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The politics of scale in global governance: Do more stringent international forest certification standards protect local rights in Russia?

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ABSTRACT

This paper interrogates how the increasing stringency of international rules on Free Prior and Informed Consent (FPIC), as reflected in the Forest Stewardship Council (FSC)'s certification standards, is shaping the rights afforded indigenous and local communities in Russia. Viewing the FSC as a 'global governance generating network' (GGN) that gains rule-making authority through diverse 'forums of negotiation' at multiple scales, we examine how international rules are negotiated and re-configured regarding 1) the 'scope' of requirements – who is included or excluded from FPIC and 2) 'prescriptiveness' – the level and specificity of the rights afforded to FPIC holders.

We find that Russian stakeholders perceive the increasing prescriptiveness of FSC's global FPIC policies as disrupting their existing norms of negotiated compromise, and originating from well-defined and politically influential indigenous populations elsewhere in the world. This has spurred intense debate on the scope of who should qualify for FPIC in Russia. While FSC-Russia's Social Chamber members have used formal standard-setting processes to negotiate for the increased stringency and scope of some FPIC requirements, industry-backed forums have inserted numerous exceptions, and drawn on external expertise and legal counsel to further restrict who counts as an FPIC rights-holder. These ongoing contestations highlight the risk that prescriptive international standards protecting local rights may narrow the scope of whose rights matter in their local implementation.

1. Introduction

This paper examines how power is exercised in the national adaptation and local implementation of global rules, and how this shapes the rights afforded indigenous and local communities. The analysis is situated in the case of the international Forest Stewardship Council (FSC) which sets both global and national standards for environmentally and socially responsible forest practice, and awards companies that meet those standards the right to place an FSC label on the forest products they sell. The legitimacy of the FSC label rests in the claim that FSC certification adheres to consistently high standards everywhere in the world. Yet there is a fundamental tension between this equation of legitimacy with consistency, and the legitimate rights of national and local actors to make their own rules, as well as the multi-scalar and diverse socio-political and environmental realities in which FSC rule-making takes place.

Historically, the FSC has attempted to mediate these tensions, by producing a set of broad international Principles and Criteria (P&C) and tasked FSC national working groups to develop indicators that adapt these P&C to country contexts. In addition, both the FSC P&C and national indicators delegate a certain level of decision-making power to local levels, by requiring forest producers to consult with local

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communities on forest management activities that affect them.

The degree of local consultation required pivots around the status of communities as either 'indigenous', which is covered under FSC Principle 3 (P3) and entails more extensive rights, or 'local', covered under FSC Principle 4 (P4), where rights are historically weaker and less well defined. The global recognition of indigenous communities as having special rights is rooted in histories of colonization, and the persistence of socially and culturally distinct populations pre-dating external settlement (Radcliffe 2017). Indigeneity is deeply political and contested, with the simultaneous rise of a global indigenous movement which asserts local rights to self-determination (Jung 2003) and an international environmental movement that associates indigeneity with stewardship of the natural environment (Dove et al., 2003; Dove, 2006) The linkage of indigeneity to state oppression and environmental stewardship is strongly evident in the United Nations (UN) definition of indigenous peoples, now adopted by the FSC, which emphasizes the self-identification of 'non-dominant groups' with strong links to 'territories' and 'natural resources' (FSC 2012).

Yet how assertions of indigenous and local rights have played out in particular places has varied greatly by context. This paper draws on the concept of 'governance generating networks' (GGN) (Tysiachniouk, 2012) to follow the agency of different actors associated with FSC processes at various scales in drawing on social and political networks within and outside the FSC to shape how indigenous rights (FSC P3) and community rights (FSC P4) are designed and interpreted. It likewise builds on (Vogel 2010, Cashore et al. 2004) in unpacking how power struggles among actors shape the stringency or 'prescriptiveness' versus the flexibility of certification standards, and with what implications for the distribution of decision-making authority across global, national and local levels (McDermott 2013).

Illustrating FSC's dependence on a wider network of rule-making authority, FSC International has in 2012 increased the prescriptiveness of its community engagement requirements in order to conform to the language of the 2008 UN Declaration on the Rights of Indigenous Peoples (UNDRIP), as a widely recognized global authority on indigenous rights. While FSC previously required forest operators to engage in agreements with indigenous peoples, and consultations with local communities, new FSC Criteria adopted from UNDRIP requires operators to obtain Free, Prior and Informed Consent (FPIC) of both indigenous and local communities for forestry activities that affect them.

While international FPIC requirements for community consent might appear to strengthen local rights, increased international prescriptiveness, by definition, also reduces flexibility for national and local actors to adapt FSC standards to local context. At the same time, local discretion is also being reduced across all of the FSC P&C, due to an overall trend of increasing stringency in both international and national forest certification standards (Judge-Lord et al. 2020).

In a further move towards centralized power, FSC has recently reversed its nationally-driven approach whereby national working groups create national indicators to interpret the FSC P&C. In its stead, FSC has produced a set of International Generic Indicators (IGIs) and required all countries to rewrite their national indicators to conform to the IGIs, or justify any deviation (FSC-AC, 2016).

This paper draws on the case of FSC Russia, and its attempts to adapt its Russian standards to FSC International's new FPIC requirements as part of a larger adaptation of the Russian standard to the FSC IGIs. Russia presents a particularly interesting case to study FPIC, and the FSC as a multi-scale governance institution more generally. Russia contains the second largest FSC certified area in the world, reflecting the forest industry's dependence on exports to European markets where demand for certified products is high (Tysiachniouk 2006). Russia's history of Soviet state paternalism and its policies on minorities have shaped a different approach to indigeneity than many other countries (Henry et al., 2016). Regardless of how indigeneity is defined, there are significant numbers of forest dependent communities who rely partially on forests to meet their subsistence needs; and this dependence is generally greatest in the most remote communities. At the same time, a history of 'top-down' forest management by the central state, and then private companies after Perestroika, has precluded community participation in forestry decision-making (Dobrynin et al. 2020). This paper combines GGN (Tysiachniouk, 2012) and stringency theory (Judge-Lord et al. 2020, Vogel, 2009, Auld et al. 2007) to enable a detailed and in-depth understanding of how different actors are exercising agency at different scales to either strengthen or weaken FSC's FPIC requirements in Russia, and with what effect on the scope (who counts as an indigenous or local rights holder) and level of prescription (what rights this entails).

2. Theoretical framework

The theory of Governance Generating Networks (GGN) views the development of global regulatory tools, products or standards, and their local adaptation and implementation, as embedded in diverse and dynamic 'networks' operating at multiple scales (Tysiachniouk, 2012). GGN theory highlights both the dynamism and agency of actors aiming to assert power at multiple scales, as well as the structures through which such power can be asserted. It identifies three different 'structural elements' of GGNs: (i) the nodes of global governance design in which global policies and standards are developed, such as standard development committees; (ii) informal and formal forums of negotiation, where stakeholders interpret and transform the standards; and (iii) sites of implementation, where the standards are field tested and implemented through specific practices in particular geographical settings (Kortelainen et al., 2019). Nodes, forums and sites are 'transnational' arrangements, involving power struggles among a plurality of actors at multiple scales to assert authority over the design, development and implementation of new standards that span national boundaries. Through these governance arrangements, transnational actors seek to generate changes in the institutions and behavioral practices of other actors operating in concrete territories, or 'sites of implementation' (see Fig. 1).

Power and agency in GGNs are exercised in complex ways by multiple stakeholders, operating in the nodes, forums and sites of implementation. Networks, which Rocheleau and Roth (2007) have coined "relational webs shot through with power", play a critical role in actor agency, and involve constellations of NGOs, indigenous organizations, local community representatives, companies and government actors, working together or in competition, to directly or indirectly influence certification policy and standards. For example, Russian companies or NGOs may draw on an array of other national and international actors, who are either internal or external to FSC's institutional structures, to gather information about other actors, standards or policies; share resources and strategies; draw on external forms of authority such as legal precedent; enhance their legitimacy by demonstrating broad stakeholder support; or exert market or reputational pressure in support of, or opposition to, particular standards requirements. When transnational standards are then designed and implemented, they affect the rights and responsibilities of place-based actors and afford them varying levels of agency or 'flexibility' in shaping interpretations at the sites of implementation.

An overarching question in this struggle for power across scales and among actors, centers around how 'stringent' the standards are, including how broad should the *scope* of requirements such as FPIC be, in the case of this paper focusing on who is included or excluded as 'indigenous' or a 'rights holder'; and how *prescriptive* versus flexible should the standards be, e.g. in dictating what rights FPIC entails. Broadly framed standards broaden local discretion to take action on a particular requirement. Prescriptive standards limit local discretion and, depending on their content, may prescribe either high or low levels of performance. That is, drawing on Haugaard (2012) distinction between *power to* and *power over*, prescriptive standards for community participation attempt to exert power over forest companies by redistributing power to local communities, but in so doing also disrupt locally

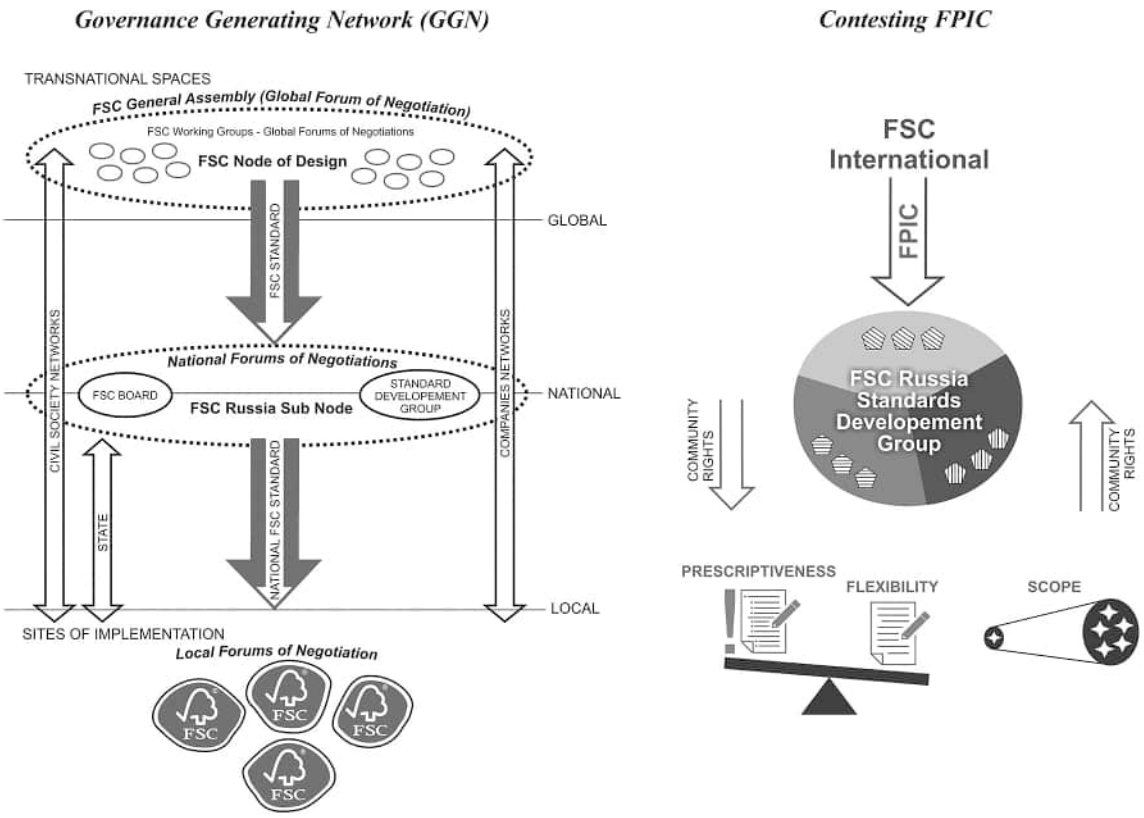

Fig. 1. Theoretical framework: FSC Governance Generating Network.

negotiated rules and relationships, with unstable and uncertain outcomes. Assessing the relative power of different actors in such a dynamic context requires ongoing assessment of how different interests are, or aren't, reflected in the resulting standards, as well as in their interpretation in sites of implementation.

Prescriptiveness can be understood on a continuum, from the least prescriptive involving no requirements whatsoever, to non-mandatory recommendations or guidelines, to requirements to establish a plan of action without specifying what that action should be (often referred to as 'systems-based or 'procedural' requirements) to the most prescriptive approaches involving mandatory requirements that prescribe a specific course of action and a numeric threshold or outcome (Judge-Lord et al. 2020). In the case of FPIC, such a continuum could, for example, range from no FPIC requirements; to recommended guidelines; to a requirement to undertake an FPIC process but with few or no specificities as to what such procedures might entail and who should qualify for FPIC; to a detailed set of prescriptions, including, for example, precise criteria defining indigeneity, lists of rights that are protected, etc. The degree of prescriptiveness does not, by itself, reveal how high the thresholds of performance are, or in the case of FPIC, how much protection they provide local populations. Of particular concern in this article, is the issue of 'scope', or who is protected. FPIC rules may be very prescriptive, but if their scope is such that few people qualify for FPIC, or few rights are protected, then this could potentially be less empowering to local requirements than more flexible requirements entailing more communities and/or a broader set of rights. Our analysis of the negotiation of FPIC requirements in the FSC Russian standard, therefore, pays close attention to the interactions between prescriptiveness and scope, across multiple scales.

Past research on the influence of scale on scope and/or prescriptiveness has focused on identifying the conditions under which the globalization of governance leads to a 'ratcheting up' or 'ratcheting down' of policy stringency (Vogel, 2009). Research on multi-stakeholder influence on policy stringency (Cashore et al. 2004; Overdevest 2010; Judge-Lord et al. 2020), has theorized that it is the relative power and influence of industry versus NGOs in a given country that shapes the stringency of agreed standards. Both Vogel and Cashore have emphasized structural considerations, such as the stringency of existing government regulations, the extent of industry export- or import-dependence, and the relative size and influence of civil society in one country compared to another. But there is a lack of research to date that links policy stringency with an in-depth, multi-scale and dynamic understanding of actor agency in shaping not only the apparent rigidity or flexibility of written rules, but also how they are negotiated and interpreted in context.

This paper draws on in-depth research of the Russian context to bring GGN and stringency concepts together, considering how both structure and agency operate at multiple scales to shape Russia's national adaptation of FSC's international indicators. In our analysis of scale, we distinguish between global or 'transnational' processes involving FSC International, and what we term 'cross-national' processes, where FSC Russia is influenced by the evolution of FSC standards in other countries. These cross-national influences originate outside of the formal FSC processes for negotiating the FSC IGIs, national standards, and the 'field-testing' of standards in particular sites of implementation.

3. Methods

Research was conducted in 2018–2019, using qualitative methodology that primarily consisted of in-depth semi-structured interviews, participant observation and review of FSC's policies, standards and other relevant documents. Twenty-six interviews were conducted with representatives of FSC Russia's social, environmental, and economic chambers and with key stakeholders who have regularly participated in FSC forums and conferences in Russia, In addition, eight interviews were done with FSC International staff and experts involved in IGI development and in working groups related to FPIC (see Table 1 below).

We interviewed all people in the Standards Development Group

Table 1
List of interviews with all FSC members and stakeholders involved in negotiating the social standards.

Environmental Chamber	Economic chamber	Social chamber	FSC staff	FSC non-member stakeholder	FSC International Staff/board/ Experts
11	5	4	2	1	8

(SDG) and the FSC Russia board who were actively involved in discussing issues related to FPIC. Views and opinions of other relevant SDG and board members who were not interviewed, including a sole indigenous representative who was not active in negotiations over the Russian FPIC standards, were captured during participant observations. Given the focus of our study on active participants, the lack of indigenous voice in this analysis is indicative of low indigenous participation in FSC Russian governance more generally.[1] Also skewing the balance of stakeholder inputs, the FSC Russia social chamber holds only 17 members, which is significantly fewer than both the economic chamber (46 members) and the environmental chamber (31 members). The relatively large number of environmental chamber members interviewed compared to the other two chambers (see Table 1; Appendix A) reflects the balance of actors negotiating FPIC standards, rather than a bias towards that chamber in our research design.

Participant observation was done during SDG meetings, which were held mostly through regular online meetings and were devoted to standard negotiations; as well as during a key FSC forum in October 2018, where companies, certification bodies, consultants and NGOs discussed issues of contention in the standard; and during the FSC Russia membership conference in April 2019. Relevant notes were kept and informal conversations were taken into account on the issues under investigation. Updates to the interviews were also made at these meetings.

4. Results

4.1. Multi-scale negotiations over the application of FPIC to the Russian FSC standards

A core foundation of FSC's claims for international legitimacy rest in the balance of decision-making power across different stakeholder groups. For this purpose, FSC has created three separate decision-making chambers, Environmental, Social and Economic respectively, representing the three 'pillars' of sustainability (Cashore et al. 2004). The FSC International requirements on FPIC must ultimately be approved through a majority vote across all three of these chambers. The role of FSC national working groups such as FSC Russia, is to add additional requirements and guidance as needed to ensure local compliance, following a similarly 'chamber balanced' and legitimate process.

Yet despite these universalizing logics, understanding how FPIC, as an internationally defined norm specifically designed to strengthen the rights of indigenous and non-indigenous local communities, has played out in Russia, requires understanding both national and local contexts. As discussed above, Russia's history of state paternalism, and its particular approach to ethnic minorities (Henry et al., 2016), could help explain why conceptions of indigeneity and FPIC lack a strong legal foothold in Russia. The Russian government is not a signatory to either ILO 169 or UNDRIP and has made no international commitment to FPIC. Instead, Russia's federal law "On Guarantees of the Rights of Small-numbered Indigenous Peoples of the Russian Federation" recognizes indigenous rights for only a short list of ethnically distinct populations of less than 50,000 people who practice traditional ways of life and live in remote northern regions of Russia, Siberia and the Far East, both above and below the Arctic tree line (Stammler-Gossmann, 2009). This categorization excludes a large diversity of other ethnically and/or culturally distinct groups in Russia which, according to UN criteria, might be considered as indigenous. It also overlooks the widespread poverty and lack of social services faced by many Russian communities whose livelihoods are also directly affected by forest management activities (Kopylova and Uusivuori, 1999).

Cognizant of communities' vulnerability to industrial forestry activities, the FSC Russian Social chamber has for years played an instrumental role in ensuring that the FSC Russia national standard requires companies to consult with a wide range of local and self-identified indigenous as well as local communities (Tysiachniouk and McDermott 2016). However, before the addition of FPIC by FSC International, the past P&C required only 'free and informed' consent for indigenous peoples and 'consultation' with local communities (see Appendices B & D). A relatively 'soft' approach to these requirements was widely accepted among FSC Russia stakeholders. The following sections examine the emergence of the more prescriptive concept of FPIC within FSC's P&Cs and IGIs at the international level, and its contestation across FSC chambers, networks and forums at multiple scales.

4.2. Global-Local dynamics: From global deliberations to local field testing

From the launch of the first FSC International P&C, agreed in 1993 (amended 1996, 1999, 2002), FSC has situated its language on indigenous rights within a broader international institutional and normative framework. Initially, this drew on the International Labor Organization (ILO) Convention 169, and manifested in FSC's Principle 3 (P3) requirements for forest operators to obtain 'free and informed consent' from indigenous peoples on actions which affect them. In 2008, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), agreed by 143 countries, added more stringent language, calling for the "free, prior and informed consent" of indigenous peoples for activities which affected their indigenous rights and elaborating on what such consent should entail. As elaborated in a growing array of interpretive text, 'free' refers to the absence of coercion or manipulation, 'prior' to the consent occurring before the commencement of actions requiring FPIC, and 'informed' entailing the provision of adequate information on the scope and impact of projects in a language and format understood by local populations (e.g. Papillon and Rodon, 2017). As FPIC was then adopted within other UN processes and international fora (e.g. UNFCCC, 2010, 2011), the focus on indigenous peoples expanded to include FPIC for local communities more generally. This expansion reflected, in part, contestations over the definition of indigeneity and its relative appropriateness in diverse country contexts (Zenker 2011, Shaw et al., 2006). By 2012, when the FSC was updating its P&C, it once again followed trends in international normative agreements by introducing FPIC to both P3 on indigenous peoples and P4 on local communities.

It was soon after these new P&C were approved, that FSC International launched the development of International Generic Indicators (IGIs), intended to "ensure the consistent implementation of the P&C across the globe" (FSC IGI 2015:5). The FSC formed a chamber balanced IGI working group for this purpose in 2012. According to an FSC International staff member interviewed, there was no contention among the social, economic and environmental chambers regarding the content of FPIC within the working group.[2] Efforts were instead focused on formulating the IGIs in a clear and consistent way and making them more precise,[3] i.e.

[1] Participant observation of the FSC-Russia Board and the reflections of FSC-Russia members.

[2] Interview 31, FSC International 30.10.2018

[3] Interview 27, FSC International 30.10.2018

However, it was recognized that the introduction of FPIC to the global P&Cs, together with additional IGIs for P3 and P4, constituted a major change with uncertain implications across diverse local contexts. Therefore, FSC International organized FPIC field testing in 10 countries, in FSC certified forest areas (i.e. sites of implementation), across different forest management regimes (community forestry, natural forest management, plantations), and different forest types, including temperate and tropical forests, and boreal forests. Russia and Canada were chosen as examples of countries with large areas of boreal forest, populated by indigenous peoples dependent on forests.

The goal of these field tests was not to modify the IGIs, but rather to further develop the 2012 supplementary 'Guidelines' for the interpretation of FPIC. These field tests constituted 'global-local' processes, involving exchange between local, place-based stakeholders and national and international FSC members, and were aimed at ensuring the applicability and adaptability of FPIC to the sites of implementation.

Within Russia, the selection of field sites itself highlighted incongruities between the restrictive approach to indigenous rights within Federal Law that recognizes only small numbered populations of the north, Siberia and Far East and more expansive notions of indigeneity codified within the 6th and still current version of the FSC Russia standard. Field sites were selected in two communities in the Udora district adjacent to FSC certified areas in the Komi Republic. Within the Russian legal framework, the Komi Republic is considered a 'flag nation', meaning that the Komi people govern their own republic, with their own regional flag and regional legislative powers (Dawisha and Starr 1994). The field-testing for P3 was held in an Udorachi community, because the Udorachi peoples are considered indigenous in the current FSC Russia standards.[4] While the population of the Udorachi is small, the Udorachi are not considered highly distinct from other Komi people, they speak the Komi language and they have never applied to the Russian federal government for distinct Indigenous status.

Further complicating the issue, the Dutch expert hired by FSC International to conduct the field test in Russia declared that the Udorachi people did not fit FSC's criteria for Indigenous people either, based on the lack of a distinct language and distinct socio-economic system.[5] This individual, who had experience with FPIC in the Americas, suggested instead that the Udorachi people should be classified as non-indigenous rights holders, thereby narrowing the scope of who is considered indigenous in the FSC Russia. While at the time FSC Russia upheld their understanding of the Udorachi people as indigenous, this global-to local intervention served to shake up the definition of indigeneity in FSC Russia more generally, and catalyze ongoing debate over the scope of who counts as indigenous. The global field testing of P4 proved less contentious, reflecting stakeholder consensus on the consultation requirements of the existing Russian standards.

4.3. Global – National dynamics: with FSC International on adapting Russian standards to the IGIs (2015–4 December 2018)

In 2015 Russia began the process of updating its national FSC standard both to the latest FSC P&C[6] and the new FSC IGIs. In general, the response of Russian stakeholders to the combination of more prescriptive P&Cs and the long list of additional international indicators was surprise and frustration.[7] It was felt that after years of debate there had finally been a consensus built around the current Russian standard, that it was working well, and that these new requirements coming from the international level were top-down and overly prescriptive.[8]

According to interviewees from all three FSC Russia Chambers, FPIC generated the most contention of all these new international requirements. The concept of FPIC was viewed as emerging from other regions, such as Canada and Latin America, and stakeholders felt it was unclear how to adapt it to the Russian context and how to implement it in the FSC certified territories. The social indicators in the existing Russian standard already required consultations with local communities, and support for community infrastructure and designation of socially valuable forests (HCV5-6).[9] Furthermore, special emphasis was given to the rights of indigenous people with whom companies were signing agreements, in certain cases with monetary compensations. There was no requirement, however, for receiving *written consent* from local communities, as was now to be required under FPIC in the new international P&Cs, although written agreements with indigenous peoples were listed as a 'means of verification.' (FSC Russia 3.3.5.1). There was also little precedent in Russia regarding the application of FPIC outside of FSC processes, with only a few examples of negotiated FPIC agreements within the oil and mining sectors (Tysiachniouk et al. 2018). Therefore, the Russian Standards Development Group (SDG) could not rely on existing Russian industry and legal practice.FSC International, realizing the need for some flexibility in national interpretations of the IGIs, allowed national SDGs to remove certain IGIs, if they turned out to be inapplicable, and to introduce new indicators. But any such changes had to be carefully justified, and the general logic of the IGIs maintained.[10,11]To this end, the FSC Russia board and the Russian SDG emphasized effective communication with FSC International as important for all stakeholders.[12] They asked FSC International for clarification on a number of FPIC-related topics. These ranged from what the IGIs meant by a 'third party' to whom indigenous people might delegate control, to more fundamental questions around whether FPIC was applicable to Russia, and if so if it should apply to indigenous peoples only or local communities as well.

Meanwhile in 2018, after the global field testing was complete, FSC International formed a chamber based working group to integrate lessons into a new version of the FPIC-Guide. However, according to a FSC staff member interviewed, both the FPIC IGIs and the international Guide were based on the Canadian rather than the Russian experience.[13] As explained by these interviewees, Canadian indigenous peoples had a history of success in harnessing international agreements and associated networks of international influence to assert their rights. This was reflected in the very structure of FSC Canada, which included a fourth 'Indigenous chamber' with voting power equal to the environmental, economic and social chambers. This apparent dominance of the Canadian voice became a new point of contention in the process of updating of the FSC Russian standard.

In sum, communications with FSC International between 2015 and 2018 failed to provide FSC -Russia with the clarity they sought, and the FSC's Global Draft Guide on FPIC was deemed largely irrelevant to the Russian context.[14]

4.4. The National dynamics: Debates over the relevance and scope of who counts for FPIC in Russia (2015–2019)

Unlike the global-national communications, aimed at receiving technical clarity, national-level multi-stakeholder negotiations over

[4] Interview 15 FSC Russia 15.11.18; Interview 5 Economic Chamber 25.09.2018

[5] Interview 26 FSC International 28.09.2018

[6] See Appendix 1 for a comparison of former and current FSC P&C on FPIC.

[7] Interview 14 Economic Chamber 22.05.2018

[8] Interview 2 SDG Environmental Chamber 17.09.2018; Interview 7 SDG Social Chamber 15.09.2018

[9] Interview 16 BD Social Chamber 25.10.2018

[10] Interview 15 Vice Director FSC Russia 03.10.2019

[11] Interview 9 Environmental Chamber 12.09.2019;

[12] Interview 16 BD Social Chamber 24.09.2018

[13] Interview 30 FSC International 31.10.2018

[14] Interview 15–2 SDG Ex-Chair 03.10.2019

FPIC in the new FSC Russian standard generated increasing tension and conflict between FSC Russia's Economic and Social Chambers. The Economic chamber was eager to abandon FPIC or to narrow its scope to the point that it would be applicable only in exceptional cases. "*Maybe even cross it out, that there would be no FPIC.*"[15] The Social Chamber, in contrast saw in FPIC a powerful mechanism for protecting the rights of indigenous peoples and local communities.[16] The Environmental chamber was divided on the FPIC issue.[17]

Prior to 2015, FSC Russia's Social and Environmental Chambers took the lead in developing and updating the FSC Russian standard, with relatively little participation from the Economic Chamber. This changed during the new standards process, with the Economic Chamber adopting a much more cohesive and assertive role.[18]

According to respondents, a core reason for the Economic Chamber's increased participation was that FSC had matured in Russia. As certificate holders, some of whom were internationally networked transnational companies, realized the costs of implementing the standards, they became more organized and forceful in their inputs.

> *"They are consolidated very strongly. Never are there any disagreements in the economic chamber. They are like the united front during the war! They have lots of meetings beyond the SDG. When there is a need to react, they take a small time out, coordinate among each other and give a consolidated response."*[19]

Economic chamber members were not only motivated as a collective to advocate for FSC Russia standards that were less costly to implement, but also had significant financial resources to invest in FSC participation. This financial power was reinforced, furthermore, by the alignment of industry interests with the Russian government's narrow legal interpretation of indigenous and community rights. As illustrated in the following sections, this state-industry alignment enabled forest companies to draw on broader networks of lawyers and other experts external to the FSC in attempts to enhance their influence. It was against this backdrop of increasing industry influence and coordination that FSC Russia began its national-level negotiations over FSC's new international FPIC requirements.

4.4.1. National discussions on FPIC under P3 (Indigenous peoples' rights) and the scope of who counts as indigenous (Principle 3)

At the start of national-level negotiations over FPIC in the new Russia standard, the Economic Chamber first focused its attention on revisiting the definition of indigenous peoples, i.e. the scope of who is listed as indigenous in the standard, as well as the interpretation of the requirements. Contested issues included: who is a bearer of customary rights eligible for FPIC, does FPIC involve a right of veto, and to whom must FPIC be applied (only indigenous peoples or indigenous/local rights holders). While such debates are not new for the SDG, the addition of FPIC in FSC's international P&C and IGIs provoked revisiting the discussion, as these new requirements afford greater rights for all local communities, but especially for indigenous peoples.[20]

This came as a surprise to some FSC chamber representatives. It was thought that such debates were resolved in the previous negotiations for the current Russian standard, and that the update of the Russian standard to incorporate the global IGIs would be based on the definition of indigenous peoples from the current FSC Russia standard.[21] In the current standard, indigenous people are those who formed a unit (obshina), involved in traditional economic activities, are dependent on land and natural resources for their subsistence, and who are 'self-determined' as indigenous.[22] The current standard includes a list of indigenous peoples, and a well-developed practice for implementing P3. The list includes both the indigenous small-numbered peoples of the north, Siberia and the Far East (who are legally recognized as indigenous) and other ethno-cultural groups, such as the Pomor multi-ethnic group, and even 'old believers', defined as those who, due to their religious beliefs and traditions, rely on subsistence-based and forest-dependent livelihoods.[23]

However, since 2016 the Economic chamber has insisted on revisiting the definition continuously. At the core of their argument, is the claim that FSC requirements conflict with Russian legislation, as they are based on international conventions on indigenous rights that Russia has not ratified.[24] It was argued, therefore, that FSC Russia's standards should simply refer to Russian law.

> *"There was a debate around the indigenous peoples' definitions on the part of the economic chamber. And when social experts said that it was necessary not only to be guided by the decrees of the government of the Russian Federation, where something was firmly decided, it was argued that the list should be expanded and so on - this was not accepted by the economic chamber negotiators in any way."*[25]

In the definition of indigenous people in the new standard, a compromise was reached within the SDG in 2017.[26] The new definition both removed some criteria deemed not relevant to Russia, and also narrowed its applicability in certain key ways. The two criteria removed were the presence of "distinct social, economic or political systems" (the criterion used by the FSC International expert during field testing to claim the Udorichi were not indigenous) and "distinct language, culture and beliefs" (since many groups had lost their language and religion). This left five international criteria largely in place, addressing indigenous self-identification, historical continuity, link to territory and natural resources, non-dominant position in society, and distinct social systems and communities (Appendix C). There was agreement across FSC chambers around these changes. However, what served to narrow the applicability of FPIC, was a new requirement that all five remaining criteria had to be met in order for groups to qualify as indigenous. This meant that self-identification', which is considered the central defining criterion in international normative text, and in the current Russian standard, would no longer be considered sufficient proof of indigeneity in the new standard, even for local people living in remote areas. Furthermore, the requirement that all five remaining criteria must be met signified that social groups had to occupy a 'non-dominant' position in society. Hence, for example, Komi people in Komi Republic and Karel in the Karelia Republic would not qualify as indigenous because they are 'flag nations', meaning they have political control in their regions.

The following quote from a respondent highlights some of the difficulties and contradictions that are entailed in applying such prescriptive and restrictive definitions of indigeneity in the Russian context.

> *"In Russia, all national republics were redrawn in Soviet times by the maximum density of the indigenous population. And now how are they to blame? What are the faults of the same Kom-permyaki people that in*

[15] Interview 23, Director, FSC Russia 03.10.2019

[16] Interview 19, SDG Social Chamber 20.05.2018

[17] Interview 15–1 Vice Director FSC Russia, 15.11.2018

[18] Interview 12, 17 Environmental Chamber 24.10.2018, 21.05.201, Interview 19 SDG Social Chamber 20.05.2018

[19] Interview 2 Environmental chamber 17.09.2018

[20] See Appendix 1 for more detail on these changes.

[21] Participant observation on the Round table about indigenous issues 7th Conference of FSC Russia membership, 5 April 2019.

[22] Russian National FSC standard FSC-STD-RUS-V6-1-2012, 11.11.2008, p 27, 183.

[23] Russian National FSC standard FSC-STD-RUS-V6-1-2012, 11.11.2008, Annex G Indigenous peoples, p 183.

[24] Participant observation on Round table about indigenous people 7th Conference of Association National Working Group with FSC Russia members, 5 April 2019.

[25] Interview 7, SDG Social Chamber, 15.09.2018

[26] Participant observation, SDG meetings: September, October, December 2017.

1921 allocated the first national Komi-Permyatsky district? It appears a funny picture that the Udorachi who are not even recognized as indigenous by the Russian state, are just an ethnographic group in Komi, but are included in the list of indigenous peoples of the FSC. Yet the same Komi, whose way of life is no different from Udorachi, if you climb somewhere deep into the republic, are not included.[27]

The practical effect of this change in definition of indigenous from the current to the new draft standard was, firstly, to retract the status of indigeneity from 'old believers.' Secondly, while the rest of those groups recognized as indigenous in the current draft standard were grandfathered into the new draft standard, the new definition created more barriers for recognizing other groups as indigenous peoples in the recently certified territories, hence further reducing the scope of who qualifies as indigenous. It could also presage ongoing struggles over the relative indigeneity of existing 'grandfathered' groups versus new actors who also self-identify as indigenous.

4.4.2. National discussions on FPIC under Principle 4 (community relations), and the scope of who holds customary rights

Since the FSC P&C and IGIs offer FPIC to local as well as indigenous communities in respect to their 'customary rights', this also raised debates over which, if any, non-indigenous local communities have customary rights to be protected and what such protections might entail. While FSC Russian stakeholders had already resolved these issues in past standards development processes, the introduction of more prescriptive and stringent international FPIC requirements into the new Russian standard re-opened this debate.

Essentially the new P&C include two additional criteria addressing community consultation, explicitly calling for the identification of non-indigenous customary rights holders, and requiring that such rights holders give FPIC for forestry activities affecting them.[28] These changes, coupled with FSC Russia's decision to adopt a narrower definition of 'indigenous peoples' meant that 'old believers' and others who previously might have qualified as indigenous were now demoted to the status of 'local communities', and hence any requirements for recognition for FPIC regarding their customary rights would fall under Principle 4 rather than Principle 3. All of these factors served to raise the stakes over rules for FPIC under P4.

In response, in July 2017 at a meeting of the SDG, representatives of the Economic Chamber spoke out strongly against any use of FPIC in both P3 and P4, arguing for removing it from the standard completely.[29] After heated debate, the decision was made to keep the existing text on FPIC, with the caveat that the Economic chamber jointly with Social chamber would develop an explanatory note – which came to be known as Appendix B4 - on what, precisely must be done about customary rights and FPIC. Chambers were obliged to reach consensus on the formulations used in the Explanatory Note (FPIC Appendix B4)[30] and present it to the SDG in the October 2017 meeting.

Meanwhile in September 2017, the Economic Chamber re-opened the question of who are non-indigenous rights holders.[31] In this way, and just as occurred with the definition of indigeneity, additional international requirements for FPIC in P4 spurred efforts to narrow the scope of who would qualify for FPIC, and well as what rights would be protected by FPIC. The arguments which were used placed a strong emphasis on state law and state authority. For example, an Economic chamber representative argued that people who use the forest for hunting and gathering and are protected by the Russian legislation should not be eligible for FPIC procedures, since their customary rights are already covered by law. In Russia, all residents have a right to access forests and pick mushrooms, berries or medicinal plants for personal needs; this is highlighted in the Russian Forest Code. Taking this into account the Economic chamber proposed to remove the right to collect mushrooms and berries from FPIC consideration. Reindeer herding and hunting were suggested to be removed for similar reasons. That is, discrepancies or contradictions between the concept of FPIC and Russian legislation was used repeatedly as an Economic chamber argument to remove or severely limit FPIC requirements. They claimed that FSC's recognition of local hunters as customary rights holders without considering their legal rights overlooks the frequent informality or illegality of such activities, including building sheds in the forests and hunting without a license.[32]

Despite these ongoing disputes, the SDG ultimately approved an FPIC Appendix B4 in September 2018. However some stakeholders characterized this Appendix as unclear and argued that clarity was lost in the process of reaching compromise:

"The Economic Chamber, of course, wanted FPIC to be left out, and the social chamber argued, in fact, to process almost every village through FPIC. As a result of a very long and very difficult debate, they eventually tried to reduce FPIC to some extremely muddy document called the 'FPIC Guide', which is very long and very unintelligible. The FPIC guide, on the one hand, leaves FPIC in, but on the other hand, is trying to limit the scope of its application. The process was very complicated."[33]

4.5. Dynamics between national and local actors in sites of implementation: who must consent, how and to what?

Meanwhile, during different stages of the national negotiation process, efforts were made to test FPIC within particular forest management units, in different regions in Russia or 'sites of implementation' and to elaborate methodologies for its application. Three field tests were initiated for this purpose. Testing was done by different expert teams.[34] The field test experts tried to work out the mechanism for FPIC between residents and logging companies using Russian national indicators, focusing on how to distinguish people with customary rights, and with whom to sign FPIC.

Those involved in the field test concluded that while FPIC requires significant work by the company, as there is the need to find an entity with whom to sign FPIC that would be capable to act and speak on behalf of rights holders, it is doable, especially in cases when the company has already been working with the population in-depth within the framework of the current standard.[35]

4.6. Cross-national influence

An FSC boreal forest forum in Estonia, which happened to occur late in the process of standards negotiations, illustrates the importance of cross-national influence on FPIC standard-setting. At this forum, it became apparent to Russian forest industry participants that both the FSC Canada and Sweden standards did not recognize FPIC for non-indigenous communities. Companies then turned to a professional law firm, as a 'forum of negotiation' entirely outside of FSC's governance system, to analyze the consistency of the FSC Russia national standard with Russian legislation. The lawyers argued that FSC is developed using an Anglo-Saxon legislative system and that there is a difference between

[27] Interview 2 SDG Environmental chamber 17.09.2018

[28] See Appendix 3 for more details.

[29] Participant observation SDG meeting July 2017.

[30] Appendix B4 of the FSC Russia draft standard submitted for accreditation to FSC International in 2020

[31] Participant observation SDG meetings offline, September 2017.

[32] Participant observation SDG meetings offline, September 2017.

[33] Interview 9 SDG Chamber Environmental 24.10.2018

[34] See report: "Developing Competence and Involving Civil Society in Environmental Protection and Natural Resources Management in North-West Russia and the Barents Sea" March-May 2018.

[35] Participant observation at field testing.

the Russian and Anglo-Saxon systems. Based on these arguments, a letter appeared from companies demanding the removal of FPIC from the standard, at least from Principle 4. The frustration of other FSC Russia members was palpable, as noted in the following quote:

> *"We finally agreed on everything. I sent to all SDG members the draft and waited for the final 'Yes'. More than a month has passed, and instead of consent I got a position from the Economic Chamber. A letter signed by companies attached to this position. Moreover, not all companies were FSC members, some were just certificate holders."*[36]

Many timber companies signed the letter with the aim to send it to FSC International, but this was stopped after negotiations among FSC stakeholders.[37]

Ultimately, the draft FSC Russia standard was 'agreed' and sent to FSC International for accreditation in 4 December 2018, and includes requirements for FPIC based on identified indigenous and/or community rights. Yet the debates continue. At the 7th Conference of the FSC Russia membership, 5 April 2019, Economic Chamber members again have publicly expressed their views that the indicators of the Russian draft standard on FPIC are not feasible.[38]

5. Discussion and conclusion

This paper examined the setting of standards for indigenous and community rights within FSC Russia as a contestation over who controls forest management decision-making, and at what scale. Analyzing FSC as a 'governance generating network' (GGN) has enabled us to look both inside and outside the 'box' of FSC's formal standards and procedures, to the wider landscape of formal and informal forums of negotiation and field tests at global, national, cross-national and local scales. This allows us to consider not only the structural considerations that have been the core focus of much comparative research on standards development (e.g. Cashore et al. 2004, Judge-Lord et al. 2020, Vogel, 2009), such as a country's existing national legal framework and the relative strength of civil society versus the forest industry, but also how different actors use both formal and informal forums of negotiation and sites of implementation at multiple scales to exercise power and agency to foment change.

The contestations we uncovered in this paper through application of the GGN framework involved much more complex dynamics than simply a struggle between industry and civil society, highlighting tensions between international and national forums of negotiation, as well as local field testing in sites of implementation, as well as tension between countries approaches (e.g. FPIC in Canada versus Russia). In the case of Russia, we trace early roots of this struggle to a period soon after FSC first incorporated UNDRIP requirements for FPIC into its Principles and Criteria (P&C), when it initiated a 'global-local' process of field testing in Russia, as well as Canada, meant to guide the application of FPIC worldwide. As an early example of transnational influence working to reduce the scope of Russian FPIC standards, the FSC International expert assigned to the Russian field test disputed existing Russian stakeholder consensus on who qualifies as 'indigenous' in Russia, arguing for a narrower interpretation.

The issue of both indigeneity and FPIC then came to a head in the next updating of the FSC Russian standard. By this time FSC International was requiring all national standards to conform to a new prescriptive set of IGIs designed to ensure international consistency. FSC Russia stakeholders, responded with widespread frustration, viewing the IGIs as top down impositions disrupting their existing consensus standard as well as accepted practice for community consultation in local sites of implementation, thus illustrating the tensions between top-down prescriptions and existing norms of negotiated compromise.

After failed global-national communications about how to interpret the IGIs, FSC Russia entered its next phase of 'national' negotiations followed by 'national-local' field testing, initiated by stakeholders. It was here that the greatest tensions emerged, illustrating the differing strategies and sources of power available to the social versus the economic chamber. Since the prescriptiveness of FPIC had been 'hard-wired' into the IGIs at the international level, these contestations in forums of negotiation focused on the scope of who and what qualified for FPIC rights. The social chamber was using various FSC structures and forums, e.g. Chamber meetings and field testing, to defend a broad scope for FPIC. The interests of industry, in contrast, were well aligned with the Russian state's very narrow definitions of indigeneity as involving Indigenous 'small-numbered peoples of the north, Siberia and the Far East'. Hence they drew on their greater financial resources and alignment with state interests to sponsor their own forums drawing on Russian lawyers and select 'experts' outside of FSC circles to justify a strictly legal interpretation of 'indigenous'. Meanwhile those companies that operated multi-nationally discovered through their cross-national networks how other FSC national standards in Sweden, and Canada, for example, had dropped the application of FPIC to local communities.

While industry players benefitted from the power and reach of their external networks, several of FSC's internal structural elements helped Russian Social Chamber members exercise their agency to reinforce and strengthen FPIC requirements. Firstly, the structure of FSC standards, with their mandatory international P&Cs, all but ensured some form of FPIC was included in the national standards as a means to exert *power over* FSC implementation by transferring *power to* local communities. Secondly, the FSC chamber-based decision-making structure, which affords equal votes to all three Economic, Environmental and Social Chambers, reinforced the power of Social Chamber members. Hence, despite its small size and lack of financial resources, the Social Chamber successfully defended the inclusion of FPIC in P4, along with new requirements for community consultation.

It is meanwhile unclear what these changes will mean for the implementation of certification in diverse local contexts – will the additional requirements give greater voice to local communities or simply create bureaucratic procedures that companies will use to verify that communities do not qualify for a restrictively defined set of FPIC rights? To answer this question requires further research on the enactment of FSC Russian standards in its local sites of implementation. Conversely, it also remains to be seen how Russia's evolving FPIC standards and contestations will influence transnational FSC dynamics, given its global standings as a country with the second largest area of FSC certified forest worldwide.

In conclusion, these findings highlight the dynamic and ultimately indeterminant effect of policy 'stringency' that cannot be captured simply by comparing written policy content and examining structural variables to explain policy difference. If we understand stringency as a function of both prescriptiveness and scope, and the issues of 'indigeneity' and 'local rights' as complex and contested, this opens up a wide range of potential outcomes from stringent international policies. The drivers of stringency in such policies are, furthermore, also diverse – ranging from FSC's concern for its global credibility, to industry concerns about competitive advantage, to activist demands to remove discretion from distrusted companies. These complexities allow ample room for regulatory 'jujitsu', whereby stringent policies defined at higher scales to strengthen local rights may also become tools to either limit and/or remove those rights from the majority of rural communities, by reducing the scope of whose rights count.

[36] Interview 15 Chair of SDG, Vice director FSC Russia 15.11.2018

[37] Interview 11 BD Environmental chamber 06.09.2018

[38] Participant observation on Round table about indigenous people 7th Conference FSC Russia membership, 5 April 2019.

Declaration of Competing Interest

All authors declare no conflict of interest.

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Appendices A–D. Supplementary data

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