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Nadira Lamrad

Manufacturing Governance

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# Manufacturing Governance

Nadira Lamrad <sup>1</sup>

**ABSTRACT:** *Transnational corporations (TNCs) in developing countries have been increasingly addressing labour conditions at their supplier factories. In these countries, national legislation and governance mechanisms are often hampered by weak rule of law, low governance capacity, and corruption. This creates a serious gap between the needs of workers, the concerns of shareholders, and the demands of local stakeholders, which TNCs have attempted to fill through corporate responsibility (CR) strategies. Although TNCs may not engage in political and social activities, they can play a role in the creation and the perpetuation of social and regulatory norms and structures. Combining data gathered through participant-observation fieldwork conducted at a transnational corporation in Vietnam, and interviews with CR practitioners on their work in China, this paper investigates the role TNCs play in governing labour rights and labour conditions. It also analyses the influence of institutional environments, norms, and values on CR activities. The paper will examine the dynamics of the relationship between TNCs and other governance actors such as international organizations, the state, civil society (local and transnational), and other private actors. The transmission of norms and values through CR activities is traced along these governance networks. Feedback from different governance actors is mapped to ascertain their influence in directly or indirectly shaping CR activities. The empirical evidence will be used to test existing governance frameworks.*

## Introduction

Transnational corporations (TNCs) sourcing products from developing countries have been increasingly addressing labour conditions at their supplier factories. In countries where TNC suppliers are based, national legislation and governance mechanisms are often hampered by weak rule of law, low governance capacity, and corruption. This creates a regulatory gap that has been exploited by some market actors in the interest of maximising profits. Realizing the lack of government capacity to manage this regulatory gap, civil society has placed the responsibility for filling this gap at the door of transnational corporations. This was justified using normative arguments of self-regulation that were accepted and adopted by TNCs. As a result, although TNCs may not engage in political and social activities, they have played a role in the creation and the perpetuation of social and

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<sup>1</sup> Nadira Lamrad is a PhD Candidate at the Department of Asian and International Studies, City University, Hong Kong.

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regulatory norms and institutions. This is done in an attempt to improve labour conditions within their global supply chains.

Although civil society pressure played a role in expanding TNC responsibilities, the rationale for corporate responsibility initiatives has evolved from a reaction to criticisms to a result of internalised and self-sustaining norms. Curiously, constructivist scholars have generally ignored the role transnational corporations can play in norm diffusion (Kollman, 2008, p. 401). This is partly due to a bias in political science that explains away the behaviour of market actors in purely instrumental terms (Kollman, 2008). The selective application of normative and institutional theories to states and civil society actors creates a large gap in the literature. “The insights of constructivist theory can add a great deal to political scientists’ understanding of why firms act the way they do and how their behavior is regulated” (Kollman, 2008, p. 402). This paper aims to do this by proposing a constructivist framework focused on normative and institutional environments as explanatory factors to account for corporate behaviour. The diffusion of the emergent self-regulation norm throughout supply chains is mapped and investigated using Finnemore and Sikkink’s (1998) norm lifecycle approach. During a discussion of the norm lifecycle in TNC home countries, the paper will show that as norm leaders, transnational corporations have promoted self-regulation and other corporations began to mimic these activities. This is followed by an analysis of attempts to embed emergent global norms in supplier countries. The framework is used to explain why and how these efforts were obstructed by local normative and institutional environments. When reacting to these bottlenecks, networks interacting within these environments participate in ongoing deliberative processes during which norms and institutions are accepted, adjusted or wholly rejected. The framework also clarifies the outcomes of these deliberative processes and guides empirical analysis of the variation in corporate participation in labour-related governance activities globally and within supplier countries.

Evidence for this paper was gathered through fieldwork conducted at an apparel industry transnational corporation in Vietnam, and through interviews with various corporate responsibility (CR) practitioners on their work in the apparel industry in China. This industry was chosen because it is still well stratified. Global transnational corporations originating from developed countries place orders with regionally based multinational manufacturing corporations. These regional multinationals may then subcontract manufacturing to smaller, locally based factories. This well-stratified structure allows for the study of distinct multi-level interactions between TNCs and other governance actors such as international organisations, the state, civil society (local and transnational), and other private actors. It also allows for the mapping of feedback from different governance actors at different levels to ascertain their influence in directly or indirectly shaping CR activities. The intention is to present a nuanced analysis of the transnational, multi-level, and multi-dimensional nature of governance processes.

Given China’s dominance of global manufacturing, the paper will focus on the attempts to transmit norms through CR activities within China’s manufacturing sector. Less than two decades after the launch of economic reforms, China quickly eclipsed Hong Kong as the premier global apparel exporter in 1994 (Gu, 1999, p. 7). With the largest manufacturing workforce in the world (Harney, 2008, p. 8), any improvements in labour conditions will have a significant impact on the lives of millions of workers. Chinese economic and development policies impact the region and beyond. Other developing

countries have replicated some of China's strategies, such as industrial clustering, with the goal of competing in today's global market. However, certain conditions in China such as weak regulatory environments, weak rule of law, low governance capacity, weak civil societies, and widespread corruption, help drive a global 'race to the bottom'. If these conditions persist, it is expected that other manufacturing countries will develop or intentionally maintain similar conditions in the hope of remaining competitive.

## **Theoretical approach: norms, institutions and governance**

The dominant theoretical frameworks in political science have previously overemphasised the importance of rationality (Finnemore and Sikkink, 1998; Kollman, 2008) where "society is nothing more than the aggregation of individual action aimed at interest maximisation (Kollman, 2008, pp. 398-399)." Constructivist scholars have challenged these assertions by (re)introducing<sup>2</sup> the influence of ideas and norms on actors' identities and desires. Normative and ideational shifts are taken beyond the individual level of analysis to explain systemic transformation. According to Finnemore and Sikkink (1998), "[n]orm shifts are to the ideational theorist what changes in the balance of power are to the realist" (p. 894). With changes in the character of politics following the end of the Cold War and the intensification of globalisation, scholars have increasingly accepted the use of normative inquiry to analyse issues such as apartheid, the use of anti-personnel mines, humanitarian intervention and the diffusion of human rights (Finnemore and Sikkink, 1998; Segerlund, 2010).

Definitions of norms generally include the following aspects: i) behavioural standards manifested as expectations of how one ought to act under certain conditions; ii) "the behaviour, beliefs or attitudes of individuals or collectives of individuals" and; iii) norms are shared with the expectation that deviance from them will lead to sanctions (Segerlund, 2010, p. 13). The elusive and intersubjective nature of norms instils them with a taken-for-granted quality that makes them 'invisible' to individuals. They are implicitly manifested through individual behaviour and common understandings of reality. They influence and guide individuals by providing a set of benchmarks and expectations as to appropriate actions. Because of the prescriptive nature of norms, "there are no bad norms from the vantage point of those who promote the norm. Norms most of us would consider 'bad'—norms about racial superiority, divine right, imperialism—were once powerful because some groups believed in the appropriateness (that is, the "goodness") of the norm, and others either accepted it as obvious or inevitable or had no choice but to accept it (Finnemore and Sikkink, 1998, p. 892)."

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<sup>2</sup> According to Finnemore and Sikkink (1998), norms and ideas were important aspects of the study of international relations before the behavioural revolution and its focus on measurement. Prior to this, IR theorists understood the need to study social purpose and legitimacy as a way to understand politics. Normative and ideational factors were referenced in trying to understand certain issues such as decolonization, human rights, and nationalism (p. 889).

## The norm lifecycle

In an attempt to explain normative “origins, the mechanisms by which they exercise influence, and the conditions under which norms will be influential in world politics” Finnemore and Sikkink (1998) propose “that norms evolve in a patterned ‘life cycle’ and that different behavioural logics dominate different segments of the life cycle” (p. 888). Norms evolve through three stages: norm emergence, norm cascade and internalisation. Norm emergence is heavily dependent on norm entrepreneurs and their organisational platforms. Alternate norms are articulated and framed by norm entrepreneurs who reject dominant norms. These new norms “emerge in a highly contested normative space where they must compete with other norms and perceptions of interest” (p. 897). Norm entrepreneurs utilise organisational platforms to promote their norms. According to Finnemore and Sikkink (1998) these platforms, which include non-governmental organisations (NGOs) or transnational advocacy networks (TANs), can be “constructed specifically for the purpose of promoting the norm” or they can be pre-existing “international organizations that have purposes and agendas other than simply promoting one specific norm” (p. 899). In either case, norm entrepreneurs must secure state support to legitimise and embed emerging norms; organisational platforms provide the tools to do this (p. 900). For example, international organisations (IOs) like the UN have resources and political leverage to help coerce actors into normative agreement while intergovernmental organisations (IGOs), NGOs, and TANs have informational resources and access to an audience to spread messages (p. 900).

Once a critical mass of norm leaders adopts and promotes emerging norms, the cycle can move on to the norm cascade stage. Either before, or shortly after, a norm cascade, emergent norms must be institutionalised. This contributes to the cascade “by clarifying what, exactly, the norm is and what constitutes violation (often a matter of some disagreement among actors) and by spelling out specific procedures by which norm leaders coordinate disapproval and sanctions for norm breaking” (p. 900). The characteristic mechanism of this stage is a process of mimetic isomorphism where norm leaders, whilst actively pushing for the socialisation of other actors, are being imitated by norm followers. A norm cascade is not a passive process: “the primary mechanism for promoting norm cascades is an active process of international socialisation intended to induce norm breakers to become norm followers” (Finnemore and Sikkink, 1998, p. 902). The motivation for adopting emergent norms varies from peer pressure to a desire to enhance their legitimacy, to boosting ‘self-esteem’. Agents of socialisation use different positive and negative incentives to pressure norm violators to adopt new institutions that reflect emergent norms. Eventually, the norm lifecycle moves into the final stage of internalisation when norms assume a taken-for-granted quality. They are no longer controversial having been internalised into iterated behaviour and habit.

Much confusion regarding norms emerges from the lack of a consistency in academic language. For example, what political scientists refer to as norms, sociologists refer to as institutions (Finnemore and Sikkink, 1998). There is also a tendency in political science to discuss certain concepts such as “sovereignty” or “slavery” as though “they were norms, when in fact they are (or were) collections of norms and the mix of rules and practices that structure these institutions has varied significantly over time” (p. 891). Maintaining the distinction between norms and institutions is therefore important to

disentangle the separate elements that make up these institutions from the institutions themselves thereby enabling the study of the interaction processes between agents and the two elements respectively.

In the same way that norms are confusing concepts, institutions also suffer from a similar situation. Although there is agreement on the enduring nature of institutions, there is a lack of a single, coherent definition (Rhodes, Binder and Rockman, 2006). In the starkest sense, economists emphasise the procedural nature of institutions: "[i]nstitutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction" (North, 1990, p, 3). Therefore, institutions are perceived as exogenous constraints to which actors will react rationally. This definition makes it difficult to differentiate between norms and institutions. At the opposite end of the spectrum, political scientists emphasise the organisational nature of institutions. According to Blondel (2006), it is "only if rules and procedures are 'legitimised,' so to speak, by an organisation whose 'authority' the individual is prepared to recognise can they be also recognised...[r]ules and procedures, however important, have to be defended and supported by organisations" (p. 723). That is, norms gain power and legitimacy when they are channelled through institutions. From this perspective, the set of norms that make up the United Nations Declaration of Human Rights (UDHR) are only powerful and legitimate insofar as they are supported and channelled through UN institutions.

This paper ascribes to a compromise between the two extremes. The sociological perspective emphasises both the rules and the organisations through which these rules are channelled. From this perspective, institutions are norms that are aggregated into structures (Finnemore and Sikkink, 1998, p. 891). According to March and Olsen (2006), there are "constitutive rules and practices prescribing appropriate behavior for specific actors in specific situations"; "structures of meaning, embedded in identities and belongings"<sup>3</sup> and; "structures of resources that create capabilities for acting" (p. 3). Institutions are also "reinforced by third parties in enforcing rules and sanctioning non-compliance" (p. 3). From this perspective, the UDHR (an institution) is more than simply a collection of norms (rules). The UDHR provides a set of guidelines of rights and obligations that constitute universal human rights. It prescribes the appropriate conduct of states and institutions toward people in different situations. It forms the foundation for claims against 'violators' of human rights and is enforced by third parties through the International Criminal Court or more informally through peer pressure and the fear of being ostracised.

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<sup>3</sup> These structures of meaning are defined as "common purposes and accounts that give direction and meaning to behaviour, and explain, justify, and legitimate behavioral codes (March and Olsen, 2006, p. 3)."

Governance encompasses both norms and institutions, and includes the processes through which individuals or collectives interact to achieve certain goals related to particular issues. According to Pierre (2000), “governance theory helps us analytically separate the normative and institutional dimensions of the collective interest...[which]... opens up possibilities for a number of analyses of alternative strategies to pursue the collective interest, something which is at the heart of governance” (p. 246). In an attempt to achieve collective interests, governance processes are set in motion during which networks (interdependent relations) are guided by norms and institutions. Referring particularly to economic governance, Gamble (2000) explains that it must be understood at two levels. “First, there are the basic laws, rules, standards, and principles which provide the constitutional framework for governing...[s]econd, there are the techniques, tools, practices, and ethos of governing, associated with particular institutions and agencies” (p. 110). These two levels easily fit into the definitions of norms (standards, rules, principles, ethos) and institutions (laws, tools, practices). Furthermore, economic governance, according to Gamble, is not limited to a single site [national, local, global]; economies are governed in multiple sites through a variety of modes [markets, hierarchies, networks, communities] that are not always limited to a single jurisdiction. Sites and modes are not mutually exclusive and can serve different purposes. “What matters is how they are combined and which mode predominates at particular levels and in particular sectors (p. 120).”

Governance processes involve both intra-system as well as inter-system flows of control, consequence, and causation (Rosenau, 1995). Consequently, “[t]hese micro-macro processes—the dynamics whereby values and behaviors at one level get converted into outcomes at more encompassing levels, outcomes that in turn get converted into still other consequences at still more encompassing levels—suggest that global governance knows no boundaries—geographic, social, cultural, economic or political” (Rosenau, 1995, p. 15). Governance does not revolve around one organising principle; it is a collection of numerous control mechanisms shaped by histories, objectives, processes and structures (p. 16). These control systems—norms and institutions—pass through ongoing deliberative processes between individuals and collections of individuals linked as a network preoccupied with certain issues. At the end of each cycle, these norms and institutions are accepted as they are, adjusted to fit new conditions, or are wholly rejected by one or more actors. That is, norms and institutions are constantly in flux and therefore, governance itself is also continuously evolving (figure 1).

The intensification of globalisation processes in the post-Cold War era has changed the global system: “systemic relationships among different networks have become more important. There are more interconnections among the networks. As a result, 'system effects' become more important. Intensive economic interdependence affects social and environmental interdependence; and awareness of these connections in turn affects economic relationships” (Keohane and Nye, 2000, p. 9). As large-scale structural changes reshaped the world, globalisation's 'system effects' expanded the governance space to include the state as well as international organisations and both local and global non-state actors.

The inclusion of private enterprises in governance has been heavily debated in governance theory. Some scholars (Cutler, 2003; Monshipouri, Welch and Kennedy, 2003; Thompson, 2009) reflect realist notions of state-sovereignty by arguing that businesses are



disempowering the state through their activities and should always be *objects* of governance. This perspective assumes that all states will actively and effectively govern businesses within their territories. However, since conditions may exist that undermine the state's ability to govern effectively (weak regulatory environments, weak rule of law, low governance capacity, weak civil societies, and widespread corruption), this ascribed governance role of private actors is restrictive. Other scholars (Büthe, 2010; Haufler, 2006) argue that private actors have the power to affect change and can legitimately do so. The loss of state autonomy is not a challenge; instead it creates the impetus for greater corporate involvement in governance, as an *architect* of private forms of regulatory and governance systems. Still other scholars (Bernstein and Cashore, 2007; Detomasi, 2007; Hassel, 2008; Kobrin, 2009) view private actors as valid *partners* participating in governance through various networks that may include states, IOs, and other non-state actors. Since global issues transcend traditional boundaries, new forms of governance that conform to new realities emerge. The partnership approach pools the unique expertise of different actors to provide efficient and effective solutions to these new realities.

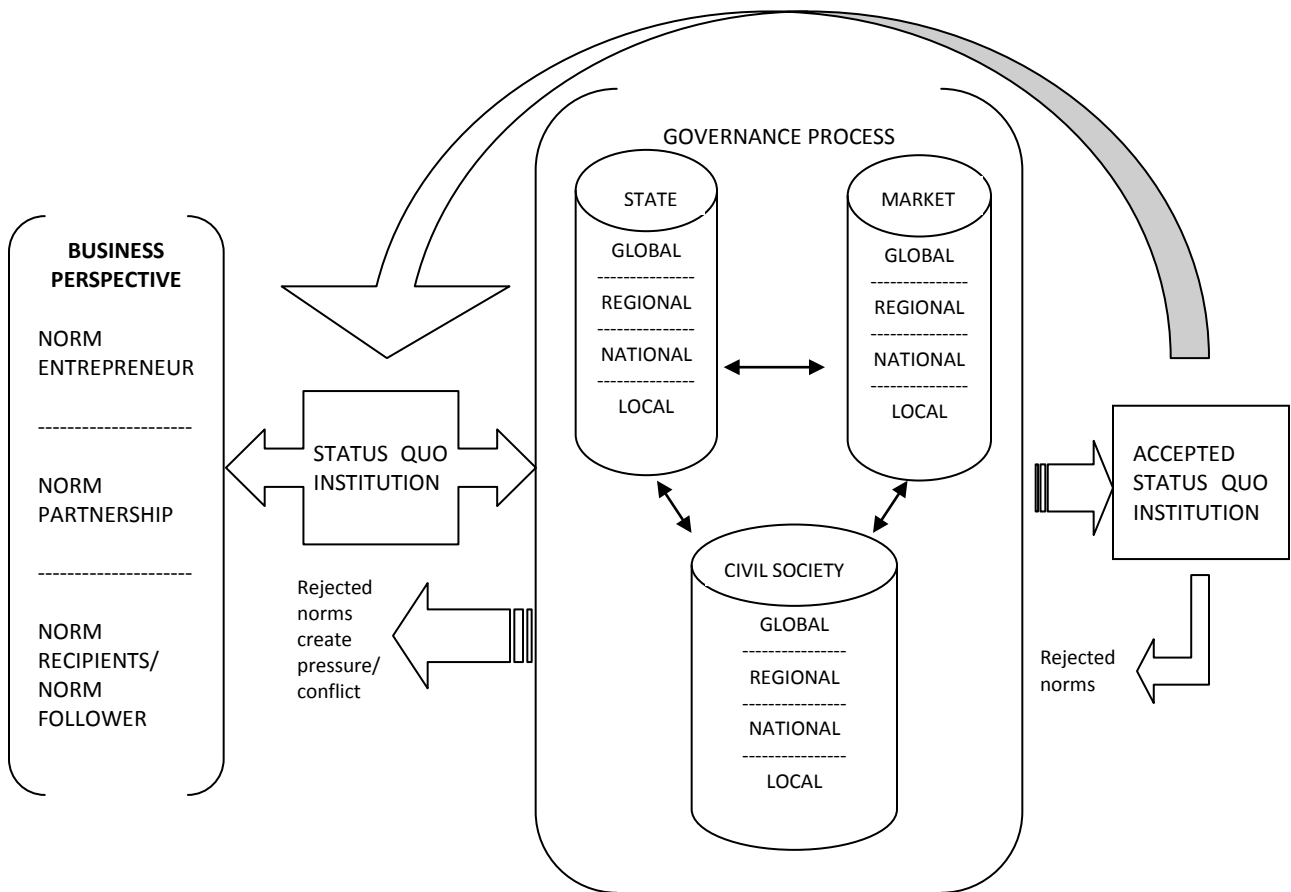


Figure 1: Proposed framework.

TNCs are increasingly taking part in the creation and perpetuation of governance regimes. This participation includes but is not limited to CR initiatives. While this is an accepted reality in business circles, governance theory has not provided a compelling analysis to explain these changes. This is partially due to the static conceptualisation of governance roles which encourages dogmatic assertions of the 'appropriate' role for private actors. However, if governance roles are conceptualised as fluid constructs that change over time and with different normative and institutional conditions, then, varied corporate roles in governance can be empirically examined. This paper asserts that corporate roles in governance are not static. For example, in the case of taxes, corporate compliance with legal expectations can be classified as an instance in which business is an *object* of governance. While the voluntary annual measurement and reporting of key social and environmental indicators to the UN Global Compact is a case where business is a *partner* in governance helping to legitimate and perpetuate the regime. As *architects* of governance, apparel industry leaders established the Sustainable Apparel Coalition aimed at reducing the environmental and social impact of the industry through standardised evaluation tools. The three governance roles; *object*, *architect* and *partner*, are not mutually exclusive; together they form a continuum on which business activities can be plotted. Variation in different normative and institutional conditions leads to variation in the roles that private actors play in governance. Furthermore, in some cases, firms can play multiple roles simultaneously. This framework provides the flexibility to shift theorisation of the role of private actors in governance away from irrelevant assertions of the way they *should* be engaged in governance and into an investigation of the ways they *actually are* engaging in governance.

## **Is corporate responsibility a norm?**

Corporate responsibility (CR) has long been a contested concept that is ambiguously defined with multiple contradictory assertions as to its true nature. CR definitions vary from a limited understanding to one encompassing a wide range of responsibilities. This variance in definitions can be explained through the view that CR is itself a socially constructed concept making it pliable to fit different normative bases. For example, to neoconservative free market purists, CR is limited to maximising profits whilst respecting legal obligations. According to this perspective, any expansion in the responsibilities of business beyond these two expectations demonstrates "a fundamental misconception of the character and nature of a free economy... [f]ew trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible" (Friedman, 1962, p. 133). At the other end of the spectrum CR extends to include environmental stewardship, respecting and promoting labour rights (defined by the ILO) and protecting human rights (defined by the UDHR).

This paper does not seek to define CR per se; rather it is the way that different actors define CR that is of interest since this reflects the norms and institutions being spread through their CR-related activities. If markets are understood as institutions embedded in societies (Polanyi, 1957), then corporations, as market actors, are also social actors. Furthermore, societies consist of members who shape, and are shaped by, social

norms that are (re)constructed through members' interactions. These norms define and influence the characteristics of institutions. Corporations are therefore actively participating in these patterns of norm (re)construction through their interactions with other members of society. In the process of interpreting CR, individuals working for corporations are influenced by a variety of norms and institutions both internal (firm specific) and external. Once articulated, CR principles inform corporate actions vis-à-vis their stakeholders in the societies in which they do business.

The following sections aim to apply the proposed framework to the emergence and spread of an expanded form of CR in the branded apparel sector. This expanded form ascribes labour-related governance duties in supplier countries to transnational corporations. After some initial conflict, TNCs accepted and adopted this expanded form giving it a global character. When TNCs introduced this expanded CR to their suppliers, they found that local normative and institutional barriers prevented adoption. TNCs work to circumvent these barriers using a variety of strategies. Labour-related governance is now characterised by networked and layered deliberative processes, during which, multiple actors influenced by norms and institutions try to shape outcomes to reflect their goals. Much of the evidence presented reflects TNC experiences in China, but the emergence and proliferation of this expanded form of CR began in developed countries and has disseminated at the global level. Following this process, TNCs attempted to embed these norms throughout their global supply chains. The proposed framework will disentangle the normative and institutional elements that impact the interaction processes between TNCs and other actors helping to explain the outcomes of these interactions.

## **Self-regulation at the global level**

One of the earliest strategies adopted by transnational corporations to improve labour standards was the introduction of internal codes of conduct and third party monitoring. Introducing a code of conduct was not a new repertoire of action. Codes such as the International Chamber of Commerce's Guidelines for International Investment (1972), the Sullivan Principles (1977), and the chemical industry's Responsible Care (1985) had already paved the way forward. The difference was that the early 1990s saw, for the first time, apparel corporations creating their own codes of conduct aimed at managing labour conditions in their global supply chains which consisted of private enterprises independent of the branded TNCs. Codes of conduct and third party monitoring quickly proliferated within the industry (Bartley, 2005, p. 219) which is often explained in instrumental-rational terms as a reaction to external pressure from civil society (Jenkins, 2002; Sabel, O'Rourke, and Fung, 2000; Tulder and Kolk, 2001).

The codes in fact were initially adopted as a reaction to immense external pressure from advocacy networks that included NGOs, consumers and individual activists demanding corporate self-regulation of international supply chains. These advocacy networks actively constructed cognitive frames that successfully linked labour conditions at supplier factories to brand values and image. The outcomes of these campaigns highlighted the vulnerability of apparel brands due to their convoluted international supply

chains. For example, a sustained transnational<sup>4</sup> campaign against Nike, bolstered by a series of news reports highlighting conditions at Nike suppliers, contributed to a 16 percent decline in revenues in the 1997-98 fourth quarter, and a decrease in stock value by 57 percent in the span of seven months of heavy media criticism (Conroy, 2007, p. 12).

These patterns (activist actions followed by corporate reactions) have reinforced an instrumental-rational view of codes of conduct: “some firms have adopted codes in the aftermath of a major public relations (PR) disaster, others do so to pre-empt external criticism or to forestall regulatory pressure” (Jenkins, 2002, p. 13). This view espouses the role of activists as norm entrepreneurs “identifying abuses and motivating consumers to demand that multinational apparel firms address working conditions in developing countries” (Wetterberg, 2007, p. 2). This would suggest that targeting by advocacy networks is a precursor to adoption of self-regulation as a norm. However, a global study of 417 apparel firms conducted by Wetterberg (2007) shows that “[a]lthough anti-sweatshop activism was surely instrumental in initiating the move towards voluntary standards in the global apparel industry, self-regulation has become part of doing business in this field (p. 16).” Other factors are important in explaining the adoption of voluntary standards such as mimetic isomorphism where smaller brands or unbranded firms imitate the actions and behaviour of industry leaders (p. 17). This indicates that, at the very least, self-regulation has already moved through a norm cascade and with it, there has been a proliferation of the institutions that reflect these norms (codes of conduct and monitoring). Wetterberg (2007) asserts that the idea of self-regulation is currently undergoing a process of norm internalisation during which the norm is simply taken-for-granted (p. 24).

In the early 1990s, civil society based in TNC home countries began to actively reject the idea that the only responsibility of business is to maintain legal compliance whilst maximising profits. Finding that legal institutions in supplier countries are weak and unenforced, norm entrepreneurs promoted a new self-regulation norm, thereby ascribing an expanded role for TNCs in governing labour conditions at supplier factories. This norm competed with previously embedded norms and began to dominate as norm entrepreneurs successfully utilised the tools available by their organisational platforms. The emergent norm passed through deliberative processes between state actors, market actors and civil society eventually resulting in the emergence of codes of conduct and third party monitoring. The institutional manifestations of the self-regulation norm were modelled after previously existing institutions (the Sullivan Principles, Responsible Care) demonstrating the influence of the institutional environment on outcomes. The emergence and proliferation of codes of conduct and monitoring as new status quo institutions was the result of a networked governance process. This process was guided by the normative and institutional environment, which is reflected in the outcomes. Once a threshold was passed, the norm lifecycle moved into the cascade stage and is arguably at the internalisation stage (Wetterberg, 2007). This norm lifecycle has taken place at the global (transnational) level, but the self-regulation norm is concerned with events taking place in supplier countries. Therefore, TNCs must insure that local supply chain activities match global norms. This

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<sup>4</sup> The campaign included “Vietnam Labor Watch (New York), Community Aid Abroad (Sydney), Hong Kong Christian Industrial Committee (Hong Kong), Global Exchange (Oakland), and Transnational Resource and Action Center (San Francisco) (Conroy, 2007, p. 11).”

means that global norms must be accepted and internalised by suppliers. These norms may not suit local norms and institutions making it difficult to transfer into the local context.

## **Bottlenecks in governing labour conditions in China**

Codes of conduct and monitoring, as institutionalised forms of self-regulation, did not result in radical changes in apparel supply chains. While these institutions may have been adopted in good faith by TNCs, firms still had to navigate their suppliers' institutional and normative environments. Industry-related institutions such as the ease of entry into the market and brand buyer identities influence the decisions suppliers make when faced with compliance pressures. Social norms also play a role as factory management and workers each act in accordance with behavioural standards and shared attitudes that shape thinking regarding labour conditions at the factory floor. Furthermore, wider political institutions are not conducive to positive change in terms of labour conditions. These factors combined to hinder initial attempts at improving labour conditions through private codes of conduct and third party monitoring.

Many large manufacturers in China are either wholly or partially invested by Hong Kong, Korean or Taiwanese manufacturing firms. This reflects the increasing costs in the newly industrialised economies (NIEs) following an initial boom in production in the 1960s and 1970s. As costs increased in the NIEs and investment conditions improved in China, especially after 1979, light-manufacturing firms moved much of their production to take advantage of low costs and lax regulatory environments. Generally, the apparel industry is a low skill, labour intensive sector with very economical initial capital costs. The ease of entry has made apparel attractive to entrepreneurs, but it has also made the industry intensely competitive, leading factory managers to make desperate decisions to keep or win a contract (Harney, 2008, p. 40). In China, for example, there are a number of factories with excellent management systems, but “you also have a lot of people who did other businesses before and they started with a rice paddy...put a factory on it and they don't really know about management practices” (Interview, 2009, April 30). This is especially true with unskilled factory managers who lack management knowledge such as production planning, managing shipping dates and raw material delivery.

The saturation of the market makes it very easy for buyers to switch manufacturers if their price and quality demands are not met, thereby skewing the power relationship between buyers and manufacturers in the interest of buyers with unrealistic price and quality expectations. Through conversations with buyers, one informant found that a common expectation is that “you can always find cheaper, cheaper products. There is no end” (Interview, 2009, April 30). Shrinking profit margins and increased competition cause manufacturers to seek ways to cut costs beginning with the easiest one—labour:

The markets are very tight and the competition is really brisk so this puts the suppliers under immense pressure and if the buyer comes and says “okay, can you give it a little cheaper?” and “can you give me another discount of 5 cents?,” of course somewhere the supplier needs to save, so either he saves in fabric, or with working hours, or with health and safety (Interview, 2009, April 30).

At a normative level, factory management often exhibited totalitarian and discriminatory attitudes toward their workers. These norms are reinforced and perpetuated by informal and formal social institutions: perceived social rank, and China's household registration system known as *hukou*. Prior to marketisation reforms, the Chinese factory worker was considered a leading social class as 'master of the enterprise'. Following reforms, power relations shifted and social ranks changed. Research completed by the Chinese Academy of Social Science found that the categories 'workers', 'intellectuals' and 'managers' that made up the 'working class' are now split into ten groups each of which is split into five gradations (Taylor, Kai and Qi, 2003, p. 81). "Within the five social rankings, managers belong to the upper and upper-middle ranks of the working class, and workers belong to the middle-lower and lower ranks" (p. 81).

Furthermore, many of the factory workers are migrants from rural areas. China's *hukou* system, a legal framework that links state administered services to a place of residence, is also related to this attitude. Migrant workers usually registered in rural areas must provide the Public Security Bureau (PSB) proof of employment, or a relocation permit issued by the city to which they are relocating before they are legally allowed to leave their place of residence. Once in the city, they are expected to register with the PSB office and apply for a temporary residence permit, which still does not guarantee them access to subsidised housing, unemployment and other welfare benefits such as schooling for their children. This temporary residence permit, along with their national identification card, and their work permit are expected to be on their person at all times while in the city. This institutionalised differentiation between rural and urban residents has been internalised into social interactions helping to create new normative routines. Rural residents and migrant workers are perceived by urban residents as an ignorant, criminal group that is a threat to social stability and urban employment (Wong *et al.*, 2008, p. 484).

These institutional factors manifest in management attitudes that were described in interviews:

Then there's a cultural thing playing a role also. You know—"these are the workers and I am the manager, we are not all created equal". We also have this problem when we start worker dialogue...it's one of the challenges [management attitude]: 'why? she's *just* a worker' (Interview, 2009, April 30).

In terms of impact on business, these attitudes inhibit investment in employee retention mechanisms such as skills training. According to one informant (Interview, 2009, March 27), the idea that migrant workers are "just units of production" combines with a number of other factors to create a "culture of long working hours" which is one of the main issues faced by CR practitioners in China.

At a wider level, the political environment in China also constrained self-regulation. The decentralised power structure combined with the Party evaluation system and national policy priorities create significant challenges to self-regulation. Central government policies emphasised the pre-eminence of export-led economic growth and during the transition to a market economy, the government relied on the decentralised economic and administrative power system launched during the Maoist period to

jumpstart rapid development (Oi, 1999). The central government created strong incentives for local cadres to participate in this rapid export-led growth through an evaluation and reward system based on local economic performance. This decentralised political structure gave significant control over policy implementation to local cadres. Indeed, Tsai (2007) has noted that when formal institutions are imposed by the central government, local actors may use them to serve their own needs.

This is most likely to occur when there is a gap between the original intentions of formal institutions and the perceived needs and interests of local actors. At the same time, local state agents may collaborate with ordinary people by intentionally misinterpreting the formal institutions that they are supposed to uphold. Such bureaucratic deviance is more likely to be found in situations (1) where different formal institutions have conflicting mandates (a situation that facilitates ignoring one set of rules in order to comply with another); (2) where policy implementation is relatively decentralised; and (3) where local officials have convergent interests with local citizens in a particular policy area (for example, promoting local economic growth, hiding revenues from higher levels of government, protecting local industry, bending rules to attract external investment, and so on) (Tsai, 2007, p. 123).

Misinterpreting formal institutions extends to legal policies. According to Buhmann (2005), difficulties with legal enforcement and “general respect of [legal] standards among employers” may be attributed to “the multi-layered character of Chinese law; flexibility or differences in implementation across legislative levels or geographical regions; public servants or authorities neglecting enforcement in the interest of attracting or holding on to job-generating industry; and corruption” (pp. 78-79). Legal interpretations and official legal exceptions were consistently raised in interviews as a constraint to improving labour conditions. Discussing the number of work hours, an informant explained that some factories “were getting these special dispensations and grants from local government, but it wasn’t lawful. If you ask central government—talk to the director of labour in Beijing—they don’t allow it, but if you talk to the local government official who’s working at the factory, they give you this waiver form that says we’ve [the local government] allowed you to work those extra hours outside the China labour law” (Interview, 2009, March 27). Another informant referred to his experiences with the selective application of the law during a factory visit in Fumin, where he discovered a failure to register juvenile employees<sup>5</sup> as required by law. Upon inquiry, the local labour department informed him that this regulation does not apply in Fumin. In another example, the same informant explained that, in some cases, when factories try to register their employees and apply for legally mandated comprehensive benefits with local officials, they are rejected: “the local government will say ‘it’s too difficult, it’s too complicated’, so they just refuse” (Interview, 2009, April 30).

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<sup>5</sup> According to Chinese labour law, juvenile employees are workers between the ages of 16 and 18.

Related to these political institutions are the historically motivated tight restrictions placed on civil society by the central and local government in China. During the reform period, as workers lost their job security and their social status, they actively protested the transformation of labour relations through industrial unrest, large-scale demonstrations, and attempts to establish unions independent of the All China Federation of Trade Unions (ACFTU) (Sheehan, 1998). Due to their collective contentious activities, workers progressively lost many of their constitutional rights.<sup>6</sup> As legally institutionalised grievance mediation and labour communication systems were abolished, workers were left with fewer legitimate avenues to voice concerns.

When it comes to worker representation, the ACFTU, was and still is expected to fulfil two roles: “to serve the needs of the Communist Party and function as a ‘transmission belt’ between the Party-state and the ‘masses’” (Shen, 2007, p. 65). During the 1990s as the restructuring of state-owned enterprises accelerated, ACFTU membership declined significantly<sup>7</sup> leaving the union scrambling “to adjust its functions and find its feet in the rapidly expanding non-state sector, with little success” (Lee, 2009, p. 5). When this is combined with the political environment discussed above “trade unions under the control of the Party-State had neither political motive nor organisational incentive to push for representation of workers” (p. 5). As a result, the ACFTU is dominated by Chinese Communist Party (CCP) nominees despite the law stipulating that officers must be elected by workers or worker representatives (Harney, 2008, p. 132). Oftentimes, union officers are also factory managers or party secretaries—a glaring conflict of interest (p. 132). The ACFTU may have a wide range of responsibilities, which are sometimes fulfilled, but its subordination to political institutions does not allow it to deviate from well-established repertoires of behaviour. For example, the union never supports worker protests and work stoppages because demonstrations are considered a challenge to government goals (p. 133). Instead, as is discussed later, the union works to cease such disruptions through institutionally acceptable means (p. 133).

After an international norm of self-regulation emerged in the 1990s, TNCs responded by adopting a well-established repertoire of action. Codes of conduct and third party monitoring were the institutions that emerged following negotiations between TNCs, states, and civil society in their home countries. As industry leaders adopted these institutions, a process of mimetic isomorphism contributed to a norm cascade at the global level. However, when TNCs approached suppliers as norm entrepreneurs, local normative and institutional conditions created barriers to the adoption of self-regulation. These constraints derive and reinforce conditions that, when combined, encourage manufacturers to hide violations instead of adopt new practices. It became commonplace for manufacturers to engage in elaborate ruses to defraud auditors through the use of shadow factories and false records. Harney (2008) interviewed an auditor with long-term China experience who estimated that 99 percent of factories subcontract to “a ‘shadow’ to

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<sup>6</sup> During the 1978-1981 Democracy Wall movement, workers exercised their four big freedoms (free speech, air views fully, hold great debates, write big character posters) that were removed from the constitution in 1981 along with the right to strike in 1982. Independent worker organizations were banned following heavy worker organizing and protesting during the 1989 Democracy Movement (Sheehan, 1998).

<sup>7</sup> For example, from 1995 to 1999, the ACFTU lost 17 million members (Lee, 2009, p. 5).



help them meet retailers' demands" (p. 46). As for falsification, it is estimated that "between 50 percent and 90 percent of Chinese plants doctor at least some of their documents" (pp. 198-199). This is not a practice unique to China:

Mark Hui, a compliance executive at clothing brand VF, estimates that between 50 percent and 60 percent of factories in Vietnam and Bangladesh and approximately 30 percent of factories in India falsify their records. Auret van Heerden, president of the FLA, says he has seen fake books in Central America (Harney, 2008, p. 199).

In effect, instead of a norm cascade of self-regulation, the governance process resulted in a rejection of the norm due to a mismatch between local norms and institutions and global norms and institutions. However, in the interest of maintaining their business relationships, local suppliers did not overtly refuse to comply with TNC demands. They strategically adopted deceptive methods as an "ethos of evasion" (p. 202) became the norm and it was manifested through shadow factories and false records. These institutions became the status quo within China and other supplier countries.

## Catalysts for change

Not all members of the labour governance network accepted this 'ethos of evasion' and its institutions. The central government has emphasised the use of law and worked to improve the rule of law through awareness raising programs such as legal education. Meanwhile, workers and the state engage in a feedback process that leads to further improvements in the rule of law. China is also experiencing a rapid demographic transition which has ushered in a new era characterised by a shrinking labour pool. These environmental shifts have created a setting ripe for the emergence of new norms and institutions.

The decentralised political structure combined with a focus on export-led economic development in China created a situation where local cadres had a powerful position when it comes to policy implementation. However, these factors did not remove all checks and balances within the system. The central government understood that the success of the reforms depended on social and political stability. As a result, it has held top local officials responsible for events that threaten stability and "may also punish those local officials who mishandle the collective action of disgruntled citizens" (Cai, 2002, p. 330). These constraints on local officials provided opportunities for labour-related collective action. For example, in the latter part of 1989, which was a particularly repressive period, "over 15,000 workers engaged in over 700 incidents of industrial action in state and collective firms throughout the country" (Blecher, 2002, p. 285). In later years as the political grip loosened (relative to earlier periods), worker unrest continued to rise. This pattern has continued into the millennium with Wu (2006) reporting that the number of labour dispute cases<sup>8</sup> in 2005 was 314,000, almost double that of 2001 and ten times the number filed in 1995 (p. 3). Weak rule of law and dysfunctional regulatory systems are largely to blame for

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<sup>8</sup> Wu (2006) refers to cases filed through institutional means. This does not include protests, demonstrations and other forms of contentious activity.

this unrest: “labour disputes involve non-payment of or delay in payment of wages, social and unemployment insurance and welfare, dismissals resulting from modification and/or termination of labour contracts and a lack of labour protection” (Shen, 2008, p. 165).

At the same time, in an attempt to channel contentious activities through state institutions, the central government emphasised the law as a tool to settle grievances. The government and its institutions, including the ACFTU, intensively promoted legal education “to popularise labor laws among workers and to awaken workers on their ‘lawful rights and interests’ (*hefa quanyi*), thereby enabling them to use the ‘legal weapon’ for self-protection” (Zhang, 2005, p. 528). With the help of local governments, the ACFTU also established legal aid centres for workers “to make labor legislation function for the benefit of workers” with the hope that these centres would maintain social stability through the quick resolution of labour disputes (p. 529). These actions served to improve worker awareness of their rights and their willingness to use the law to manage their grievances. The use of the law by workers, however, also added pressure on the state to actually improve the rule of law since their actions are

[H]ighlighting the gulf between the citizen’s rights laid down in the Chinese constitution and local authorities’ actual response to any challenge from outside the party establishment...[law based action] is much more difficult for the authorities to deal with than a disruptive street protest which can be categorised as selfish and misguided trouble-making, and it also poses the threat of a link between restive workers and other oppositional political movements in the PRC which are increasingly resorting to the same legalistic tactics (Sheehan, 2000, pp. 259-260).

Workers effectively used the opportunities created by government practices (punishing local officials for social unrest and promoting the law) to redress injustices at the workplace. Over time, workers recognised that the passing of legal verdicts does not always translate to action on the part of the enterprise and have been repeatedly ignored which increased worker frustration (Zhang, 2005). Workers also observed that since the top priority of the ACFTU is to maintain social stability, when the threat of protests looms, the ACFTU would quickly resolve conflicts that endanger its success. This quick response has led to situations where workers bypass the slow and laborious institutional processes, that do not guarantee successful outcomes, and instead engage in direct action, through protests for example, to obtain quick and guaranteed results (China Labour Bulletin, 2007, p. 25). A feedback loop between government practices and worker activism emerged where workers use the threat of social unrest to force improvements in the rule of law which further enhance opportunities for workers to fight injustices which are once again used to force improvement in the rule of law and so on.

Following years of government initiatives, legal awareness has also spread to the second generation of migrant workers who have learned of the risks and the advantages of industrial work from other workers who may be relatives, neighbours and friends. They are better informed about their rights and more prepared to turn down jobs with excessive overtime and dangerous conditions (Harney, 2008, p. 122). Furthermore, China’s steep decline in fertility rates due to the one child policy has led to a rapid demographic

transition that is imposing constraints on the labour pool. In the Pearl River Delta, there have been repeated observations of a labour shortage since 2003 and this phenomenon has spread to the Yangtze River Delta, as well as central provinces, home to many migrant workers (Cai and Wang, 2006, p. 27). This forces factory owners and managers to improve conditions and wages in the hopes of decreasing turnover rates and attracting new workers. In a shrinking labour market, workers tend to avoid factories that do not (or cannot) provide good working conditions and other benefits, leaving those factories starved for labour.

While TNCs adjusted their initial approaches to improving labour conditions at their suppliers, they have also had to contend with the rapid social, political and economic transitions taking place independent of TNC involvement. These changes include improvements in the rule of law, increased awareness of legal rights and demographic transitions. Actors have taken advantage of these transitions by effectively harnessing emerging and expanding political opportunities to push for further institutional changes. In China, these transformations create environments that facilitate positive change in labour conditions. However, before this can occur, a normative and institutional shift must also take place. TNCs recognise this reality and have begun to tackle these issues both directly, through in-factory programs and indirectly, through engagement with a wider set of stakeholders.

### **Circumventing bottlenecks to embed self-regulation**

As the 'ethos of evasion' emerged in sourcing countries, TNCs continued to collect data and highlight cases of sub-par labour conditions (by global standards). This data was used to further bolster pressure tactics including naming and shaming TNCs that failed to comply with their own codes of conduct. TNCs may have initially adopted the self-regulation norm in order to curtail pressure from different actors regarding labour conditions in supplier countries. However, the institutional manifestations of this norm were appropriated by TNCs as tools to expand their opportunities to hold TNCs accountable to their own self-regulating standards (Bartley, 2005). TNCs recognised their limited success rates with codes of conduct and monitoring and began to search for the root causes of these failures. This learning process led to a number of pilot projects and experimental programs instituted at supplier factories. The goal was to embed change:

...a lot of people have tried to move away from the policing approach and embed capacity building and training—even training and capacity building have lots and lots of issues—we've got to stop doing all this monitoring...we've got to empower the factories to take control of things themselves (Interview, 2009, March 27).

TNCs re-evaluated their approaches to self-regulation in supplier countries and in the process realised that external factors need to change to accommodate the norms they are trying to embed. As a result, TNCs have had to adopt multiple roles when it comes to governing labour conditions in order to achieve their goals.

When it comes to self-regulation, it is expected that market actors will not only respect the law, but also actively work to avoid violations. CR is often described as going

*beyond* the law (Chapple and Moon, 2005, p. 416) however, due to variations in legal implementation and official exceptions, TNCs in China face serious obstacles to achieving the bare minimum of legal compliance. Meanwhile, central government concern over the tensions and conflicts enhanced by weak rule of law has created political opportunities that have been leveraged by TNCs to engage with the state and other partners. For example, during an interview, one informant spoke highly of the 2008 labour contract law saying that “we think awareness of it needs to be raised and we can only do that in collaboration with a wider audience” (Interview, 2009, June 26). Interviews consistently revealed that TNCs have engaged with a variety of partners in various awareness raising and legal training programs. In some cases, they engage directly with government actors:

At a city and a local level we’re constantly trying to work with the government—consistent messaging around new laws for instance, when we heard about the new [2008] contract labour law, obviously very excited about the potential for that but we wanted the factory to hear from their local government how they saw it and how it was going to be enforced locally (Interview, 2009, June 26).

Another program described in interviews is a collaborative project between a TNC and the government that educates workers coming from remote regions of China about their rights and teaches skills to help ease the transition into their new lifestyles (Interview, 2009, March 27). TNCs facilitate these programs with the goal of improving compliance at their supplier factories by improving management’s understanding of the law and worker’s awareness of their legal rights.

In other cases, TNCs engage with civil society or other market actors to facilitate normative change. Through these partnerships, TNCs are helping to create the institutions needed to support industry and to build local capacity, which can influence the workplace and the industry (Interview, 2009, June 26). For example, the Levi Strauss Foundation (LSF) in collaboration with the Asia Foundation has provided long-term support to the Guangdong Women’s Federation. Free legal services, legal aid training to standardise processes and build capacity, medical support and four counselling hotlines are some of the projects funded by this long-term support (Murdoch and Gould, 2004, p. 32). In 2009, Business for Social Responsibility (BSR), a network of private enterprises, facilitated a roundtable for LSF grantees with the goal of sharing best practices, understanding challenges, and building a practitioner community (BSR, 2009, p. 6). TNCs also work with local NGOs such as Handshake and the China Labor Support Network, to disseminate information using posters and pamphlets to help inform workers of their rights and the available mechanisms through which they can exercise these rights.

These capacity building projects work to change normative expectations and behavioural routines to match legal codes, which indirectly impact conditions inside the factory. Taking this approach a step further, TNCs have also attempted to impact conditions directly through in-factory programs that aim to improve management capacity and grievance mediation. However, factories often manufacture products for multiple clients many of whom require that their suppliers adhere to certain criteria and institute particular measures to meet brand specific expectations. This duplication of codes and systems creates inefficiencies that have been tackled through joint programs between

TNCs within shared factories. For example, TNCs have focused on building human resource management capacity as a way to improve labour conditions through a multi-brand project called the Human Resources Management Systems (HRMS) program. In this program, HR managers from key suppliers are part of an HR managers' club where third party service providers help build capacity through standard HR practices training. The focus is on peer learning as HR managers build relationships with others in the group, and share best practices and experiences. This program has become institutionalised as a CR best practice. During fieldwork conducted in Vietnam, the CR department of a TNC referred to the HRMS program as a "core part" of their CR strategy and is therefore a requirement for all key suppliers which manufacture a large percentage of all products sold globally.

On the worker side, TNCs have recognised that the current institutional environment hinders global freedom of association and collective bargaining norms as defined by the International Labour Organization. Although TNCs accept the legal role of the ACFTU, they also recognise that, similar to the law, ACFTU pronouncements at the central level are implemented differently across provinces, municipalities and cities. Consequently, the ACFTU may not always be working in the interest of workers. As a way to counter this institutional blockage, TNCs have established in-factory democratically elected independent worker committees as parallel means to honour their self-imposed standards. When it comes to worker representation, these committees may not "challenge existing logics of appropriateness" (Finnemore and Sikkink, 1998, p. 897) but they do gradually empower workers by giving them a voice which impacts behavioural patterns in industrial relations.

Reebok first introduced this strategy in China in 2001 following two similar experiments in Indonesia and Thailand. Taking advantage of legal codes<sup>9</sup> and the Chinese government's emphasis on the rule of law, Reebok was able to pressure two footwear suppliers to hold "democratic workplace trade union elections when the terms of office of the incumbent trade union officers expired" (Chan, 2009, pp. 295-296). Although the initial experiments in Reebok's suppliers failed, similar projects were described in all interviews. For example, one informant explained that "if a factory is unionised in China, it's a legitimate piece of where workers can choose to go [to manage their grievances] and indeed they pay their contributions so it should be used...we'd still require them [factories] to have another avenue because you always need one more" (Interview, 2009, June 26).

In 2003, Social Accountability International (SAI), a global multi-stakeholder human rights organisation, approached Timberland with a proposal for a similar pilot project that aimed to improve workplace communication. This pilot project was principally funded by the U.S. Department of State, in partnership with Timberland, Eileen Fischer and Toys "R" Us. Along with SAI, other training providers included the International Textile Garment and Leather Workers' Confederation (ITGLWF), Chinese Women's Workers' Network (CWWN, Hong Kong), and the Institute of Contemporary Observation (ICO, PRC). These organisations worked together to train a total of 500 workers and 30 managers at Ying Xie Garments over a 12-month period. Prior to committee elections, workers and managers were exposed to "legal, ethical, and market demands for acceptable working conditions,"

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<sup>9</sup> In particular, Reebok pushed their factories to exercise Article 9 of the Trade Union Law (revised in 2001) which stipulates that "[t]rade union committees at various levels shall be democratically elected at members' assemblies or members' congresses."

conducted “gap assessments against the benchmark international and Chinese workplace standards,” and examined cases of conflict resolution (Ma, 2009, p. 15). Trainers were expected to present “in-depth knowledge of labor issues, ILO conventions, Chinese labor law, and respect for fundamental workers’ rights” (p. 14). Furthermore, pre-election training benchmarked Ying Xie’s worker-manager relations against ILO conventions, Chinese labour law and SAI’s SA8000, a social certification standard based on norms embodied in ILO conventions, the United Nations Declaration of Human Rights and the United Nations Convention on the Rights of the Child. In effect, Timberland employed SAI and its partners as platforms to transmit and embed global norms and standards of behaviour into Ying Xie’s industrial relations. Trainers accomplished this by constructing cognitive frames that “resonate with broader public understandings and are adopted as new ways of talking about and understanding issues” (Finnemore and Sikkink, 1998, p. 897). Specifically, SAI and its training partners created “training materials [that] paid great attention to identifying effective terminology and clear language fitting the cultural and educational background of the audience” (Ma, 2009, p. 14). Following the committee elections, capacity building support included “guidance on drafting the list of responsibilities of the workers’ committee, preparing an overall work plan, soliciting worker opinions, researching any outstanding questions, establishing better factory communication, negotiating with management, and reporting back to peer workers” (p. 15). Harney (2008) describes the interaction between factory management and the committee at Ying Xie stating that “Zhang [senior manager] now discusses the factory’s cost structure... [and] consults the committee about whether and when to assign overtime” (p. 245).

By providing a trusted alternative, worker committees address factory-related issues, internalise grievance mediation systems and in the process, they are also institutionalising global norms related to workplace conditions. For example, through these projects, messages of “trade unionism, workers’ representation, workers’ rights, and collective bargaining” (Chan, 2009, p. 311) can reach large numbers of workers and managers. In specific reference to the Reebok projects in 2001 and 2002, Anita Chan (2009) wrote, “[i]n the export footwear industry, a factory with thirteen thousand employees like Shunda is considered medium size. At Shunda, the pre-election information sessions were productive, as were the opportunities to speak up. Two to three thousand workers from each workshop were assembled for an evening session in a big hall and given a chance to fire questions at management and the inactive trade union” (p. 311). If workers are approached individually outside the workplace, “it takes a labor NGO in China some months to influence a few workers to consider becoming labor activists” (p. 311). These projects provide access to a large number of workers including managers, which is a significant advantage.

Considering that businesses do not have the same coercive power as regulators, they can encourage and persuade a supplier to abide by the law, but the impetus for real change must come from the manufacturer. As a result, TNCs have tried to influence their suppliers’ choices by attempting to shape the environment in which they operate. With changes in normative and institutional conditions, TNCs have worked both external to and within the supply chain to build an environment more conducive to self-regulation and its institutions. Inside the factory gates, TNCs have attempted to build management capacity and alternate worker communication systems. In the external environment, TNCs have

been particularly concerned with strengthening the rule of law. The outcomes of these activities have the cumulative effect of improving work conditions and minimising social conflicts caused by the 'ethos of evasion'. Since these outcomes are in-line with government goals, TNCs have successfully enrolled state support for their CR programs, sometimes even engaging with government actors as partners.

## **Is the tipping point near?**

The Chinese government is very concerned with inequalities that manifest as social conflicts since they could threaten regime longevity. As norm entrepreneurs, TNCs have linked government goals (strong rule of law and decreasing levels of social conflict) to CR norms and institutions. "We engage with them [the Chinese government] obviously at senior levels through our government affairs outreach and part of that is our consistent messaging around our need to see the CSR [CR] agenda—which there is a CSR [CR] agenda in China—to be supported and continues to be rolled out" (Interview, 2009, June 26). This strategy has helped to enhance awareness of CR in the political arena and, through political legitimating behaviours, there has been a diffusion of CR concepts. For example, a national CR summit was held at the Great Hall of the People in 2006; in January 2008, the State Asset Supervision and Administration Commission published a set of guidelines to help SOEs fulfil their 'social responsibilities' (Lee and Wickerham, 2010, p. 123). There have also been various government-led CR related initiatives with more than 300 participating companies from the Shanghai Pudong area, and indications by the Pudong government of institutionalised tax incentives in the near future for CR leaders (Lee and Wickerham, 2010, p. 124). According to one interview, the Guangdong ACFTU branch is "very switched on to CR and have some of their own initiatives" (Interview, 2009, June 26).

Finnemore and Sikkink (1998) argue that securing state support is crucial to legitimise and embed emerging norms, however other factors also work to pressure the adoption of CR-related norms and institutions by norm leaders. For example, as brands engage in learning processes, they begin to deepen their CR commitments which leads them to seek already compliant factories or factories willing to seriously work on CR issues. Because of this process, the numbers of contracts available for non-compliant factories decreases, further increasing competitiveness. Meanwhile, China's labour and other input costs are increasing significantly in the coastal region forcing factories to seek new locations where they can regain price advantages. In 2010, *The Economist* reported that wages rose by more than 9 per cent annually from 2002-2006, that rate jumps to 11 per cent in urban areas; meanwhile, inner provinces have experienced significant growth with Anhui province growing faster than its coastal neighbours, and Chongqing municipality near Sichuan growing by 19 per cent. Many manufacturers are also seeking opportunities in other countries such as Bangladesh, Cambodia and Vietnam (Bajaj, 2010).

Norm leaders are certainly emerging as suppliers are increasingly exposed to TNC compliance demands. For example, during fieldwork in Vietnam, almost all key suppliers had a compliance department tasked with managing client demands. Indeed, during an interview with a manufacturer based in Shanghai, the firm considered itself a norm leader. Their compliance story begins with receiving a code of conduct from a client:

At first, we also wanted to play hide-and-seek games, but later on we believed, going forward, you have to be a compliant factory, then you will get the business. It's become a sort of entry barrier. If you're not compliant, you will not get the business. So why not start earlier. Especially when working with the big brands. So we start all these things pretty early. And that's why we've kept their business (Interview, 2011, July 22).

This manufacturer already has one Taiwanese partner in Vietnam and has also bought land with the goal of opening a new factory. Their aim is to build a 'green' factory:

The environment is a hot topic so we're doing a lot. Because this is new for the brand and also for us—so we need to study it, we're trying to build up a green policy so we can educate our workers and figure out how we can cooperate with the brands. So we'll have our own environmental policy that will be communicated to the brands (Interview, 2011, July 22).

Another example of norm diffusion in China is the release of the CSC9000T standard by the China National Textile and Apparel Council (CNTAC) in 2005. CNTAC is a national non-profit federation of Chinese textile industries with the aim of modernising the textile industry. This local standard is similar to SA8000 and includes principles “based on the relevant Chinese laws and international standards, but does not call for freedom of association and collective bargaining (and simply notes that the ACFTU is the legal representative of workers in China)” (Welford and Hills, 2009, p. 196). Every year since 2005, CNTAC releases an annual report on the state of social responsibility in the industry. The 2009 report identified the spread of this activity to other industry associations with examples such as the China Banking Association's initial report in 2008, the release of the Red Book on Social Responsibility of the Medical and Health Sector in 2009 and the Social Responsibility Report of Chinese Automobile Enterprises also published in 2009 (CNTAC, 2010, p. 3). The report asserts that “[c]learly, the collectivisation, institutionalisation and transparency of social responsibility construction and development in Chinese sectors is now a trend, which will improve the overall social responsibility strategy of industries as well as the performance level of enterprises” (CNTAC, 2010, p. 3).

In 2008, this organisation also released a set of sustainability reporting guidelines for China's textile industry. The Vice Minister of Industry and Information Technology (MIIT), and representatives from the National Development and Reform Commission and other government agencies, attended this event. During her speech, the Vice Minister of MIIT linked CNTAC's work on social responsibility to government policy goals such as “restructuring and upgrading” the industry, reducing environmental impacts, and maintaining “harmonious labor relations” (The Office for Social Responsibility of CNTAC, 2008). At the same event, the President of CNTAC outlined motivations for adopting CR in China by arguing that the “improvement of productivity and the promotion of social responsibility are mutually beneficial. It is a natural solution to enhance the competitiveness of enterprises following the scientific development strategy, to improve



the competitiveness of the country, to allow better synergy between innovation and comparative advantage, and to satisfy the needs of both enterprise and its employees” (The Office for Social Responsibility of CNTAC, 2008). In this statement, CR is linked to government goals such as the ‘scientific development strategy’, competitiveness, innovation and low levels of industrial conflict.

The motivations for adopting these norms are different than those originally held by TNCs. As China’s industry has matured there has been an increase in the number of large contract manufacturers such as Esquel Group and TAL. These large manufacturers “have diversified beyond traditional manufacturing into research, design and inventory management for customers” (Harney, 2008, p. 38). Furthermore, they are concerned with CR and have taken on norm leadership in China and elsewhere. For example, Esquel Group has a well-established CR department working in China as well as at their locations in Malaysia and Vietnam. It will be interesting to observe whether greater numbers of local norm leaders will attempt to socialise other manufacturers in their home countries and abroad as they shift or expand production. If so, it is possible that a band-wagoning effect may emerge through a process of mimetic isomorphism as other manufacturers begin to adopt and promote new norms. This process may eventually reach the tipping point making a norm cascade a reality in manufacturing countries and at a deeper level within the apparel supply chain.

## **Conclusion**

When TNCs first faced criticism for labour conditions at their supplier factories, civil society in their home countries were redefining the corporate role in labour-related governance. This criticism was at first rejected by TNCs, however, civil society, as norm entrepreneurs, successfully promoted their vision. Large transnational market leaders quickly adopted the emergent norm. As expected by Finnemore and Sikkink’s (1998) norm lifecycle, self-regulation was institutionalised in the form of codes of conduct and monitoring systems and a norm cascade followed during which the norm was quickly adopted by norm violators. Wetterberg (2007) argues that at the global level, self-regulation is in the process of internalisation.

TNCs as global market actors have become norm entrepreneurs attempting to transfer the self-regulation norm to their suppliers. However, local actors covertly rejected this new norm since it did not fit with local normative and institutional environments. When initial attempts at norm entrepreneurship failed, TNCs re-evaluated their approach and found that some normative and institutional factors must change to create favourable conditions that allow for the emergence of self-regulation. Using a variety of organisational platforms, TNCs worked to strengthen the rule of law and diminish industrial conflicts by enhancing legal awareness, improving local civil society capacity, improving human resources management skills and strengthening in-factory grievance management systems.

During the governance process, the local normative and institutional environment shapes the role business plays in the governance of labour conditions in China. For example, when it comes to legal codes, China’s political structure created an environment where local legal implementation does not always reflect central level goals. This discrepancy undermines the state’s message to ‘use the law as a weapon’. Understanding

the tension this creates, TNCs engage with all levels of government to educate and train suppliers and local government officials on legal requirements. These programs aim to enhance awareness and understanding of legal obligations, and a consistent implementation of the law. This engagement reflects TNC convictions that the minimum responsibility of business, as *objects* of governance, is to simply meet legal obligations. However, to reach the same goals, TNCs adopt a *partnership* role in governance with a variety of state, non-state and quasi-state actors to help enhance legal awareness, improve capacity and mediate conflicts. The project to train workers before they migrate is an example of a partnership between the state and TNCs. They have also engaged with local civil society to educate workers about their rights and the legal mechanisms available for grievance mediation. They also help to build local civil society capacity through partner programs with other TNCs and transnational civil society.

Notwithstanding heavy pressure from TANs and NGOs, and despite their own self-imposed commitments to freedom of association and collective bargaining through their codes of conduct, TNCs have accepted the role of the ACFTU as the only legally sanctioned trade union in China. TNCs, along with a variety of partners, work within these institutional boundaries to create in-factory grievance mediation systems that do not challenge the role of the ACFTU, but aim to empower workers and enhance workplace communication. In the process, these projects help to transfer global norms and institutions such as ILO conventions, UDHR norms and SA8000 standards to factory managers and workers. Technically, labour representation is the sole purview of a single state institution, however, when faced with variation in ACFTU effectiveness, TNCs established alternate avenues for worker representation that serve the dual purposes of reducing industrial conflict and embedding global norms. In this case, TNCs are both *objects* and *architects* of labour-related governance.

This paper successfully applied constructivist theories to explain the reasons behind corporate activities and behaviour. The proposed framework was used to explain the process through which TNCs attempted to embed self-regulation within their supply chains. It was able to account for initial failures and explained how China's institutional conditions shaped both the outcomes of CR activities and the role TNCs played in these activities. The framework also traced norm diffusion through multiple levels and dimensions providing a nuanced picture of the norm lifecycle and the governance process. For example, at the global level, self-regulation has already cascaded and is in the process of internalisation. However, following years of sustained efforts, TNCs, as norm entrepreneurs, have gained the support of the state, which is helping to legitimate and embed the self-regulation norm in China. The government has openly endorsed the use of CR as a way to realise its goals and policies. They have also enlisted a number of regional and local norm leaders. These characteristics are consistent with the first phase: norm emergence.

The framework predicts that the onset of a new lifecycle at a deeper level in industry is near as China's norm leaders expand into new normative and institutional environments. After long-term exposure to CR activities by TNCs focused on China's apparel sector, it is found that there is a burgeoning group of norm leaders pushing for change within China. Furthermore, as large manufacturers either expand or move production to other countries such as Bangladesh, Vietnam and Cambodia, they are also diffusing these emergent norms to new normative and institutional environments. The

proposed framework provides a way to understand the influence of normative and institutional environments on CR activities. This in turn helps to uncover the reasons for subtle variations and evident deviations in CR.

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