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Human rights violations in global value chains – Four non-state measures for better protection

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Abstract

This ESCP impact paper explores the critical issue of human rights violations within global value chains (GVCs) amidst increasing legislative and societal pressures for corporate accountability. It synthesizes insights from international business, supply chain, and business and human rights literature to provide recommendations for multinational corporations (MNCs) navigating these challenges. We identify four non-state measures for addressing human rights violations in GVCs: fostering mutual understanding between buyers and suppliers, implementing rightsholder-driven remedies, collaborating with civil society organizations, and addressing power imbalances within GVCs. Through best practice examples, we show how each of these strategies can be put in place to ensure consistent standards and prevent the exploitation of vulnerable workers.

Keywords: human rights, global value chains (GVCs), multinational corporations, non-state measures

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Human rights violations in global value chains

Introduction

In February 2024, thousands of cars from the Volkswagen Group, from the brands Bentley, Porsche, and Audi, were not allowed to enter the US market because they allegedly included a component produced in Xinjiang Province, China. The so-called Uyghur Forced Labor Prevention Act aims to hinder the import of products from Xinjiang Province into the US (U.S. Government, 2021). The legislation is based on reversing the burden of proof, that is, it is the multinational corporation's (MNC's) responsibility to prove that no forced labor was involved in the production process. While this is an extreme case, it well exemplifies the current endeavors of governments across the globe to eliminate human rights violations, such as forced labor and other social and environmental abuses from the global value chains (GVCs).

In the past few years, France, Germany, the Netherlands and the United Kingdom have enacted legislation requiring supply chain due diligence, and several other nations, such as Canada, have proposed comparable laws. Although the details and rigor of each law differ, they collectively contribute to a concerted global effort to promote a more accountable GVC. Given the widespread unsafe working conditions affecting millions globally and the growing societal awareness of issues such as water pollution and environmental abuses, the necessity for these laws is evident.

In an attempt to unify the regulatory pressures to which companies within the European Union (EU) are exposed, the European Commission proposed the "Corporate Sustainability Due Diligence Directive" (CSDDD) (European Commission, 2024). The EU is the largest economic bloc worldwide, and a European supply chain law could –advocates said *should*– set novel global standards in favor of human rights and environmental protection. The introduction of the CSDDD would help MNCs, such as Volkswagen, to anticipate conflicts with other contemporary supply chain laws, like the Uyghur Forced Labor Prevention Act mentioned above. After weeks of uncertainty, mainly driven by the advance communicated abstention of Germany and Italy, a less strict version of the CSDDD found majority support on March 15th, 2024. While the original draft was applicable to companies with over 500 employees, the accepted version is only applicable to firms larger than 1,000 employees. Moreover, the possibility of civil liability has been reduced.

This ESCP impact paper addresses the issue of human rights violations and protections in GVCs. We synthesize the findings of pertinent studies from the international business (IB), supply chain, and business and human rights (BHR) literature to derive critical implications for MNCs on how to address an issue that should concern all of us.

Human rights violations and modern slavery in GVCs

Over the past decade, high-profile cases of human rights violations and modern slavery have heightened public awareness. The collapse of the Rana Plaza factory in Bangladesh in 2013 attracted worldwide media attention. It moved the question about workers at supplying companies and the conditions under which global products are made into the public focus in developed countries. A more recent example is the protests around the Qatar FIFA World Cup 2022, which highlighted issues of social injustices and cases of modern slavery on construction sites; the forthcoming Saudi Arabian FIFA World Cup 2034 is already raising similar concerns. While human rights violations are a broader term comprising, for instance, the Right to Equality (article 1), modern slavery can be considered a severe case of human rights violations. This includes a variety of forms of labor exploitation, such as forced labor, debt bondage or child labor (Voss et al., 2019).

Human rights violations are found across GVCs, particularly in the extraction of raw materials, cultivation, harvesting and production of agricultural produce, or the manufacturing of the products sold downstream of the GVC. There is a continuous body of evidence that especially lower-tier suppliers are sub-contracting (parts of) their work to third-party supplying firms, which are more likely to be using forced labor since they cannot meet the low consumer prices and the rising cost of raw materials (Stringer & Michailova, 2018). This type of sub-contracting creates opaque, sometimes even hidden areas within the GVC, which increase the complexity for MNCs to organize, govern, and control the GVCs' operations. Scholars argue that human rights violations and modern slavery in GVCs are not merely a consequence of individual greed or moral failings; instead, they are rooted in systemic factors like the availability of exploitable labor and the corresponding demand for their services (LeBaron, 2021).

In general, international law considers states to be responsible for protecting and respecting human rights and therefore states must take remedial action in the event of violations (Shivji, 2023). However, it has been reported that rightsholders often seek remedies outside of state mechanisms due to barriers, such as access in terms of time and money, or legal and extraterritorial complexities. In addition, cases of human rights violation often occur in states that are characterized by weakly defined and enforced institutions, and thus, governments that lack the capacity to hold companies accountable. Therefore, effective non-state remedy measures are required to fill this void, complementing the 'bouquet of remedies' as called for by the United Nations Guiding Principles on Business and Human Rights (UNGP, 2011), and contemporary supply chain laws that are increasingly obliging MNCs to take responsibility for human rights standards.

Four non-state measures to reduce human rights violation in GVCs

Establish mutual understanding among buyers and suppliers

Recent research has shown that managers in buying and supplying firms show substantial differences in their motivations to engage in wider CSR-related activities (Kirste et al., 2024). This may relate to different drivers for the protection of human rights within GVCs. Thus, managers at buying firms should scrutinize the motivations among their counterparts in supplying firms. Given the potential divergence in motives, it is essential for buyers to recognize variations in the institutional pressures affecting suppliers, impacting their inclination towards contributing to human rights compliant working conditions. Particularly in cases of significant institutional disparities, managers at buying firms should familiarize themselves with the conditions under which suppliers operate, discern prevailing motives, and tailor their expectations towards them accordingly. This understanding can be gained through on-site visits and increased dialogue with suppliers. Simultaneously, managers in supplying firms should acknowledge that their buyers' motivations regarding what they expect from them may differ significantly. Suppliers can benefit from comprehending the institutional pressures influencing their buying firms, such as the existence of supply chain laws in their home countries. Proactively gathering information enables suppliers to grasp their buyers' perspectives. Additionally, inviting buyers to their locations can foster mutual awareness, especially in situations of substantial institutional distance between buyers and suppliers. Businesses as diverse as Marks & Spencer, the British retailer, and Unilever, the Anglo-Dutch consumer goods producer, emphasize the importance of open dialogue with suppliers to raise awareness and prompt action on human rights issues. Unilever has established various initiatives and programs, such as the “Partner with Purpose” strategy which aims at enhancing the diversity of their supplier base.

Rightsholder-driven remedy

In her study, Shivji (2023) analyzed The Fair Food Program (FFP), which has been recognized by international scholars and practitioners for its novel worker-driven approach and empowering rightsholders to achieve their desired outcomes in terms of restoring their abused human rights. FFP’s approach is based on the interlinked concepts of enforcement and education. While both of these are not new to the BHR literature, the rightsholders-centered focus makes FFP stand out compared to other initiatives. The standards which are enforced are driven by those whom the standards intend to protect - the rightsholders themselves. Through an independent monitoring body within the FFP program, it is also the rightsholders who conduct the audits and run the complaint hotline. And finally, enforcement carries serious consequences in case of non-compliance, that is, by making it impossible for growers to continue working with the brands. Alongside these measures the FFP program builds on continuous worker-to-worker education, in which they are empowered and learn about their rights and remedial processes. Thanks to their efforts, FFP manages to develop a participatory approach to remedy for business-related human rights abuses, one that effectively restores abused rights and empowers rightsholders. However, the FFP is a positive outlier within the agri-food sector due to the organization’s notably high level of worker involvement. Thus, while it undoubtedly provides proof of concept, its transferability to other sectors, and even to other parts within the agri-food sector may be limited.

Collaborations with civil society

A third non-state measure to address the issue of human rights violations in GVCs is the collaboration with civil society organizations. Rapior and Oberhauser (2023) revealed a network of civil society organizations that functions as an intermediary between MNCs and suppliers on one hand and rightsholders on the other hand. These civil society organizations step in to fill the voids, both within the GVC and within the regulatory framework of rightsholders home countries. From a rightsholders' perspective, civil society organizations give them a voice by filing and forwarding their complaints. They also represent a counter-balance to the power inequalities between the workers and their employers. From an MNC-perspective, civil society organizations are particularly helpful in providing first-hand information on the situation at the supplying firms, since they are locally rooted and have a trusted relationship to the rightsholders. In addition, MNCs can collaborate with civil society organization in order to conduct monitoring and audits at the suppliers’ sites. One such organization is the Fairtrade organization (Fairtrade International, 2024) which provides certifications to MNCs for using materials produced and traded under fair conditions. Fair Trade also helps rightsholders to voice their concerns and to enter into meaningful dialogue with the buyers of their products.

Addressing power relationships in the GVC

Private governance of GVCs has been found to cement the MNC’s position of power by exerting price pressures on suppliers, which are then cascaded down the chain and manifested locally in wages and working conditions. Through its position of power to orchestrate and direct operations in the GVC, the MNC is then able to extract significant rents (Anner, 2020; Dindial et al., 2020). The effectiveness of private governance in addressing human rights concerns across the GVC has therefore been challenged, and social and governance solutions have been suggested to address power asymmetries. Recent examples in private governance indicates that changes by the MNC to the way they engage with their suppliers can shift aspects of the power asymmetry. The fashion retailers ISTO (Portugal) and Asket (Sweden) have addressed the power imbalances by publishing costs breakdowns of their products. Understanding how much ISTO and Asket products cost at every step of the value chain offers insights not only to the intended audience, the consumer, to indicate fairness and decent work opportunities, but also to current and potential participants in their value chains. Price structures and drivers are normally hidden from suppliers, forcing them to accept prices set by buyers (Dindial et al., 2020; Dindial & Voss, 2024). Cost transparency offers suppliers an insight into the potential gains (squeeze) they can expect from buyers and offers them a reference point for contract negotiations.

Conclusion

The current estimated number of 28 million people "working in vulnerable work situations is anticipated to increase by an additional 17 million a year [...] as economic inequalities, political suppression, civil war, environmental crises, and the loss of common land continue to displace people, forcing them across borders to search for work in unfamiliar environments" (Fletcher & Trautrims, 2023, p. 44). This poses the threat of persistent and increasing human rights violations along GVCs, in turn justifying new legislation that puts the spotlight on this problem and aims to reduce it. This ESCP impact paper highlights four major strategies for MNCs to take on more responsibility and contribute to the protection of human rights along their GVCs.

However, these initiatives do not automatically benefit the most vulnerable participants in GVCs. Particularly approaches that engage vulnerable groups directly, such as rightsholder-driven remedies, are complex, difficult to establish, and costly, which can lead to a price premium and thus less competitiveness in cost-competitive industries. Well-intended, but poorly considered and implemented strategies could therefore have unintended consequences. Industry- and economic bloc-wide regulations could therefore play an important part in securing equal standards and thus avoiding cost competitiveness at the price of human rights violating working conditions.

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