CAPTURING
THE
GAINS

economic and social upgrading
in global production networks

Re-embedding governance: global apparel value chains and decent work.

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Abstract

Much of the global economy is now dominated by global production networks that span countries and continents and connect producers and buyers in global supply chains. This complex and dynamic structure of economic activity has rapidly brought the productive capacity of developing countries on-line, shifting production from the advanced industrialized world to locations in the South, most notably to the newly industrializing countries of China, India and Brazil. It is clear that economic globalization has created a great deal of wealth, but despite rapid economic growth, there is persistent evidence of exploitation of workers at the margins of the new global economy and pressure on labour in more traditional centres of production.

Our concern in this paper is with the role of governance institutions in promoting decent work in apparel global value chains and production networks. By governance we refer to those institutions that constrain or enable market actor behaviour, both public in the form of governmental policies, rules, and regulations and private in the form of social norms, codes of conduct adopted by businesses, consumer demand for social responsibility, or other non-governmental institutions and social movements.

Keywords: global economy, global production networks, labour, social responsibility.

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1. Introduction

Much of the global economy is now dominated by global production networks that span countries and continents and connect producers and buyers in global supply chains. This complex and dynamic structure of economic activity has rapidly brought the productive capacity of developing countries on-line, shifting production from the advanced industrialized world to locations in the South, most notably to the newly industrializing countries of China, India and Brazil. It is clear that economic globalization has created a great deal of wealth, but despite rapid economic growth, there is persistent evidence of exploitation of workers at the margins of the new global economy and pressure on labour in more traditional centres of production.

Our concern in this paper is with the role of governance institutions in promoting decent work in apparel global value chains and production networks. By governance we refer to those institutions that constrain or enable market actor behaviour, both public in the form of governmental policies, rules, and regulations and private in the form of social norms, codes of conduct adopted by businesses, consumer demand for social responsibility, or other non-governmental institutions and social movements.

In the paper we develop an argument about the relationship between markets and governance. The argument builds on the work of Gereffi and Mayer, who theorize that globalization has created a global "governance deficit," to which states and societies have responded by seeking to fill the gap with new governance capacities (Gereffi and Mayer 2006). The analysis draws particularly on Karl Polanyi's concept of a "double movement," in which markets try to dis-embed themselves from social control and states and society respond by seeking to re-embed them in institutions of governance (Polanyi (1944) 2001). We see this as a dynamic process of constant adjustment, in which markets respond to opportunities presented by the institutional environment, society responds by constructing new institutions to govern them, markets respond to the new institutional environment and so forth. There is nothing inevitable about the outcome of this ongoing co-evolution, however. From the perspective of labour and decent work, therefore, one big question is always whether the interests of workers will be adequately protected in the emerging architecture.

Throughout the paper, we focus on developments in global apparel value chains. Apparel is particularly interesting as a case study; it is a highly globalized industry characterized by global production networks, a major global employer, and a sector in which there have been considerable problems of governance failure, widespread recognition of predatory sourcing behaviour, and more recent indications of governance innovation. Our purpose is to explore some of the ways in which new and diverse governance structures are contributing to decent work in apparel production. The rapid rise of highly flexible global production networks left many workers outside the control of effective governance institutions to protect their interests. In response, some workers and their advocates have generated sufficient pressure that increasing numbers of lead firms and industry forums have responded by experimenting with a variety of private governance initiatives. In recent years, the limits of private governance approaches (such as Corporate Social Responsibility (CSR) and in-house or third party monitoring) have been questioned. As a consequence, the role for public governance in emerging industrial countries has become even more significant (see Palpacuer 2006, 2008).

In the conclusion we return to the idea of the double movement to suggest ways in which this perspective opens, rather than closes options for thinking about ethical sourcing and better work initiatives.

2. Globalization and the governance deficit

As Gereffi and Mayer have argued, governance institutions vary along three dimensions. The first is the distinction between *public* and *private* governance. Public governance is imposed by the state. Equally important, however, are the private, non-state institutions ranging from broad societal norms to collective bargaining agreements that also establish the context in which market actors operate.

The second relates to the function of governance, whether to facilitate, to regulate, or to redistribute (or compensate). *Facilitative governance* enables markets to form, creates jobs, attracts investment, and otherwise promotes economic activity. *Regulatory governance* constrains the behaviour of profit-seeking firms that might otherwise tend to exploit workers, leading to poor working conditions, lack of job security, constraints on worker organization, and general downgrading of industrial relations systems and practices.[1] *Redistributive (or compensatory)* governance seeks either to redress inequalities through progressive taxation and social services or to compel firms to offer more generous wages and benefits.

The third is the scale of governance, whether local, national, or international, whether firm or industry specific or more cross-cutting. Public governance is more developed at the level of the national state, and is increasingly non-sectoral. Private governance, on the other hand, may transcend national boundaries and be organized along sector or even firm-specific lines.

In capitalist countries, institutions of governance—facilitative, regulatory, and redistributive—initially arose under the aegis of the state as reactions to the rise of modern industrial economies. Although there were clearly varieties of capitalism (Soskice), modern welfare states shared a common basic commitment to market capitalism coupled with labour and other regulation and various forms of social protection, as well as reasonably comparable wage rates and standards of

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[1] Historically, other forms of social contract have emerged in competitive markets, particularly at times of technological innovation and process upgrading. For example, Henry Ford's adoption of the $5 day and the Sociology Department to regularize and normalize the skilled labourers he increasingly needed for his production line. More recently, Toyotaism has re-shaped the ways in which workers are expected to take full responsibility for quality at every stage of production. The case of Nissan Steel is instructive in this regard. Shapiro has shown how Nissan Steel developed parallel labour markets with factory 'men' (well-paid, lifetime employment) working alongside contract workers inside the factory (usually at low pay, on flexible contract, and often working in hazardous conditions) and outside the factory (where the most dangerous and unregulated processes were carried out in nearby workshops where workers were often grossly exploited) (Shapira 1989). In this example both facilitative and regulatory forms of governance would be necessary to address the different needs of a highly segmented labour force. In the case of production systems like Toyota Motor Manufacturing (TMM), it may be the case that regulatory regimes become less essential for worker protections, but facilitative forms of governance (worker training, infrastructural development, social services) may become more important in attracting and retaining a highly skilled workforce. On the other hand, it may also be the case that regulatory regimes that are hard won by worker struggles (such as organized labour's struggles to shorten the working day, struggles to increase levels of pay and benefits, or increased bargaining power of skilled and empowered line workers) may be the stimulus to technical, process, and organizational upgrading. The arrow of causality here is, of course, an issue of longstanding debate in labour and industrial studies.

living. Despite the absence of strong international regulatory and distributive institutions, common national level governance institutions allowed for stable international commerce among developed countries, a system Ruggie called “embedded liberalism” (Ruggie 1982).

Globalization destabilized this regime. First, the liberalization of international trade, the de-regulation of emerging market economies, and the opening of former closed economies in Central and Eastern Europe, China, and Southeast Asia rapidly expanded the global market to incorporate countries with not only lower wage rates and standards of living, but also very limited governance capacities. The emergence of global value chains and the expansion of production networks beyond national borders, with attendant integration of sourcing and supply chains, posed challenges for those interested in sustaining and expanding regulatory structures that guarantee decent work and protect workers against predatory practices in global markets.

The spread of production to the poorer, developing economies meant that an increasing proportion of work for the global market took place in locations where governance capacities were weak, if developed at all. Indeed, to attract international investment, newly industrializing countries sought to make themselves more attractive by strengthening investment protections and other policies intended to promote industry, while at the same time deregulating and privatizing production. Special economic zones (SEZs) in emerging reform economies such as China, Vietnam, and Cambodia (as in their Latin American maquiladora equivalents in the 1980s and 1990s) represent an extreme form of this strategy (Arnold and Pickles 2010). Often they maintain low cost, disciplined, and often unregulated and illegal workers in a regime of what Pongsawat (2007) has called ‘partial border citizenship’.

At the global level, the strongest international institutions focused on market facilitation—the IMF and the WTO, most notably, but also to a large extent the World Bank, and the World Intellectual Property Organization. From the 1970s, the Bretton Woods institutions rapidly expanded their scope and reach, opening market access while resisting claims from trade unions and other non-state actors for embedded labour protections Those whose mission was labour protection – such as the ILO – were notably disadvantaged from the 1970s onwards with the shift from trilateral forms of national industrial relations agreements to increasingly globalized neoliberal policies of deregulation and market-driven mechanisms.

Gereffi and Mayer argue that this round economic globalization created a global “*governance deficit*,” characterized by limited capacities in the emerging economies, weak international institutions, increasingly challenged institutions in advanced industrial countries, and everywhere greater emphasis on facilitation than on regulation or redistribution. This deficit can be understood, in Polanyian terms, as a dis-embedding of the market from institutions of governance.

3. The second movement: social responses to globalization and governance innovations

In *The Great Transformation,* Polanyi argued that market economies tend to dis-embed the economy from the social conditions that gave rise to it and in which it operates. This process of dis-embedding results in struggles over the appropriation and distribution of social surplus (what Gibson-Graham, Resnick and Wolff (2000) call 'class processes'). This movement of the market, in turn, generates a counter-movement to re-embed the economy in practices and institutions of social regulation, what Vorley, Fearne and Ray (2007) have called 'Regoverning Markets'.

Following Polanyi, we argue that the global governance deficit has triggered a global demand for new institutions of governance. The 'governance deficit' has generated a counter-movement, as governments, NGOs, organized labour groups, and other social actors strive to create new institutional arrangements to re-regulate work, sourcing practices, and the movement of factories in the global economy. By the late 1990s, the dominance of the Bretton Woods institutions (and the Washington Consensus they seemed to represent in re-shaping global governance) had generated strong counter-currents among anti-globalization, alter-globalization and global justice movements. Together with strong critiques of neoliberalism these resulted in sustained efforts to change the ways in which the inter-governmental agencies dealt with labour and human rights issues. In 1999 oppositional movements poured into the streets of Seattle in what became an iconic example of the struggle over global governance (repeated several times since, including G8 meetings in Genoa, WTO meetings in Geneva, World Bank and IMF meetings in Washington, and Summit of the Americas meetings in Miami and Quebec City). As Pigman (2005) suggested:

> "the emergence of widespread, organized resistance to the discourse of neoliberal globalization at the end of the 20th and beginning of the 21st centuries indicates how the fruits of global trade itself have empowered effective strategies of resistance to the widening disparities of wealth and power that global markets have perpetuated. Global social movements have challenged the various institutions maintaining the parameters of the neoliberal global trade regime - the WTO, the IMF and World Bank, the OECD, the World Economic Forum -- to 'civilize' world trade by re-embedding it within a sustainable global framework of human social relations."

Over the last two decades, the social pressures unleashed by globalization have driven a remarkable range of innovations in governance, both changes in existing institutions and new forms of governance, most notably in the private realm. Myriad actors—states and international organizations, labour unions and firms, NGOs and citizens—are responding to the dis-embedding of economic practices from social systems, and each seeks in one way or another to create to greater or lesser degrees some basic level of social and brand protection in the global economy. These innovations are both public and private; operate on international, national and local levels; and seek either to spur economic or social upgrading, or both. They also have very different levels of scope and effect.

4. Private governance responses

In large part because of the deregulation of public forms of governance and the broader governance deficit, social pressures generated by globalization have found expression in a variety of private governance experiments. Efforts outside of state agencies to regulate firm behaviour and compliance in their value chain have ranged from largely voluntary efforts to expand CSR across the supply chain, to activist and consumer pressure for ethical sourcing and clean clothes, to investor movements to create markets for social responsibility. These are all part of a broader movement of what Richard Appelbaum (2005: 373) has called “the privatization of labour enforcement”.

Private governance facilitates markets through standards adopted by industry groups, the activities of business promotion groups such as chambers of commerce, and framework agreements that establish norms of trust and conduct. In the context of global production networks, this might include efforts by development associations to position themselves to attract certain forms of investment or to cooperate with greenfield start-ups. It might also include direct changes in production process, in the structure of buyer-driven supply chains and production networks, or corporate social responsibility initiatives by leading brands as part of broader demand management strategies.

Private governance can have a significant regulatory impact in the form of policies adopted by firms beyond any minimum standards required by law, negotiated arrangements between firms and labour advocates, and pressure campaigns driven by civil society and consumers. It can also influence distribution through voluntary or semi-voluntary agreements by firms to pay living wages, through negotiated wage agreements, through voluntary provision by firms of other benefits, and by social institutions that provide services to the unemployed and working poor.

Apparel is a particularly interesting sector because of the diversity of positions taken by actors in its global production networks (Appelbaum 2005; Keohane 2002; Tickell and Peck 2003). Companies such as Marks and Spencer and the Cooperative have long operated on deeply embedded commitments to ethical sourcing, high quality, and localized production. Other companies, such as Walmart, have come to typify the footloose and delocalized predatory outsourcing of the new global economy (Appelbaum 2004; Appelbaum, Bonacich, and Quan, 2005). Yet other companies (such as Nike and GAP) that were once the poster-firms for such footloose sourcing and the sweating of labour that followed, have now emerged as industry leaders in transparency, monitoring, and corporate social responsibility. The pressures on visible brands to ensure supply chain transparency and compliance has increased dramatically in recent years. For Nadvi and Wältring (2001, p. 34) “despite the toothless nature of core labour standards, they have become a model for private social standards” and, more recently, Nadvi (2008: 323) has suggested that: “Compliance with international standards is now a sine qua non for entry into globalized production networks” (see also Committee on Monitoring International Labour Standards, 2004).

Codes of Conduct and Supply Chain Monitoring

One response to the globalization of sourcing networks and the intensification of pressure from consumer groups has been the (initially begrudging) acceptance on the part of global buyers of their own responsibility to ensure that working conditions meet basic standards. These businesses developed a wide range of code and monitoring systems, many involving a certification program of some kind. In the US, the most widely used certification programs are SA8000 (a social accountability standard that, *inter alia*, requires a ‘basic needs wage’ and associational rights), Worldwide Responsible Apparel Production (WRAP), which operates a factory certification program, and the Fair Labour Association (FLA).

Certification has worked best where image in the market place is central to the success of large brands, as exemplified by the case of Nike. Since its rapid rise to become one of the world's leading brands, Nike has defined what it means to live on an image. Its size, visibility, and importance as a consumer image meant that Nike became a flashpoint for consumer campaigns, particularly of the anti-sweatshop movement. In response, Nike drafted the Nike Code of Conduct aimed at improving working conditions in its contract factories.

Perhaps the strongest certification regime operates in a particular niche within the apparel industry, that of US Collegiate Apparel (see Bair 2008). Since the 1990s, there have been intense discussions among student organizations, universities, monitoring agencies, and companies supplying collegiate apparel about the need to monitor supply chains and conditions of work. Out of the anti-sweatshop student movement of the 1990s, in addition to the FLA, the Workers Rights Consortium (WRC) was formed to respond to the same concerns and pressures of colleges and universities. Companies that sign on with the WRC must agree to provide access to their suppliers and permit unannounced and independent monitors to carry out spot-checks at their sourcing facilities. The WRC launches factory assessments in direct response to workers' or third party complaints, and requests regular updates of licensee factory locations for monitoring purposes and to assess shifts in patterns of sourcing.

The situation in collegiate apparel supply chains came to a head in 2005 with the ending of MFA-quotas and threats of lost contracts and closure to precisely those factories that had responded to earlier pressure to raise standards, improve working conditions, and – in some cases – increase wages. The ensuing struggle among the WRC, United Students Against Sweatshops, the FLA, universities, and their licensees has increasingly revolved around proposals for an alternative sourcing model called the Designated Supplier Program and a new monitoring program called FLA 3.0.

The Designated Supplier Program is an attempt to replace the 'race to the bottom' with a 'race to the top', a principled restructuring of licensed apparel supply chains in which strategic suppliers who maintain standards and meet basic criteria will be rewarded with longer term contracts, technical assistance, and higher prices (WRC 2010). Accompanying the DSP is a new approach to monitoring, FLA 3.0, which aims to create a system of "sustainable compliance" in which participating factories are given assistance to monitor and improve their own performance.

In recent years, both industry and anti-sweatshop organizations have begun to question the viability of monitoring and voluntary code enforcement as an effective model of protecting workers and guaranteeing safe and fair working conditions, even in the production of goods for relatively high-priced markets such as collegiate apparel (Jenkins, 2001; Mamic, 2003; Barrientos & Smith, 2007). Indeed, to listen to many buyers and producers, it is not the lack of governance mechanisms that concerns them, but the *surfeit* of regulatory demands and codes they and their suppliers with which they have to deal. Buyers complain about 'monitoring fatigue' where their sourcing factories may be subject to as many as 30-40 inspections each year and where they may be required to meet the different code requirements of national governments and the 8-12 brands for whom they produce.

Ethical Sourcing

One consequence of the failure of such codes and monitoring programs to protect workers, guarantee sweat-free working conditions, and maintain clean supply chains is the move to ethical sourcing and trading initiatives. Branded textile and clothing firms have emerged as niche suppliers of ethically sourced fibres, fabrics, and clothing (Hughes, Wrigley, and Buttle. 2008). Aimed at driving ethical sourcing, transparency, and compliance down through the entire supply chain, ethical sourcing initiatives are usually also linked to consolidation of the supply chain and reduction in the number of suppliers. Together these allow much greater private control of suppliers and public transparency and oversight along supply chains. In the main, these ethical sourcing initiatives are driven by buyer concerns for brand reputation and market access. Thus, for example, in response to continued pressure from student and other NGO groups and in the face of continued problems with supplier compliance, Nike disclosed its entire list of suppliers in 2005, and in May 2007 it released for the first time its auditing tools along with its 2005-2006 annual report, a series of new initiatives in CSR, and expansion of its soccer, community, and environmental recycling programs.[2]

For other companies, the turn to ethically sourced products is less driven by brand identification and more focused on social labelling approaches. A recent example that combines both brand identification and social labelling is *PeopleTree,* which launched in 2009 a new line of clothing "bringing fair trade and organic fashion to the 16-24 age group" (Holmes 2009). But, writing recently about India, Seidman (2009) has broadened the critique of social labelling programs by suggesting the need to consider ways in which social rights and logics of citizenship might be extended:

> "Social labelling programs are organized around the logic of the market, appealing to global consumers by certifying that producers have cleaned up their supply chains. But if India's goal is not simply an export-promotion strategy, perhaps they should look to programs based instead on the logic of citizenship, expanding schools and programs to support poor families rather than offering exporters a certificate that turns compliance with child labour laws into a marketing strategy."

International Framework Agreements

Workers, of course, have always responded in one way or another to the circumstances in which they find themselves. How we understand the positional power of labour to shape its own conditions of work and contribute to the creation of decent work depends in large part on the specific form of political-economic regime, the industrial sector, the structure of the value chain, and the ways in which a particular industry and regional economy are inserted into global production networks.

[2] NIKE CSR: http://www.nike.com/nikebiz/nikeresponsibility/#, Workers in Contract Factories: http://www.nike.com/nikebiz/nikeresponsibility/pdfs/color/3_Nike_CRR_Workers_C.pdf
Targets: http://www.nike.com/nikebiz/nikeresponsibility/pdfs/Nike_CRR_Business_Targets.pdf, and Environmental design and climate neutral production: http://www.nike.com/nikebiz/nikeresponsibility/#. See also Iwanow, McEachern, and Jeffrey (2005) on GAP ethical sourcing practices.

International Framework Agreements, negotiated by international union federations with multinational enterprises, constitute an important example of worker response to globalization. These agreements typically seek to hold multi-national enterprises (MNEs) to ILO labour standards throughout their production networks and they seem to be increasing in number and scope. For example, in 2007, Inditex (the owners of Zara) and the International Textile, Garments and Leather Workers Federation (ITGLWF) signed an International Framework Agreement to reinforce worker rights to form and participate in free trade unions, to bargain collectively, and to ensure that Inditex's code of conduct improves workers' conditions within Inditex's supply chain. Inditex agreed to inform all of their suppliers of this agreement, and the ITGLWF agreed to notify its member unions worldwide. The two together will develop worker education programmes focusing on rights of association and collective bargaining. Impactt commented: "To our knowledge this is the first agreement of its kind in the garment industry and it represents a major step forward for Inditex and ITGLWF and the whole area of labour rights" (ITGLWF 2006; Buttle 2007). Miller (2009) describes agreements of this kind as essential elements of mature systems of industrial relations because they respond to inherent weaknesses in social auditing and codes of conduct by recognizing the "enabling rights" of collective bargaining. By October 2008, 72 of these agreements had been signed, the vast majority with MNEs based in the EU and Norway (Eurofound 2010).

Notwithstanding the impressive variety of private governance, there are clearly limits to this approach as a stand-alone alternative to public governance. The impact of private governance mechanisms on general working conditions and sourcing and wage stability – crucial criteria for success in responding to the regulatory vacuum for GPNs -- are far from demonstrated, although their effects in specific chains and factories may be significant. Private monitoring and enforcement programs, in particular, have been criticized in a variety of ways in recent years, including:

- companies are monitoring their own suppliers,
- monitoring costs are expensive and often borne by the producer,
- factories must support code compliance and monitoring audits for every brand for which they produce,
- even among factories attempting to be compliance, factory violations are produced by last minute changes in fashion, design, fabric and/or colour or unrealistic pricing and production deadline requirements imposed by buyers, [3]
- compliance efforts are threatened in conditions of global recession, currency volatility, and financial and order uncertainty, and
- monitoring seems ineffective in changing the practices of non-compliant producers.

[3] Oxfam's report '*Trading Away Our Rights Women Working in Global Supply Chains*' (2004) demonstrated clearly the ways in which efforts by human resource and compliance departments in large clothing companies to ensure code compliance in supplying factories were often undercut by costing departments that simultaneously squeezed down the price of contracts, demanded ever tighter production deadlines and quality standards, and adjusted orders and pattern-types during the production runs without any extension of deadlines or contract price. The result was an almost inevitable squeezing of work schedules and compliance goals.

Private governance has been shown to be most effective when there is a clear lead firm with considerable power in its supply chain, when collective action by consumers or advocacy groups is possible, and when social upgrading aligns well with commercial concerns (Mayer and Gereffi 2010). It seems to be particularly enhanced when firms foster regular opportunities for worker representation and participation in decisions about work schedules, practices, and responsibilities (Locke et al 2007). International framework agreements are promising, but still very limited, and depend, fundamentally on strong enabling environments for labour unions. And ethical sourcing, still in its infancy, seems likely to remain something of a niche phenomenon, although it may have important demonstration effects that destabilize industry claims about what is and what is not economically feasible in contemporary global supply chains.

5. Public governance responses

After more than thirty years of state and international deregulation, and in the face of increasing evidence of a race to the bottom in global supply chains, the question of public governance has become ever more pressing. It is particularly interesting to see the proliferation of public governance responses to nomadic sourcing and predatory production practices. These are taking place at both the international level, in global or regional institutions, and at national and local levels.

5.1 Global and regional responses

At the global level, the major institutions governing the international economy, notably the Bretton Woods institutions, have been reticent to respond directly to concerns about social downgrading and predatory working conditions. As noted earlier, global public governance has historically been better at facilitation than at regulation or redistribution, although the ILO has been an important voice for workers and decent working conditions.

One recent development of significance is the shift in World Bank policy to now requiring adherence to ILO core labour standards in infrastructure projects it funds, a standard applied by the World Bank's private-sector lending arm, the International Finance Corporation (IFC), since May 2006. What 'respect for core labour standards' will mean at the level of implementation is still to be determined, however. Indeed, there may already be an emerging contradiction in the Bank's commitment to core labour standards and its development of the *Doing Business* benchmarking program, which defines almost all labour regulations – such as hours of work, minimum wages, advance notice of mass dismissals and protection against discriminatory practices - as undue impediments to "doing business".

The effort to link social clauses to multi-lateral trade agreements at the WTO has similarly been limited in scope and effect. Although there has been a push in this direction in the Doha Round negotiation, advocates for including social clauses in WTO negotiations have met strong resistance, largely from developing countries who have viewed such efforts with suspicion as potential barriers to their own further development (WTO 2010a).

What cannot be accomplished at the global level may be possible at the regional level. In many regions of the world regional institutions of governance play important roles. In Europe, regional public governance, in the form of the EU, is considerably stronger than global institutions, most notably in their regulatory and redistributive roles. Regional development banks, such as the Inter-American Development Bank (IADB) and Asian Development Bank (ADB), are often more attuned to the social dimensions of globalization than the World Bank.

Linking labour clauses to regional free trade agreements (FTAs) is also increasing. Given the proliferation of FTAs such linked social clauses could play a useful role in the absence of a broader multi-lateral approach.[4] The EU has done most in this regard, with regional trade agreements aimed at fostering economic development and political openness and bilateral trade concessions such as 'GSP+' explicitly granted to beneficiary countries applying ILO core labour standards and other basic rights. In North America, regional free trade agreements such as NAFTA and the CAFTA do include side agreements on labour, but their provisions are very weak and they do not include explicit references to ILO standards (see Mayer 1998). The US has placed even less emphasis on social concerns in its bilateral trade agreements, particularly in the Bush years.

The disintegration of the Washington Consensus may encourage the expansion of existing and the development of new international institutions based in the South. One such 'Southern" institution is the G20—composed of middle-level emerging economies that comprise 60 percent of the world's population (Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, India, Indonesia, Mexico, Nigeria, Pakistan, the Philippines, Paraguay, South Africa, Tanzania, Venezuela, and Zimbabwe). Originally formed as a negotiating coalition in the context of the Doha Round negotiations of the WTO, this coalition has continued to deepen its coordinating mechanisms and now represents a force in efforts to reform the Bretton Woods institutions and shape an alternative development path for poorer countries.[5]

5.2 State responses

Notwithstanding the innovation that has taken place in linking social clauses to trade agreements, integrating labour standards into the policies of the Bretton Woods institutions, and building new international institutions from the South, significant obstacles remain in the development of effective inter-governmental regulatory or distributive governance capacity at the global or regional level. In the public realm, governance capacity remains heavily concentrated at the level of the national state. The efficacy of state-level governance has been partially eroded by neo-liberal commitments to deregulation and market-based mechanisms and by globalization, particularly as production moves to low-cost producing locations in the global South with less-well-developed facilitative, regulatory, and compensatory capacities. States have, however, begun to respond.

[4] According to the WTO: "Regional Trade Agreements (RTAs) have become in recent years a very prominent feature of the Multilateral Trading System (MTS). The surge in RTAs has continued unabated since the early 1990s. Some 421 RTAs have been notified to the GATT/WTO up to December 2008…. At that same date, 230 agreements were in force. If we take into account RTAs which are in force but have not been notified, those signed but not yet in force, those currently being negotiated, and those in the proposal stage, we arrive at a figure of close to 400 RTAs which are scheduled to be implemented by 2010. Of these RTAs, free trade agreements (FTAs) and partial scope agreements account for over 90%, while customs unions account for less than 10 %" (WTO 2010b).

[5] The G-20 (Group of 20) also refers to a group consisting of 19 of the world's largest economies, together with the European Union, that was formed as a new forum for cooperation and consultation on matters pertaining to the international financial system. Available at: http://www.g20.org/

Although much of their effort has been focused on industrial policy and economic upgrading, in the face of growing social unrest, large newly industrializing economies, notably China, India, and Brazil, have begun to adapt their existing state institutions and develop new governance capacities to regulate production processes and, to a lesser extent, to provide social safety nets and other forms of compensatory mechanisms. In recent years, governments in Latin America, Africa, and elsewhere have come to power that resist Bretton Woods prescriptions for economic reform. In Latin America, governments in Venezuela, Bolivia, Ecuador, Nicaragua, Argentina and Brazil seek to create the possibility for autonomous alternatives to global neoliberal models of free trade and open markets, each mobilizing state resources and national institutions to foster economic and social development.

The cases of institutional reforms in post-socialist states may also be instructive. In these countries, the roles played by former state socialist institutions have changed quickly in recent years. Planned economies were deregulated quickly after 1989, state institutions were weakened, and manufacturing industries suffered massive retrenchment with the loss of long established CMEA markets and trade. Export-oriented industries declined, employment was shed rapidly, and plant and capital were redirected into private hands, sold, or abandoned.[6] But most post-socialist states retained the working (albeit weakened) institutions of state socialism (Labour Inspectorates, Health Inspectorates, working hours law, overtime regulations, insurance and pensions requirements, etc.), and by the late 1990s and early 2000s some governments (such as Bulgaria and Slovakia) were providing additional support and funding to them to ensure basic working conditions were better regulated. While many cases of workplace abuse and hyper-exploitation have been reported (most notably in Bulgaria by Clean Clothes Campaign), in general the legacies of labour inspectorates, health and safety inspectorates, respect for working hours, child labour laws, and wage payments and contract conditions, remained important partial regulators of predatory business practices.[7]

Precisely how such state institutions are able to function or be revitalized as effective bodies of workplace health and safety regulation requires much more investigation. The paradox of state regulatory regimes exercising their jurisdiction differentially across firms in the same industry points to the importance of understanding how such regimes are articulated with international norms and private firm codes of behaviour and practices.

[6] By the mid-1990s, the delocalization of European and US clothing manufacture had revitalized the industry throughout the region around stitch-up, CM, and CMT contract manufacturing, structured largely by international buyers and manufacturers. As a result, the industry re-emerged quickly, but largely under the radar of the state authorities. These remained weak and the institutions of the state continued to be under-funded and under-incentivized (see Begg, Pickles, and Smith 2003).

[7] For documentation of abuses in Bulgarian supply chains see Ivanka Laleva and Bettina Musiolek's (1999) account of the "Conditions in the Savina Factory." For discussion of the consequences of state socialist institutions on post-socialist working conditions, see Pickles and Smith (2010).

China's New Labour Contract Law

In response to social unrest at home and to international pressure, China is applying some particularly far reaching new regulations. These were already signalled in 2005 with the state sanctioned naming of the Chinese Year of Corporate Social Responsibility, a commitment to harmonious work and society that has been consolidated and expanded in subsequent years (see China CSR. 2010). In 2008 China adopted a New Labour Contract Law that responded to growing public concern about the mistreatment of employees, the growing numbers of cases where managers failed to pay proper wages, and the rapid demise of state owned enterprises which had been the bastions of stable regional employment for many towns. The law aimed to re-assert the basic values of labour protection in state policy, and specifically to deal with some of the ways enterprises were getting around the existing labour laws. For example, in the past, employees avoided payment of benefits, they employed workers on probationary contracts, or they avoided offering permanent contracts by employing workers on a series of short-term repeating contracts. Under the new law, employees were given formal term contracts, they can only be terminated with cause, and after a maximum of two term contracts the employee must be given an open-ended permanent contract which ends only with the employee terminating his or her contract, termination for just cause, or retirement. Under the new law, individual workers and the worker's union are also able to go to court to enforce their rights.[8] One provision of the new labour law requires negotiations between workers and companies over the terms and conditions of work and enhances the role of the All China Federation of Trade Unions (ACFTU) in China's labour relations system.

Over the longer term, the new labour law may have important consequences not only for workers in China, but also for workers elsewhere in the world (Global Labour Strategies 2008). Not only will the labour law increase the cost of labour in some Chinese factories, it may also stabilize working conditions for millions of low-wage temporary contract workers in factories throughout the country while increasing precarity for those workers who find themselves limited to uncertain and non-renewable three month contracts. The New Labour Contract Law also changes the ways in which multinational companies must deal with worker organizations, and already seems to have led to sourcing shifts as buyers manage risk by complementing orders from China with orders from other low-cost regional producers such as Indonesia, Vietnam, and Cambodia.[9]

The implementation of industry-and-NGO-led CSR initiatives in China may become significant in producing new industry standards. Since code and monitoring systems depend almost entirely on transparency in contracting arrangements, and since China has for so long been described in the literature as a major problem for code enforcement, it will be interesting to consider whether (and if so the extent to which) post-quota increases in contracts and the size of orders in China have resulted in greater levels of code compliance and sub-contractor disclosure.

[8] The Shanxi black brick kiln slavery incident of 2002 and the abuses suffered by workers there resulted in language being appended to the Labour Contract Law making the relevant government bodies, the employing units, and their staff each liable if workers come to harm by their failure to carry out their duties or if the government bodies or their staff violate the law in the exercise of their powers.

[9] Author interviews 2007, 2008, and 2009.

6. Public-Private governance responses

Although it is useful to distinguish between public and private governance, it is also the case that the effectiveness of each, in the end, depends on the nature of the other. Private governance in the form of collective bargaining agreements, for example, inevitably depends on the extent to which labour law protects workers' right to organize. Similarly, the effectiveness of state-promulgated regulations depends in large measure of the willingness of firms, unions, NGOs and consumers to observe them.

For the same reason, some of the more intriguing governance innovations are explicitly hybrid, with elements of both public and private. The Cambodia Better Factories Initiative of the ILO is one such example.

Cambodia Better Factories Initiative

At the national level, one particularly visible public-private governance experiment is the Cambodian Better Factories Initiative (CBFI). In this initiative, the Cambodian export apparel industry has been re-organized around a combination of private self-regulation with national and international public interventions (Polaski 2006). This collaboration originated with the 1999 US-Cambodia Textile Agreement (UCTA), which created an incentive for the Cambodian government to improve labour conditions in its factories in order to obtain greater access to the US market.

In this initiative the ILO "combines independent monitoring with finding solutions, through suggestions to management, training, advice and information" (ILO 2010). Buyers appear to have found the program valuable as a form of 'reputation risk insurance,' which has proven critical to the ongoing success of the experiment. Even though the Cambodian government has had to intervene to prevent free riding because the ILO monitoring program involved voluntary participation by factories while the quota bonus was awarded to the country as a whole based on overall performance, the Cambodian government and the country's apparel manufacturers agreed to continue the strategy indefinitely even after the quota system expired at the end of 2004. The ILO continued to supervise the monitoring project through 2008, while building the capacity of a Cambodian monitoring agency which assumed responsibility for the initiative in 2009.

The future of the CBFI is not clear. The branding and imaging of the Cambodian apparel industry were built around these incentive preferential trade incentives. But, interviews with the Garment Manufacturers Association of Cambodia in 2007 suggest that they may no longer see the benefit of ILO monitoring after their elimination. Moreover, with China's new policies on CSR and labour contracts and workplace rights, Sri Lanka's initiatives on ethical sourcing, and other similar efforts, Cambodia is no longer a unique case of a state commitment to ethical production. Instead, the focus in Cambodia now is increasingly directed towards increasing competitiveness by reducing factor costs through infrastructural development, improving business climate by easing import/export fees and reducing the steps in the process, eliminating corruption, increasing workers skills and other issues that were not adequately addressed during the quota period. Such efforts are driven largely by the fact that between 2005-2009 roughly 75% of Cambodia's exports to the US (its primary market) were concentrated in China safeguard categories (mostly cotton knit shirts and trousers), which presents serious risks to the industry as safeguard removal takes effect (see Arnold and Toh 2010). The ILO itself has noted the increasing use of short term flexible labour contracts (particularly Fixed Duration Contracts (FDCs)) since 2005 (see ILO 2006). With the new ILO 'Better Work' program being implemented in Vietnam, the uncertainties surrounding the sustainability of the Cambodian 'Better Work' initiative are further brought into question. The global financial crisis and recession after 2009 has had serious effects. After years of growth, apparel exports dropped sharply as demand from the major export markets dried up and buyers appeared to shift to cheaper suppliers in Vietnam and Bangladesh (Better Factories Cambodia 2009).

7. Conclusions

Our conclusions in this paper are necessarily tentative, but our reading of the evidence suggests six points.

First, the 'double movement' has often been interpreted as an 'action-response' or a 'pendulum' model of societal response to disembedded market actors. An alternative reading of the double movement would be one that was more sensitive to the complex ways in which economic decisions are made among a variety of actors facing diverse opportunities and constraints and in which the double movement is understood as an ongoing dynamic, in which markets and governance institutions constantly adapt to changing circumstances (Gereffi and Mayer 2006, Evans 2008, Piore 2008, Palacios 2001, and Turner 2007).

Second, although institutions of private governance are perhaps more well-developed for apparel than for almost any other sector, there are significant limits to the models that have developed to date. Codes of conduct and certification, in particular, arose at a particular moment in which market power was heavily concentrated in branded buyers sensitive to the concerns of consumers and NGOs largely located in developed countries. As the market power shifts to firms and consumers in developing countries, this form of private governance will need to adapt.

Third, although there is considerable policy logic to strengthening global institutions with the capacity to regulate or redistribute, the geo-political reality is that progress on this front is likely to be very slow. The Bretton Woods institutions have responded somewhat to social pressures, but their missions and institutional cultures have considerable inertia, and stark differences among nation states and their continued sensitivity to sovereignty suggest dim prospects for breakthroughs at the global level. Regional agreements hold somewhat more promise, but EU-style arrangements are not likely in other regions of the world.

Fourth, the strengthening of state governance capacities, most notably in the emerging market economies of China, India, and Brazil, as well as elsewhere, holds considerable promise. With the decline of neo-liberal orthodoxy, governments are increasingly concluding that their desire for economic upgrading need not come at the expense of abandoning their regulatory and social protection functions. How far these trends are likely to go, however, will depend in part on the extent to which governments are, in the end, responsive to domestic social pressures, and in part on their leverage vis-a-vis global market actors. Clearly what might be possible for China because of its size might not be possible for Guatemala, for example, and so it will be necessary to develop scale-dependent metrics of effective governance institutions and practices.

Finally, re-embedding global markets will undoubtedly require hybrid and complementary institutions of governance, public and private, operating on multiple levels, global, national, and local. Whether or not we are muddling towards structures that will enable reasonably stable and socially acceptable market structures is an open question, however. To answer it, we need to know much more about the temporal and spatial lags in the double movement; where and under what conditions the governance deficit leads to societal responses; and where and under what conditions social pressures are translating into new and more or less effective governance.

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