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The Rise of Private Voluntary Regulation in a Global Economy

Introduction

When an electronics worker in Suzhou, China, sought compensation for the chemical poisoning he suffered at work, he appealed neither to his employer nor to the government agencies responsible for supervising local workplace standards. Instead, he addressed the global brand that purchased the product he was working on: "We hope Apple will heed to its corporate social responsibility."[1]

This incident reflects a broader trend in global supply chains. Throughout the world and in many industries, global buyers have acknowledged a degree of responsibility for workplace conditions in supplier factories. They have pledged efforts to ensure that the goods they eventually market are not made under abusive, dangerous, environmentally degrading, or otherwise unethical production conditions. They have committed, in short, to using private, voluntary regulation to address labor issues traditionally regulated by government or labor organizations.[2] For the most part, they have acted on these commitments.

But how effective are these private initiatives at improving labor standards? In this book, I explore both the promise and the limits of private voluntary regulation in today's global economy. Through a detailed examination of initiatives undertaken by several global brands (e.g., Nike, Hewlett-Packard) – either alone or in collaboration with other firms, nongovernmental organizations (NGOs), and even international organizations such as the International Labor Organization (ILO) – this book sheds light on the conditions under

[1] David Barboza, "Workers Sickened at Apple Supplier in China," *The New York Times*, Feb. 23, 2011, p. B1.

[2] Charles Duhigg and Steven Greenhouse, "Electronic Giant Vowing Reforms in China Plants," *The New York Times*, March 29, 2012; and Poornima Gupta and Edwin Chan, "Apple, Foxconn Revamp China Work Conditions," Reuters, March 29, 2012, p. A1.

which private, voluntary programs can successfully promote labor standards among their globally dispersed suppliers. Although it describes some successes, this book is principally an argument about the limitations of these private initiatives and the need to bring the state (public regulation) back into the picture. Bringing in the state in this case does not mean a return to traditional command and control regulation. The limits of that approach are well known. Nor does it imply that we simply ignore or bypass the myriad private regulatory efforts currently in place. Rather, I argue that the most effective and sustainable approach to ensuring labor standards and workers' rights in global supply chains will require a mix of novel forms of private and public regulation.

The chapters that follow use unique data collected from global buyers and their suppliers, operating in different industries and across multiple countries to document and evaluate alternative strategies and experiments aimed at promoting labor standards. Have private compliance programs – with codes of conduct and audits of suppliers – revealed their limits, and if so, what are the roots of these limitations? Should private corporations, either alone or with the help of international organizations and NGOs, promote "beyond compliance" initiatives aimed at developing the managerial and technical capabilities of suppliers so that they can meet labor standards on their own, or are policing and deterrence programs more effective? Can national governments develop new regulatory programs that protect workers' rights without undermining the competitiveness of local producers or descending into protectionism? These and other questions are addressed in this book.

In the process of addressing these questions, I also document novel forms of private and public regulation that effectively improve labor standards in global supply chains. Even in a world lacking global regulation and characterized by wide variation in national socioeconomic and political circumstances, a range of realistic possibilities for promoting labor justice already exists and can be further strengthened and diffused. I argue that notwithstanding significant limitations manifest in the various private initiatives analyzed in this study, a new form of labor regulation in a world shaped by global supply chains is possible. This new form of regulation blends elements of private compliance programs with technical assistance, capability-building initiatives, and innovative government regulatory efforts in a dynamic and complementary way – one that is both adaptive to local circumstances and that builds on (and reinforces) the respective strengths of both private and public systems of regulation. This new form of labor regulation requires changes in existing practices within individual firms (between, say, purchasing and compliance managers), across firms (among large-scale retailers, global buyers, and their suppliers), and within the myriad workplaces that produce goods we consume every day. These changes in existing practices are not merely technical but also distributional, requiring a reallocation of both the costs and the rewards among all actors – consumers, retailers, buyers, suppliers, factory workers – engaged in these value

chains. As such, this new form of labor regulation requires novel institutional arrangements and political coalitions that transcend traditional boundaries between consumers and producers, buyers and suppliers, NGOs and corporations, and advanced and developing economies. As this book documents, fragments of these new institutional arrangements and political coalitions already exist within various industrial and national settings. Whether these fragments can be stitched together into a more coherent and stable system capable of reshaping practices within and across global supply chains and who could do the stitching remain open questions.

Yet, if history is any guide, we should learn from previous reform efforts aimed at addressing other difficult social and environmental issues (e.g., environmental standards, health and safety regulations, antidiscrimination and equal opportunities policies). All of these successful reforms occurred through analogous shifts in organizational practices, institutional arrangements, and the constellation of interests. These changes were by no means easy, and the processes that led to them were filled with conflict and uncertainty. But in the end, they succeeded in creating a more just and safe working environment for millions of workers. The hope is that this book will convince readers that history can repeat itself and that labor justice in today's global economy is possible.

We Live in a World of Global Supply Chains

Globalization,[3] with its volatile mix of economic opportunity and social disruption, is redefining the boundaries of the firm; changing the dynamics among consumers, global corporations, and their suppliers; and shaping the working conditions of the millions of individuals employed in today's global supply chains. The world of global supply chains links thousands of firms, large and small, across multiple cultural and political boundaries. The diffusion of global supply chains in an array of different industries – apparel, electronics, footwear, food, toys, and so on – has provided developing countries with much-needed investment, employment, technology, and access to international markets. As such, the integration of producers located in developing countries into global supply chains is having a catalytic and transformative effect on local economies, allowing poor countries finally to achieve their long-sought goal of

[3] This book focuses on global supply chains and various outsourcing practices by global brands and large retail chains. Another important dimension of globalization, the rise of foreign direct investment by developed-country-based multinational corporations in developing countries (either by opening up their own subsidiaries or investing in joint ventures with local firms) is not covered in this book. For more on the labor implications for these alternative globalization strategies, see Layna Mosley and Saika Uno, "Racing to the Bottom or Climbing to the Top?: Economic Globalization and Collective Labor Rights," *Comparative Political Studies*, 40, no. 8 (August 2007): 923–48; and Layna Mosley, *Labor Rights and Multinational Production* (New York: Cambridge University Press, 2011).

development (Collier and Dollar 2002; Moran 2002). At the same time, however, the social and environmental consequences of this particular pattern of economic development have provoked significant controversies over the role of global brands and their local suppliers, often seen as exploiting developing countries' low wages and weak social and environmental regulation to produce low-cost goods at the expense of local workers' welfare. In fact, child labor, hazardous working conditions, excessive working hours, and poor wages plague many workplaces in the developing world, creating scandal and embarrassment for the global companies that source from these factories and farms (Verité 2004; Pruett 2005; Connor and Dent 2006; Kernaghan 2006).

To get a better sense of this phenomenon, let's take a closer look at how two everyday products are manufactured in today's global supply chains. In her 2005 book, *The Travels of a T-Shirt in the Global Economy*, Pietra Rivoli traces a T-shirt's supply chain journey from the cotton fields of Texas; to the spinning, weaving, and garment factories of China; back to consumer markets in the United States; and finally to the used clothing and rag markets in Africa. Each of these stages involves multiple firms and complex transactions. In many stages of this supply chain, workers toiled under difficult and precarious conditions. Borrowing from Rivoli's approach, I now turn to an examination of the supply chain dynamics of two common products (athletic running shoes and mobile electronic devices) and their consequences for workers. In subsequent chapters, we examine these two industries in greater detail. For now, I simply want to illustrate the complex nature of most global supply chains as well as the many opportunities, along different stages of these production networks, for workers rights and employment conditions to be compromised.

Athletic Footwear

Early athletic footwear was manufactured in vertically integrated facilities located primarily in Europe and North America. Some of the first athletic shoes to be marketed in the United States (in the early 1900s) were manufactured in the United States. For example, the United States Rubber Company introduced Keds in 1916, using rubber originally produced for bicycle tires for the soles of what became a classic athletic shoe (BBC n.d.).

The production of athletic footwear today, in contrast, requires a much longer supply chain, involving dozens of component parts and materials from around the world, which are manufactured, assembled, transported, and distributed by companies and workers across many national borders. Although many brands maintain their national identity, more and more production is taking place in developing countries with lower production costs. These trends show no signs of slowing down. According to Global-Production.com, a consulting company that analyzes developing countries as locations for global production, emerging economies increased their share of world footwear exports from 76.4 to 78.2 percent between 2002 and 2006. Much of this production is concentrated in Asia, which is the source for 85 percent of the world's low-cost

shoe exports.[4] In fact, an astonishing 86 percent of all footwear sold in the United States in 2009 was made in southern China (Dubin 2009). Workers at just one company, Yue Yuen, a Chinese subsidiary of the Taiwan-based Pou Chen Group, produce one out of every six shoes sold globally (Consumers International 2009)!

In their book *Stuff: The Secret Lives of Everyday Things*, John Ryan and Alan Thein (1998) document the many components from which a typical pair of Nike cross-trainers is made and the many locations from which these components and their raw materials are sourced. In tracking the journey of a particular shoe, they found that it was "manufactured" by a Korean-owned factory located in Tangerang, Indonesia, an industrial district outside of Jakarta. The shoe was made up of dozens of component parts, almost all of which were manufactured elsewhere and then shipped to Indonesia for final assembly. First, designers based at Nike's headquarters in Oregon sent product specifications for the shoe to a design firm located in Taiwan. The design company in Taiwan, in turn, sent the more developed plans on to engineers in South Korea. The Korean company then outsourced the actual production of the shoe to Indonesia.[5]

The cross-trainer in question had three main sections: the upper, the midsole, and the outsole. The upper for this particular shoe was made primarily from leather, which came from cows slaughtered and skinned in Texas and then shipped to South Korea for tanning. Tanning itself is a thirty-stage process. The tanned leather was then shipped to the factory in Indonesia. The midsection of the shoe was made from synthetics parts, including EVA (ethylene vinyl acetate) foam made from Saudi Arabian petroleum, refined and transformed into EVA foam in Korea, and subsequently shipped to the factory in Indonesia. Another component that provides cushioning under the heel was manufactured in the United States. The outer soles of the shoes were made of rubber, again a by-product of petroleum, refined in Korea, processed into large sheets of rubber by another company in Taiwan, and eventually shipped to the assembly plant in Indonesia to be cut, shaped, and finally attached to the shoes.

All of these many parts were assembled in the Tangerang factory. Journalist Elizabeth Grossman recently picked up the shoe's story, visiting a similar Korean-owned factory in Tangerang that employs 18,000 people and produces about 300,000 shoes per week. Each shoe is assembled in pieces. First, workers (more than 80 percent are female) assemble the "uppers" of the shoe, made from fabric, synthetics, and leather. Pieces are stitched together using

[4] See "Footwear: trends in global production and trade." Retrieved from http://www.global-production.com/footwear/trendstudy/index.htm.

[5] Ryan and Thein describe how South Korea used to be a leading exporter of athletic shoes in the 1980s. By the 1990s, rising wages and labor unrest propelled many companies to shift their manufacturing base elsewhere, primarily to China and Southeast Asia. An estimated 400,000 Koreans employed in the shoe industry lost their jobs between 1990 and 1993.

specialized machines. Other, smaller pieces, including Nike's trademark "swoosh," are sewn either by machine or by hand. The upper sections of the shoes are then placed on a conveyer belt, from which other workers apply glue and then attach the uppers to the soles of the shoe. Next, workers trim excess material from the shoe; this work is done by hand, using small electric tools. Finally, the shoes are polished and fitted with laces and insoles. All in all, factory management estimates that approximately 200 people are involved in making just one pair of shoes (Grossman 2010). The shoes are then stuffed with tissue paper (made from Indonesian trees) and packed into boxes that were originally manufactured by a paper mill in New Mexico (Ryan and Thein 1998). From there, the shoe begins its journey back to markets in the United States, Europe, and elsewhere.

Footwear is a fashion-sensitive sector that poses a particularly difficult set of challenges to companies and workers at all points along the global supply chain. Products have short life cycles and change quickly from season to season; the diversity of styles adds additional complexity to the manufacturing process. A 2009 study by eleven consumer advocacy groups, organized by International Consumer Research and Testing and presented by Consumers International, examined the working conditions in factories that produce running shoes for companies such as Adidas, Reebok, Puma, New Balance, and Mizuno. Although the majority of these factories were located in southern China, similar conditions are found in factories in Indonesia, Vietnam, and Eastern Europe. The core issues identified in the study include forced overtime, lax health and safety standards, union repression, harsh disciplinary practices, and sexual harassment (Consumer International 2009). The fast-paced, quick-changing nature of the footwear market means that factories face tight deadlines, often met by forcing factory operators to work long hours. Excessive overtime is a common problem among athletic shoe suppliers.

Mobile Electronic Devices

Mobile electronic devices are ubiquitous today. These products, however, come with substantial costs to producers, workers, and the environment, involving a complex flow of materials and products around the world. Raw materials for electronic components are extracted, often under harsh working conditions, from mines in Asia and Africa. These materials are refined and processed in Asia, and then sold to companies (Asian and Western) that manufacture component parts such as chips and circuit boards. These parts are then assembled, primarily in China, in large factories that employ hundreds of thousands of workers. The final products are then shipped back to consumer markets located for the most part in already developed economies. The shelf life of these mobile devices is relatively short, and the e-waste generated by consumers who dispose of their phones and other portable devices in exchange for newer models is, in turn, shipped back to Asia and Africa.

To better understand this complex supply chain and its consequences for workers, let's examine one of the industry's most high-profile producers: Apple.[6] Some of the most value-added parts of an Apple product – for example its innovative software – are still produced in the United States. Almost everything else, however, comes from overseas. A recent *New York Times* study of Apple's supply chain estimated that more than 90 percent of an iPhone's components are produced outside of the United States in places ranging from Germany and Taiwan (where semiconductors are produced), Korea and Japan (for memory boards, display panels, and circuits), Europe (data chips), and elsewhere in Asia and Africa (where rare metals are extracted and refined; Duhigg and Bradsher 2012). The hundreds of components that go into an iPhone or iPad are assembled in China. A huge industry has sprung up around the production of these electronic devices, providing Apple's suppliers with the parts they need. A former Apple executive explained: "The entire [assembly] supply chain is now in China. You need a thousand rubber gaskets? That's the factory next door. You need a million screws? That factory is a block away. You need that screw made a little differently? It will take three hours" (Duhigg and Bradsher 2012).

The working conditions at Apple's suppliers have come under intense scrutiny, following a wave of suicides by factory workers at Foxconn – one of the largest manufactures of iPhones and iPads. The *New York Times* published a series of articles on the working conditions at these factories, citing sources as varied as labor advocacy groups, anonymous workers, and Apple's own internal assessments of working conditions. To meet the high consumer demand for these Apple products, employees in these factories had to work long days with mandatory overtime and forgo their rest days. Conditions in these factories are harsh; workers are not rotated but rather specialize in narrow tasks and therefore suffer from repetitive stress injuries.[7] Workers are also exposed to hazardous chemicals and unsafe conditions in the workplace. For example, in 2010, 137 workers were injured after using a toxic chemical to clean iPhone screens. More recently, there were several explosions at iPad factories in Chengdu, southwestern China, in which four people were killed and seventy-seven injured (Duhigg and Barboza 2012).

[6] Apple, of course, is not the only company engaged in this kind of production; Dell, Hewlett-Packard, IBM, Lenovo, Motorola, Nokia, Sony, Toshiba, and many others are engaged in similar practices. Apple, however, is an industry leader in both design and profits. Since 2005, its share prices have risen from about $45 to more than $595 (as of October 31, 2012).

[7] For a detailed description of working conditions in Foxconn factories in southern China, see Pun Ngai and Jenny Chan, "Global Capital, the State, and Chinese Workers: The Foxconn Experience," *Modern China* 38, no. 4 (2012): 383–410. For a more nuanced view that illustrates both the difficult working conditions young migrant workers employed at these factories experience as well as the freedoms they enjoy living away from their rural villages among thousands of other young workers, see Lesley T. Chang, *Factory Girls* (New York: Spiegel and Grau, 2008).

In response to these scandals, Apple carried out its own internal audits of its suppliers and also engaged with the Fair Labor Association (FLA) to further investigate the working conditions among its lead suppliers in southern China. Together they have inspected hundreds of facilities including both first- and second-tier suppliers. Apple's internal audits found evidence of excessive work hours, failure to pay overtime, inadequate safety precautions, and instances of child labor among some of its suppliers (Apple 2009). Even after several years of intense auditing of their suppliers, Apple's most recent Supplier Responsibility Report found that although most of its suppliers were improving their compliance on key issues such as underage labor, involuntary labor, and antidiscrimination, many of these same suppliers continued to struggle with excessive working hours and low wages (Apple 2012). The FLA report of three of Foxconn's factories in China, all major producers of Apple products, found that "all three factories exceeded the FLA Code Standard and the requirements of Chinese law" relating to working hours, especially during peak production periods. Although 48 percent of the workers employed in these factories reported in the FLA survey that they felt the working hours at Foxconn were "reasonable," 64.3 percent of these same workers also claimed that their salary was not sufficient to cover their basic needs (FLA 2012).

Nor is this situation unique to Foxconn or other Apple suppliers. Over the past few years, the FLA conducted surveys among workers employed in Chinese factories supplying various global brands and found that an estimated 50 percent of workers employed in the garment industry and 80 percent of workers employed in the electronics industry work more than the legal limits of sixty hours per week. Forty-five percent of the 1,766 workers surveyed claim that they need to work more than sixty hours per week because their regular salaries are insufficient to cover their basic needs (FLA 2011).

The anecdotes presented here illustrate some of the salient features of most global supply chains – fragmented and globally dispersed production, multiple tiers and actors within each supply chain, suppliers producing for multiple brands, short lead times and tight margins, and the key role lead buyers play in orchestrating this entire process and even investing in their suppliers. As the foregoing anecdotes also revealed, these underlying features create real challenges for the millions of workers employed in supply chain factories, who struggle every day with poor working conditions, long working hours, low pay, and a variety of other (minor and not so minor) injustices. According to the ILO, the rapid growth of cross-border trade and capital flows since 1990 have not led to improved employment conditions in developing countries. On the contrary, the ILO Global Employment Report found that more than 486 million workers throughout the world do not earn enough to raise themselves or their families above the US$1 per day poverty rate and that another 1.3 billion people do not earn above US$2 per day (ILO 2008). More than half of all workers in most developing countries and more than 70 percent in some parts of South Asia and sub-Saharan Africa find themselves in "vulnerable

employment," which is roughly defined as informal employment – employment that is poorly paid and that does not provide workers with fundamental labor rights, a "voice" at work, and job security (ILO 2008: 11, 46).

Of course, not all workers in developing countries are employed in factories or farms linked to global supply chains.[8] Because data on employment and labor conditions are collected by either country or sector, we do not know precisely how many of these workers are actually employed at firms supplying global buyers. However, through various reports, published by the ILO, individual NGOs, and even global corporations, we are able to piece together an image of what working conditions and standards are like for the millions of workers employed in global supply chains. According to the ILO, throughout the world, 215 million children work. Of these, 115 million are engaged in "hazardous work" in sectors such as agriculture, manufacturing, and mining, which are deeply integrated into global supply chains (ILO 2008b). More than 12 million people worldwide are victims of forced labor. Although most companies operating in global supply chains do not themselves employ forced labor, many have become implicated in such practices through their second- or third-tier suppliers and contractors (ILO 2008c). As subsequent chapters show, these findings are echoed in the internal assessments of several global brands working in a variety of industries. Woman workers are especially hard hit because they occupy 60 to 90 percent of the jobs in manufacturing and agricultural supply chains (Oxfam International 2004). What, if anything, can be done to improve working conditions and promote worker rights in these global supply chains?

Private Voluntary Regulation as a "Second-Best" Solution

Throughout most of the twentieth century, labor standards were regulated largely on a national basis, through a mixture of laws, union-management negotiations, and company policies. Internationally, the conventions and technical services of the ILO provided an additional source of moral authority and advice but lacked significant enforcement power. The emergence of global supply chains, however, has rendered these national and international strategies inadequate because authority is dispersed not only across national regimes but also among global buyers and their myriad suppliers. It is in this context that private initiatives have emerged to fill this regulatory void.

A number of scholars have already documented the rise of private, voluntary initiatives aimed at regulating global labor standards, and thus the details of this process need not be repeated here (see Haufler 2001; Elliott and Freeman 2003; O'Rourke 2003; Bartley 2007; Reich 2007; Vogel 2008; Meyer and Gereffi

[8] In fact, Mosley (2010) shows how the collective rights of workers employed in the subsidiaries of multinational corporations are significantly better than those of workers employed by local, independent suppliers or subcontractors.

2010). Essentially, a series of separate but interrelated (and self-reinforcing) developments unfolded over the final decades of the twentieth century that led to the increasing inability of both nation-states and international organizations to regulate labor standards in the global economy. These developments include the shift of a substantial fraction of global manufacturing from the advanced industrial states (e.g., United States, Europe, Japan) to several large developing countries (e.g., China, India, Mexico). According to Meyer and Gereffi (2010), by 2000, 50 percent of the world's manufacturing production was located in developing countries. This trend only increased in the decade that followed. Linked to this shift in the locus of global manufacturing were dramatic changes in the organization of production. If in the past most manufacturing was carried out by domestic companies and their suppliers located within the same country or by vertically integrated multinational corporations (MNCs) headquartered in the advanced industrial economies (and thus subject to their regulations) that owned (fully or partially) their subsidiaries located in foreign markets, today, global production is organized primarily around global supply chains in which lead firms (brands, global buyers, large retail chains), although still based in the developed economies, are working with and coordinating the production of thousands of independent suppliers located for the most part in developing countries.

As nicely described by Meyer and Gereffi (2010), these changes in the locus and organization of global production had profound implications for labor regulation. In a world where manufacturing occurred primarily within domestic firms and/or vertically integrated MNCs headquartered in the advanced industrial states, national governments could still regulate labor conditions in most factories. However, with the rise of global supply chains and the dispersion of production across multiple developing countries, these new sites of production escaped the regulatory reach of developed country governments. Moreover, in many cases, the national governments of the developing countries hosting these new factories either lacked the institutional capacities to fully regulate labor, health and safety, and environmental standards within these supply chain worksites or they intentionally chose not to enforce their own domestic laws and regulations for fear of driving up costs and thus driving away these sources of economic development, employment, and taxation. As a result, the factories producing for global supply chains fell into a regulatory void in which labor laws and workplace standards were not being enforced by either host (developing) country governments or by the national authorities governing the large consumer markets absorbing much of this global production.

In an effort to remedy this situation and promote global labor standards among the thousands of geographically dispersed factories supplying global brands, various efforts were launched to include "social" clauses within global trade agreements as well as to use access to the large consumer markets of the developed countries as leverage to compel developing country governments to enforce their own labor laws and thus drive improvements in working