance. First, we have explained the sense in which voluntary ethics regulations may become quasi-mandatory. When a standard gains popularity with consumers, becomes industry standard within a given industry or is insisted upon by a monopsonistic lead firm, individual firms may effectively have no choice but to adopt it. That a standard is legally voluntary does not mean that compliance is truly optional.

Second, there is an under-explored structural problem related to the ethical propriety of voluntary ethics standards, namely, that such standards produce winners and losers. The fact that such standards impose costs means that, while adherence to standards opens up new markets for some companies, others will find either that the benefits do not outweigh the costs, or that they cannot bear these costs at all. Since some firms stand to suffer, the process of setting and popularizing new ethics standards stands, itself, in need of ethical justification.

Third, we have pointed to the likelihood that SMEs are most liable to suffer disproportionate harm when asked to comply with ostensibly voluntary regulations. Some will find this surprising, given that many popular voluntary standards—think for example of Fairtrade—were developed precisely to support SMEs in a modern market dominated by multinational corporations. The fact that SMEs are often already highly vulnerable to the vicissitudes of markets, combined with a general norm favoring protecting the vulnerable, adds to the poignancy of the problem.

Fourth, we have outlined a range of roles that individual organizations may play in the overall process of setting and adopting standards. Some organizations are (almost) pure standard-takers that merely have to choose whether to adopt a standard. Archetypal standard-setters, on the other hand, develop standards and offer certification to them (often with the help of independent third parties confirming compliance). Such organizations play a significant role in the conceptualization, writing, promulgation, and popularization of nongovernmental standards. Finally, there are the lead firms in global value chains—the Starbucks and Walmarts of the world. These are firms that, by "taking" a standard, can make it quasi-mandatory for their respective supply chains. Each of these roles, we argue, is subject to a distinctive set of ethical norms.

Our goal is not to cast aspersions on the value of voluntary ethics standards nor on the organizations involved in setting and popularizing them. Far less are we interested in criticizing the overall trend toward transnational new governance, which we see as both healthy and inevitable. Our goal is rather to point to a need for reflection upon the ways in which voluntary

standards are set and to highlight that just because a proposed standard seeks some ethically good outcome, it is not guaranteed to be ethical itself.

## RESEARCH INVOLVING HUMAN PARTICIPANTS AND/OR ANIMALS

This article does not contain any studies with human participants or animals performed by any of the authors.

## INFORMED CONSENT

This article does not contain any studies with human participants, and so, there was no need to obtain consent.

## ACKNOWLEDGMENTS

The Authors would like to thank audiences at the International Symposium for Cross-Sector Scoial Interactions in Toronto, and the Society for Business Ethics in Chicago for helpful discussion of earlier versions of this paper. Particularly helpful comments were made Jeff Moriarty, Abe Singer, and Hamish van der Ven. The paper is also much improved thanks to comments from two reviewers for the Journal of Business Ethics, two reviewers for Business and Scoiety Review, and the editor of the latter journal.

## CONFLICT OF INTEREST STATEMENT

The authors declare that they have no conflict of interest.

## ORCID

*Hasko von Kriegstein* https://orcid.org/0000-0002-3434-9054

## REFERENCES

Abbott, K. W., & Snidal, D. (2010). International regulation without international government: Improving IO performance through orchestration. *The Review of International Organizations*, *5*(3), 315–344.

Atack, I. (1999). Four criteria of development NGO legitimacy. *World Development*, *27*(5), 855–864. https://doi.org/10.1016/S0305-750X(99)00033-9

Bäckstrand, K. (2006). Democratizing global environmental governance? Stakeholder democracy after the World Summit on Sustainable Development. *European Journal of International Relations*, *12*(4), 467–498. https://doi.org/10.1177/1354066106069321

Barocelli, S. S. (2020). Taking care of business: Engaging dialogue on solutions to unsustainable commercial practices. In: Amaral Junior, A.d., Almeida, L.d., Klein Vieira, L. (eds) *Sustainable Consumption: the Right to a Healthy Environment*, pp. 137–152. Springer, Cham. https://doi.org/10.1007/978-3-030-16985-5_9

Bartel, A., & Thomas, L. (1987). Predation through regulation: The wage and profit effects of the occupational safety and health administration and the environmental protection agency. *Journal of Law and Economics*, *30*(2), 239–264.

Bass, G. J. (2004). Jus post bellum. *Philosophy and Public Affairs*, *32*(4), 384–412. https://doi.org/10.1111/j.1088-4963.2004.00019.x

Beisheim, M., & Dingwerth, K. (2008). *Procedural legitimacy and private transnational governance: Are the good ones doing better?* (Vol. 14). SFB-Governance Working Paper Series. Research Center (SFB) 700.

Beitz, C. R. (1980). Nonintervention and communal integrity. *Philosophy and Public Affairs*, *9*, 385–391.

Bellaby, R. (2018). The ethics of whistleblowing: Creating a new limit on intelligence activity. *Journal of International Political Theory*, *14*(1), 60–84. https://doi.org/10.1177/1755088217712069

Bernstein, S. (2014). *The publicness of non-state global environmental and social governance. The return of the public in global governance* (pp. 120–148). Cambridge University Press. https://doi.org/10.1017/CBO9781107281837.009

Bernstein, S., & van der Ven, H. (2017). Best practices in global governance. *Review of International Studies*, *43*(3), 534–556.

Black, J. (2008). Constructing and contesting legitimacy and accountability in polycentric regulatory regimes. *Regulation & Governance*, *2*(2), 137–164. https://doi.org/10.2139/ssrn.1091783

Bohman, J. (2000). *Public deliberation: Pluralism, complexity, and democracy*. MIT Press.

Bowen, F. (2017). Marking their own homework: The pragmatic and moral legitimacy of industry self-regulation. *Journal of Business Ethics*, *156*, 257–272. https://doi.org/10.1007/s10551-017-3635-y

Bowles, S. (2011). *Whose logo? Sustainable consumption and production in North America*. Policy Research Initiative, Government of Canada.

Bratton, M. (1989). The politics of government-NGO relations in Africa. *World Development*, *17*(4), 569–587.

Büthe, T., & Mattli, W. (2011). *The new global rulers: The privatization of regulation in the world economy*. Princeton University Press. https://doi.org/10.1515/9781400838790

Caney, S. (2005). *Justice beyond borders: A global political theory*. Oxford University Press. https://doi.org/10.1093/019829350X.001.0001

Rapoport, C. (1986). *Japanese ski makers freeze out the opposition*. Financial Times. Sept 4.

Cashore, B. (2002). Legitimacy and the privatization of environmental governance: How non–state market–driven (NSMD) governance systems gain rule–making authority. *Governance*, *15*(4), 503–529. https://doi.org/10.1111/1468-0491.00199

Cashore, B. W., Auld, G., & Newsom, D. (2004). *Governing through markets: Forest certification and the emergence of non-state authority*. Yale University Press.

Cutler, A. C., Haufler, V., & Porter, T. (Eds.) (1999). *Private authority and international affairs*. Suny Press.

Dahl, R. (1999). Can international organizations be democratic? A skeptic's view. In *Democracy's edges* (pp. 19–36). Cambridge University Press. https://doi.org/10.1017/CBO9780511586361.003

Darnall, N. (2009). Regulatory stringency, green production offsets, and organizations' financial, performance. *Public Administration Review*, *69*(3), 418–434. https://doi.org/10.1111/j.1540-6210.2009.01989.x

Fabre, C. (2008). Cosmopolitanism, just war theory and legitimate authority. *International Affairs*, *84*(5), 963–976. https://doi.org/10.1111/j.1468-2346.2008.00749.x

Fabre, C. (2012). *Cosmopolitan war*. Oxford University Press. https://doi.org/10.1093/acprof:oso/9780199567164.001.0001

Finlay, C. J. (2010). Legitimacy and non-state political violence. *Journal of Political Philosophy*, *18*(3), 287–312.

Friedman, M. (1970). The social responsibility of business is to increase its profits. *The New York Times Magazine*, (Sept. 13).

Gereffi, G., Humphrey, J., & Sturgeon, T. (2005). The governance of global value chains. *Review of International Political Economy*, *12*(1), 78–104. https://doi.org/10.4337/9781843769743.00011

Gilbert, D. U., Rasche, A., & Waddock, S. (2011). Accountability in a global economy: The emergence of international accountability standards. *Business Ethics Quarterly*, *21*(1), 23–44.

Goodpaster, K. E. (1991). Business ethics and stakeholder analysis. *Business Ethics Quarterly*, *1*(1), 53–73.

Grant, R. W., & Keohane, R. O. (2005). Accountability and abuses of power in world politics. *American Political Science Review*, *99*(1), 29–43. https://doi.org/10.1017/S0003055405051476

Greenwood, C. (1983). The relationship between ius ad bellum and ius in bello. *Review of International Studies*, *9*(4), 221–234.

Gulbrandsen, L. H. (2009). The emergence and effectiveness of the Marine Stewardship Council. *Marine Policy*, *33*(4), 654–660. https://doi.org/10.1016/j.marpol.2009.01.002

Heath, J. (2014). *Morality, competition, and the firm: The market failures approach to business ethics*. Oxford University Press. https://doi.org/10.1093/acprof:osobl/9780199990481.001.0001

Heindlmaier, A., & Kobler, C. (2022). Essential, lonely and exploited: Why mobile EU workers' labour rights are not enforced. *Journal of Ethnic and Migration Studies*, 1–20, *49*, 3689–3708. https://doi.org/10.1080/1369183X.2022.2102971

IDH, D. S. T. I. (2010). *Unilever sustainable tea, part l: Leapfrogging to mainstream*. IDH and SAI platform.

International Organization for Standardization. (2018). *Environmental labels and declarations (ISO standard 14024)*. Retrieved from https://www.iso.org/standard/72458.html

ISEAL Alliance. (2013). *Principles for credible and effective sustainability standards systems: ISEAL credibility principles*. ISEAL Alliance.

ISEAL Alliance. (2014). *Setting social and environmental standards: ISEAL Code of Good Practice (version 6.0)*. ISEAL Alliance.

ISEAL Alliance. (2018). *Assuring compliance with social and environmental standards; version 2.0*. https://www.isealalliance.org/sites/default/files/resource/2018-02/ISEAL_Assurance_Code_Version_2.0.pdf

Kaplinsky, R., & Morris, M. (2000). *A handbook for value chain research* (Vol. 113). University of Sussex, Institute of Development Studies.

Keohane, R. O., & Victor, D. G. (2011). The regime complex for climate change. *Perspectives on Politics*, *9*(1), 7–23.

von Kriegstein, H. (2016). Professionalism, agency, and market failures. *Business Ethics Quarterly*, *26*(4), 445–464.

Kymlicka, W. (2002). *Contemporary political philosophy*. Second Edition.

Lazar, S. (2017). War. In E. N. Zalta (Ed.), *The Stanford encyclopedia of philosophy*. https://plato.stanford.edu/archives/spr2017/entries/war/

Lepoutre, J., & Heene, A. (2006). Investigating the impact of firm size on small business social responsibility: A critical review. *Journal of Business Ethics*, *67*(3), 257–273.

Liendo, P. (2001). Business language: A loaded weapon? War metaphors in business. *Invenio*, *4*(6), 43–50.

MacDonald, C., & Whellams, M. (2007). Corporate decisions about labelling genetically modified foods. *Journal of Business Ethics*, *75*, 181–189. https://doi.org/10.1002/9780470692547.ch8

Marin-Burgos, V., Clancy, J. S., & Lovett, J. C. (2015). Contesting legitimacy of voluntary sustainability certification schemes: Valuation languages and power asymmetries in the roundtable on sustainable palm oil in Colombia. *Ecological Economics*, *117*, 303–313.

McDermott, C. L., Irland, L. C., & Pacheco, P. (2015). Forest certification and legality initiatives in the Brazilian Amazon: Lessons for effective and equitable forest governance. *Forest Policy and Economics*, *50*, 134–142.

Moellendorf, D. (2008). Jus ex bello. *Journal of Political Philosophy*, *16*(2), 123–136. https://doi.org/10.1111/j.1467-9760.2008.00310.x

Narula, R. (2019). Enforcing higher labor standards within developing country value chains: Consequences for MNEs and informal actors in a dual economy. *Journal of International Business Studies*, *50*, 1622–1635. https://doi.org/10.1057/s41267-019-00265-1

Norman, W., & MacDonald, C. (2009). Conflicts of interest. In *The Oxford handbook of business ethics*. Oxford University Press. https://doi.org/10.1093/oxfordhb/9780195307955.003.0016

OECD. Publishing. (2001). *Businesses' views on red tape: Administrative and regulatory burdens on small and medium-sized enterprises*. Organisation for Economic Co-operation and Development.

Overman, E. S., & Boyd, K. J. (1994). Best practice research and postbureaucratic reform. *Journal of Public Administration Research and Theory*, *4*(1), 67–84.

Ponte, S. (2022). The hidden costs of environmental upgrading in global value chains. *Review of International Political Economy*, *29*(3), 818–843.

Prno, J., & Slocombe, D. S. (2012). Exploring the origins of 'social license to operate' in the mining sector: Perspectives from governance and sustainability theories. *Resources Policy*, *37*(3), 346–357.

Rawls, J. (1993). *Political liberalism*. Columbia University Press.

Richardson, A. J., & Eberlein, B. (2011). Legitimating transnational standard-setting: The case of the International Accounting Standards Board. *Journal of Business Ethics*, *98*(2), 217–245.

Rodin, D. (2008). Two emerging issues of jus post bellum: War termination and the liability of, soldiers for crimes of aggression. In C. Stahn & J. K. Kleffner (Eds.), *Jus post bellum: Towards a law of transition from conflict to peace* (pp. 53–76). T.M.C. Asser Press. https://doi.org/10.1007/978-90-6704-719-7_4

Scharpf, F. W. (1997). *Games real actors play: Actor-centered institutionalism in policy research*. Westview.

Scherer, A. G., & Palazzo, G. (2007). Toward a political conception of corporate responsibility: Business and society seen from a Habermasian perspective. *Academy of Management Review*, *32*(4), 1096–1120.

Schwenkenbecher, A. (2013). Rethinking legitimate authority. In F. Allhoff, N. Evans, & A. Henschke (Eds.), *Routledge handbook of ethics and war: Just war theory in the 21st century* (pp. 161–170). Routledge. https://doi.org/10.4324/9780203107164.ch12

Shiller, A. (2015). The modern secularization of just war theory and its lessons for contemporary thought. *Electronic Thesis and Dissertation Repository.*, 3007.

Singer, A. A., & van der Ven, H. (2019). Beyond market, firm, and state: Mapping the ethics of global value chains. *Business and Society Review*, *124*, 325–343. https://doi.org/10.1111/basr.12178

Stănescu, V. (2010). "Green" eggs and ham? The myth of sustainable meat and the danger of the local. *Journal for Critical Animal Studies*, *8*(1–2), 8–32.

Stewart, F. (1975). A note on social cost–benefit analysis and class conflict in LDCs. *WORLD Development*, *3*, 31–39. https://doi.org/10.1016/0305-750X(75)90007-8

Stigler, G. J. (1971). The theory of economic regulation. *The Bell Journal of Economics and Management Science*, *2*(1), 3–21.

Strom, S. (2015). *Chipotle to stop using genetically altered ingredients*. Online. New York Times.

Tencati, A., Russo, A., & Quaglia, V. (2008). Unintended consequences of CSR: Protectionism and collateral damage in global supply chains: The case of Vietnam. *Corporate Governance: The International Journal of Business in Society*, *8*(4), 518–531.

Thomas, L. (1990). Regulation and firm size: FDA impacts on innovation. *The Rand Journal of Economics*, *21*(4), 497–517.

Thomas, A. (1992). Nongovernmental organizations and the limits to empowerment. In M. Wuyts, M. Mackintosh, & T. Hewitt (Eds.), *Development policy and public action* (pp. 117–146). Oxford University Press.

United States Conference of Catholic Bishops (USCCB). (1993): *The harvest of justice is sown in peace*. http://www.usccb.org/issues-and-action/human-life-and-dignity/war-and-peace/excerpts-from-the-harvest-of-justice-is-sown-in-peace-centrality-of-conscience-1993-11.cfm

Van der Ven, H. (2019). *Beyond greenwash: Explaining credibility in transnational eco-labeling*. Oxford University Press.

Vanclay, F., & Hanna, P. (2019). Conceptualizing company response to community protest: Principles to achieve a social license to operate. *Land*, *8*(6), 101.

Von Weltzien Høivik, H., & Shankar, D. (2011). How can SMEs in a cluster respond to global demands for corporate responsibility? *Journal of Business Ethics*, *101*(2), 175–195.

Wakamatsu, M., & Wakamatsu, H. (2017). The certification of small-scale fisheries. *Marine Policy*, *77*, 97–103.

Walzer, M. (2000). *Just and unjust wars* (Third ed.). Basic Books.

Ward, T. J. (2008). Barriers to biodiversity conservation in marine fishery certification. *Fish and Fisheries*, *9*(2), 169–177.

Weber, C. L., & Matthews, H. S. (2008). Food-miles and the relative climate impacts of food choices in the United States. *Environmental Science & Technology*, *42*, 3508–3513.

Young, C. (2022). Should you buy local? *Journal of Business Ethics*, *176*(2), 265–281.

Murphy, C. N., & Yates, J. (2009). *The International Organization for Standardization (ISO): Global governance through voluntary consensus*. Routledge.

**How to cite this article:** von Kriegstein, H., & MacDonald, C. (2024). The ethics of voluntary ethics standards. *Business and Society Review*, 1–22. https://doi.org/10.1111/basr.12347