

The emergence of socially sustainable sourcing: A new form of labour regulation in the context of collective bargaining decline?

Chris F. Wright
Post-Doctoral Research Fellow
Macquarie University / Centre for Workforce Futures, Faculty of Business and Economics
Sydney NSW
Australia
chris.wright@mq.edu.au

William Brown
Montague Burton Professor of Industrial Relations
University of Cambridge / Faculty of Economics
Cambridge
United Kingdom
william.brown@econ.cam.ac.uk

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Abstract

The decline of collective bargaining and the blurring of organisational boundaries between firms have adversely affected employment standards in the British labour market. In this context, this paper considers the potential for using socially sustainable sourcing to strengthen collective labour market protections for low-wage workers, particularly in situations where work and production is organised across organisational boundaries. It examines the different ways that firms, unions, civil society organisations and governments have used sustainable sourcing mechanisms to counter the negative impacts of outsourcing and supply chain pressures on labour standards. At a domestic level, compulsory forms of sustainable sourcing appear to be a more effective than voluntary forms for protecting labour standards, but the prospect of a compulsory model being adopted in Britain seems unlikely. Socially sustainable sourcing mechanisms are nevertheless likely to become increasingly important for protecting labour standards across organisational boundaries.

The economic foundation on which collective bargaining was built has been crumbling. With it has gone the established basis for upholding labour standards. The search for alternatives has become a search for new points of employer vulnerability. In this trade unions are among the civil organisations playing an important part. This paper discusses their emerging role.

During the post-war decades, economic stability gave unions the leverage to organise workers and regulate labour markets through collective bargaining. This was brought about by a relatively protected product market environment, ‘internalised’ production systems and employment laws that encouraged union membership and multi-employer bargaining. By the 1970s, these arrangements allowed the majority of workers across the British workforce to enjoy historically generous working conditions and substantial protections. The high level of collective bargaining coverage also contributed to an unprecedented degree of income equality. In 1979, only 13 per cent of workers in Britain were classified as ‘low-paid’ – defined as earning less than two-thirds of the median hourly wage. This position has changed radically over the past three decades. The liberalisation of product and labour markets, the fragmentation of production and the introduction of legal restrictions on union activity have led to a sharp decline in collective bargaining coverage. Less than one-third of workers in Britain today (and less than one-fifth in the private sector) are covered by a collective agreement. This has been one factor fuelling a rapid increase in wage inequality, with roughly 22 per cent of workers now considered to be ‘low-paid’ (Lloyd et al., 2008).

Attempts by New Labour governments after 1997 to extend bargaining rights to unions and to promote partnership agreements with employers failed to reverse these trends. The introduction of a national minimum wage and statutory employment protections has helped to prevent wage distribution from become more unequal. There has been a slight decline in the relative size of the low-paid workforce over the past decade, with no evident adverse effects on employment. The positive impact of the national minimum wage in reducing overall inequality has been limited, however, since its effects in raising wages has been confined to workers at the bottom end of the wage distribution and the flow-on effects to the rest of the workforce have been minimal.

Britain is now the seventh most unequal country in the developed world terms of income distribution, according to OECD figures. While this is also a consequence of rising earnings for those at the higher end of the income distribution, the weakening of collective institutions has exacerbated the extent of polarisation. A recent comprehensive comparative study of low-wage work identified ‘the declining influence of unions in Britain as a key factor contributing to higher wage inequality and the growth of low-paid work’ (Mason et al., 2008: 34). It should be added that the deepening of wage inequality in the labour market has the potential to cause dislocation and conflict in wider society (Standing, 2011).

The limited capacity of firms to pay decent wages in low-wage, low-profit, labour-intensive industries is another factor contributing to these trends. Lower barriers of entry in Britain than elsewhere have made it easier for new firms to establish themselves in saturated product markets (McLaughlin, 2009: 345). Firms in many of these industries have their profitability, and hence their capacity to pay decent wages, squeezed by unfavourable conditions of commercial contract with the firms that they provide goods and services to. This is especially the case in sectors where the monopsony position of leading retailers and consumer-goods producers gives them substantial power to play their suppliers off against each other in order to acquire products at the lowest prices. It also applies to some parts of the public sector, for instance where government bodies engage private contractors to deliver public services. Monopsony power of large ‘lead’ firms over ‘supplier’ firms has increased with the

liberalisation of trade barriers, which has allowed firms to expand into wider geographical markets and increase their economies of scale. In supply chain relationships that work to the advantage of lead firms, and in the absence of strong industry-wide regulatory frameworks, supplier firms have a high incentive to minimise labour costs and resist attempts by workers to form unions, making it difficult to establish standards for decent wages and working conditions.

These traits have long been apparent in industries traditionally characterised by complex supply chains and subcontractor networks, such as clothing and textile manufacturing, but they now exist in many other industries, due to a rise in offshoring and outsourcing (Rawling, 2006). Trade liberalisation has also allowed product markets and production systems to be internationalised, developments that have been accelerated by technological advancements in transport and communication. This has allowed firms to relocate their production and business functions to lower-wage states. In circumstances where work and production cannot be offshored easily, firms have responded to more competitive market environments by outsourcing their non-core functions to other firms. A consequence of these developments is that the organisation of work and production across the organisational boundaries of multiple firms is now commonplace. The capacity of workers to negotiate over their conditions of employment is often contingent not only on their relationships with their employer, but also on the commercial clients of their employers or other firms further up the supply chain. The entire foundation of the ‘single-employer’ model of employment law that exists in Britain and elsewhere, which for example obliges workers and their representatives to negotiate *only* with their employer, is compromised by the blurring of organisational boundaries between firms (Marchington et al., 2005; cf. Buchanan et al., 2008).

Consequently, a major challenge has become one of developing regulatory models to protect the rights and improve the wages and working conditions of low-paid workers. According to one authoritative study:

Where organisations are embedded in a set of inter-organisational relations, the power of a particular employment relationship may not lie with the legal employer but with the employer’s clients. The growth of inter-organisational relations increases the need to consider the employment relationship beyond the specific workplace or enterprise... Effective employment protection depends not only on collective regulation at the organisation level but also on the institutionalisation of the external environment in which the organisation is located (Rubery et al., 2005: 65, 87).

For different reasons, there has also been a growing interest among lead firms at the top of supply chains in activities beyond their own organisational boundaries. The importance of supply chains in the organisation and distribution of production has prompted attention to supply chain management strategies, whereby lead firms have sought to monitor and control the activities of their suppliers. For definitional purposes, the notion of ‘supply chain’ encompasses ‘all activities associated with the flow and transformation of goods from raw materials stage (extraction), through to the end user, as well as the associated information flows. Material and information flow both up and down the supply chain’. ‘Supply chain management’ is understood as ‘the integration of these activities through improved supply chain relationships to achieve a sustainable competitive advantage’ (Handfield and Nichols, in Seuring and Müller, 2008: 1700)

The risk of suppliers delaying production or not meeting quality standards has serious consequences for consumer-facing firms with substantial investments in marketing their brand names, as well as for public sector organisations with a civic obligation to promote good practice. Private and public sector entities in these positions have also been at the forefront of the uptake of ‘corporate social responsibility’ strategies, which emphasise the contribution of sustainable labour and environmental practices to business success, and particularly for generating customer loyalty and market share. A consequence has been the extension of corporate social responsibility to the sustainable sourcing of goods and products. This interest in sustainable sourcing practices is due to a growing awareness among consumer-facing firms not only that sustainable sourcing may enhance their brand image, but also that complacency about poor supplier practices may undermine it.

It has been suggested that there is ‘a clear deficit’ in both the sustainable sourcing and employment relations literatures on the issue of labour standards (Seuring and Müller, 2008: 1702; cf. Park-Poaps and Rees, 2010: 306). This is despite the growing use of sustainable sourcing by labour market actors and institutions as a basis for protecting labour standards, much of it focused on transnational supply chains. But there has also been renewed interest in the potential of sustainable sourcing as a mechanism for protecting labour standards and promoting good practice at the national level. Arising from this, the central research aim of this paper is to consider what potential sustainable sourcing offers for reconstructing collective labour market protections for low-wage workers.

The paper draws upon a number of cases of sustainable sourcing in Britain, particularly in situations where work and production is controlled across organisational boundaries. The next section provides an overview of the factors lying behind the growth of outsourcing and its implications for work and employment relations. It then looks at sustainable sourcing mechanisms and the different ways they have been used to counter the often negative impacts of outsourcing on labour standards, at both a national and transnational level. This is followed by an analysis of the effectiveness of voluntary and compulsory sustainable sourcing mechanisms, and of the factors leading to their creation. The study concludes with a discussion of the implications of sustainable sourcing for employment relations.

The blurring of organisational boundaries between firms

Organisational boundaries tend to be blurred where a firm procures a product or service from another firm and maintains a commercial interest in monitoring or controlling the production or service delivery process. In these circumstances, inter-firm relations characterised by control are more likely with longer-term and repeated transactions, rather short-term and spot transactions. There are various reasons for why a firm may decide to buy a good or service from another firm, rather than make it internally. It may choose to focus on its core competencies for reasons relating to a lack of capability, to improve quality or to reduce costs. The precise areas where organisational boundaries overlap may range from the hiring of specialised workers from employment agencies, to the procurement of whole components of production, such as facilities management services (Davis-Blake and Broschak, 2009: 323-326; Harrison and Kelley, 1993: 214-217).

The management of inter-firm relations has become more important over the past two decades due to the rising propensity of firms across the economy (in both private and public sectors) to outsource business activities. While this trend is not unique to Britain, it began earlier and has occurred on a larger scale than in many other states, with some 86 per cent of firms in 2004 outsourcing at least one traditionally ‘in house’ activity (Kersley et al., 2006:

105-107). This is comparable to the United States, where in recent years ‘outsourcing has exploded, moving beyond the externalisation of routine tasks to include business processes closer to an organisation’s core, such as the management of customer service and information technology’ (Davis-Blake and Broschak, 2009: 322).

These developments can be interpreted as a response to an increasingly competitive market environment, brought about by the lowering of barriers to trade, the privatisation of public services and other forms of deregulation and marketisation. Outsourcing has allowed firms to reduce their overhead costs. Often – though not always – external providers achieved cost savings by engaging staff on relatively inferior wages and conditions, with less employment security and without independent representation (McDowell and Christopherson, 2009: 339-340; Walsh and Deery, 2006: 559-560).

Outsourcing has profound implications for the nature of work and its organisation. Indeed, it has been argued that ‘because outsourcing changes what workers do, how they do it, with whom they do it, and what they are paid for it, outsourcing is as significant a change to the nature of work and organizations as the industrial revolution, scientific management, or the emergence of the mature bureaucratic form’ (Davis-Blake and Broschak, 2009: 322).

The shift from in-house production to external acquisition has involved ‘a move away from the control of production and service delivery via internal managerial hierarchies to control by market forces: that is, control based on the use of competition among potential external suppliers to obtain goods and services at the right price and quality’ (James et al., 2007: 166). Employment relationships among supplier firms subject to these pressures are ‘mediated by the market rather than insulated from the market’ (Walsh and Deery, 2006: 558). While some studies have identified positive impacts for workers in supplier firms, there is considerably more research evidence pointing to negative consequences. This is particularly true of situations where suppliers in weak positions transferred the costs and risks passed down from lead firms to their workers, especially those in atypical or insecure forms of employment (cf. Lloyd and James, 2008: 715). Studies have pointed to the negative impact of outsourcing and subcontracting on workers’ employment security, work intensification (Cunningham and James, 2008: 372), job satisfaction and organisational commitment, training and career development (Hoque et al., 2011: 523; Soltani and Wilkinson, 2010: 108), workplace safety (James et al., 2007: 167-168; Mayhew and Quinlan, 1997: 192-193), access to union representation (Lloyd and James, 2008: 726) and employment conditions (cf. Walsh and Deery, 2006).

The negative impacts on working conditions associated with outsourcing and subcontracting, have the potential to produce unintended consequences. These include risks of lower production costs and poor working conditions leading to inferior product quality, the production of goods and delivery of services being delayed by disruptions at the level of the supplier firm, and diminished investment in long-term assets (such as skills, infrastructure and research and development) by supplier firms operating under cost pressures (Lamminmaki, 2011: 964; Rieple and Helm, 2008: 281). These unintended consequences can undermine a lead firm’s brand image and diminished customer loyalty and hence the imposition of unanticipated costs. This has contributed to a growing interest in sustainable sourcing practices.

Supply chain management and sustainable sourcing

Supply chain management is often associated with the management of the various risks across a supplier network that could adversely affect a lead firm's reputation (Carter and Rogers, 2008: 366). There have always been risks for any firm relying upon other firms for the production and delivery of its own goods and services. However, the growing propensity of firms to outsource and offshore their activities has altered the structure of supply chains by making them longer, more complex, more internationalised and more vulnerable to disruption. It has thereby increased these risks (Jüttner et al., 2003: 200-205; Seuring and Müller, 2008: 1704). Risk within the supply chain is highest with respect to suppliers located offshore and in remote locations, because geographical separation makes it more necessarily more difficult to monitor a supplier's activities, and particularly in states lacking strong labour and environmental protection laws (Mueller et al., 2009: 509). Indeed, supply chain management is commonly focused on reducing risks arising from these issues. As such, there has been an emerging focus within the supply chain research on sustainable sourcing (referred to elsewhere as 'sustainable supply chain management', 'purchasing social responsibility', 'logistics social responsibility' and 'ethical sourcing' (Carter and Rogers, 2008: 361; Roberts, 2003: 159-160; Salam, 2009: 357-358)). The concept of sustainability within this literature is generally associated with the three dimensions of the 'triple bottom line', i.e. firm performance as measured by economic, environmental and social indicators (Seuring, 2008: 478; Seuring and Müller, 2008: 1700). This conceptualisation complements the definition of sustainable supply chain management offered by Carter and Rogers, as 'the strategic, transparent integration and achievement of an organisation's social, environmental, and economic goals in the systemic coordination of key inter-organisational business processes for improving the long-term economic performance of the individual company and its supply chains' (2008: 369).

The emergence of sustainable sourcing as a business strategy is the result of two trends: the increased propensity of firms to outsource and their growing interest in corporate social responsibility initiatives (Mueller et al., 2008: 510). In any case, there is a correlation between brand image and supply chain risk: the higher a firm's brand profile, the greater its susceptibility to reputational damage if its suppliers are found engaging in bad practices. As Roberts says, 'reputation is a valuable corporate asset, hard to build, yet easy to diminish' (2003: 168). Lead firms with a direct consumer interface are those most protective of their brand image and therefore most susceptible to reputational damage. Indeed, consumer pressure has been identified as being a 'significant' driver of the decisions by lead firms to adopt sustainable sourcing practices (Salam, 2009: 364; cf. Seuring and Müller, 2008: 1703-1704). In one study of footwear manufacturer Nike, the firm 'faced such a barrage of negative publicity about the working conditions in its supplier factories that, according to its CEO Phil Knight, by 1998 the Nike brand had become "synonymous with slave wages, overtime and arbitrary abuse"' (Roberts, 2003: 164). While complacency over labour-related supply chains risks has undermined a lead firm's reputation in the case of Nike, there are numerous examples (e.g. IKEA, BP) of where proactive management has contributed to its enhancement (van Tulder et al., 2008: 408-409).

A range of different models of sustainable sourcing for labour standards (or 'socially sustainable sourcing') has emerged in recent years, which can be loosely categorised into private regulation, labelling and standards instruments and multi-partite models (Robinson and Rainbird, 2011). The most visible of these are instruments established by multinational firms headquartered in developed economies to oversee the labour practices of their suppliers

based in developing economies. Among the transnational forms of socially sustainable sourcing, private modes generally take the form of corporate codes, which are often formulated and implemented unilaterally and contain a set of basic standards that lead firms expect firms in their supplier networks to comply with. These corporate codes are usually voluntary, but if a lead firm makes adherence a condition of commercial contract within its procurement policy, they can become *de facto* compulsory instruments. The contents of these codes will vary from firm to firm, but may cover issues such as basic labour-related human rights norms (e.g. collective bargaining and freedom of association rights, prevention of child labour and forced labour), wages and benefits, working conditions and workplace health and safety (Amaeshi et al., 2007: 224; Mamic, 2005: 81). Corporate codes are common among firms operating across national boundaries and have been established by two-thirds of the world's 100 largest firms (van Tulder et al., 2008: 399).

Labelling systems underpinned by independent certification and monitoring represent another form of socially sustainable sourcing. Examples of labelling certification with respect to labour standards include the Fairtrade Certification Mark (overseen by Fairtrade International, a multi-stakeholder organisation), which among other things specifies that firms must only source goods from firms adhering the ILO core conventions on labour standards. Sales of Fairtrade goods have increased consistently over the past decade, from around £50 million in 2001 to £800 million in 2009 (Fairtrade Foundation, 2012). The Social Accountability International 8000 (SA 8000) (overseen by civil society organisations) is another such example of labelling. Like Fairtrade, SA 8000 is also an auditable standard overseen by civil society organisations and based on ILO core conventions on labour rights and conditions (Mueller et al., 2009: 514-515; Robinson and Rainbird, 2011: 8-9).

Multi-partite modes of socially sustainable sourcing are instruments overseen jointly by firms and civil society organisations and/or trade unions. These organisations make up the London-based Ethical Trading Initiative (ETI), where the unions and civil society organisation members promote the ETI Base Code (which contains nine principles, including ILO core conventions, a living wage and health and safety benchmarks) to improve sourcing practices among firms that voluntarily become members of the ETI. The ETI undertakes independent audits of practices in member firms' supply chains, lacking the capacity to investigate and enforce themselves. The Fair Labor Association (a similar organisation to the ETI based in Washington DC) audits labour practices in the operations of member firms and firms in their supply chains (Mueller et al., 2009: 515-516) and was recently involved in Apple's investigation of allegations of worker mistreatment in the manufacturing of its components at Foxconn in China (New York Times, 2012).

International framework agreements (IFAs) represent another mode of socially sustainable sourcing. IFAs are bilateral instruments signed between global union federations and multinational firms compelling national subsidiary and supplier firms to abide by specified conditions and fundamental labour rights. Agreements are monitored at a local level by national union affiliates, and as such 'allow trade unions a grip on the global supply chain, thereby extending (core) labour rights beyond national borders' (Hammar, 2005: 525). One study comparing IFAs with corporate codes found that while the latter instruments tend to contain a wider range of conditions, their compliance and sanction mechanisms are much weaker than IFAs, which tend to contain fewer conditions but are implemented much more effectively (van Tulder et al., 2008: 405-408).

Criticisms have been made of unilateral forms of regulation such as corporate codes. These include that they are tokenistic and used opportunistically by firms to enhance their ethical

status, that they offer only specific adherence to minimum standards rather than encouraging best practice, and that they are ineffective due inadequate implementation and monitoring across the supplier network and also because their typically voluntary status makes enforcement difficult (James et al., 2007: 177-178; Park-Poaps and Rees, 2010; Royle, 2010). Some of these shortcomings have also been identified with respect to multi-partite modes of socially sustainable sourcing (Davies et al., 2011), in addition to problems with firms exaggerating the extent to which they are implemented (Roper et al., 2011). The greatest weakness of unilateral forms of socially sustainable sourcing is the lack of involvement of independent third parties in their formulation, implementation and monitoring.

These problems are most acute where lead firms undertake monitoring assessments of supplier compliance internally, which has often prompted external pressure for independent verification (Mamic, 2005: 95-96). Studies of the reasons why firms adopt socially sustainable sourcing mechanisms have pointed to pressure from third parties, in the form of civil society organisations or unions. Typically, these organisations draw the attention of consumers to supplier bad practices, as a way of demonstrating the risks of reputational damage to lead firms. This has also been found to be important in ensuring that socially sustainable sourcing mechanisms are effective rather than tokenistic instruments (James et al., 2007; Roberts, 2003; Seuring, 2008; Seuring and Müller, 2008; van Tulder et al., 2009).

The inclination of lead firms to develop socially sustainable sourcing policies will vary according to circumstances. For instance, different types of lead firms have different degrees of reputational vulnerability. In part this will depend on their reliance on marketing. In part it will also depend upon the extent of monopoly power – variation in the extent to which consumers or commercial clients can shift their business away from firms seen to be engaging in poor sourcing practices. The capacity of a lead firm to influence its suppliers' practices and the length and diffuseness of its supply chain are also critical (Roberts, 2003: 168). It has been argued that the international nature of many supply chains requires unions and civil society organisations to develop strategies that go beyond national borders (Robinson and Rainbird, 2011). For labour regulations to be effective, their sphere of jurisdiction needs to cover all areas where firms may operate, otherwise they can be evaded.

There have been recent regulatory developments at the international level. In 2011, the principle of 'due diligence' was incorporated into the OECD Guidelines for Multinational Enterprises, which set out the social and environmental standards expected of multinational firms operating in any OECD member state. This obliges multinational firms to identify and address any negative impacts that their own commercial practices cause or contribute to within their supply chains. While the guidelines are not mandatory, the incorporation of due diligence is potentially significant. Their application is, however, contingent upon the effectiveness of 'national contacts point' in each OECD member state charged with enforcing the guidelines, many of which do not function effectively.

An effective mechanism for regulating labour standards in an international supply chain is unlikely to develop until more comprehensive action is taken by multilateral institutions such as the OECD and the ILO, or until unions and civil society organisations are able to strengthen and coordinate their activities at a transnational level. The capacity of nation states to implement socially sustainable sourcing instruments can be constrained. Even where developing states have ratified ILO conventions, their ability to enforce compliance with these standards among firms either directly located or with a supply chain presence in their sovereign territory may be limited (Park-Poaps and Rees, 2010: 316-318). Civil society organisations such as Greenpeace, Oxfam and the Fairtrade Foundation have developed

reasonably effective transnational strategies in certain areas, but the primary focus of these groups is on areas other than the regulation of labour standards.

The past decade has seen reforms to the structures of global union federations, some of which have become more effective. But much union activity remains confined to the national or local level. This is hardly surprising, because although international action may be desirable as a means of influence, the legitimacy of unions rests with their capacity to represent workers at the workplace level, and to influence national employment laws. Accordingly, the socially sustainable sourcing strategies of unions have largely focused on supply chains that do not involve sourcing of goods and services from other nation states. Indeed, there has recently been experimentation with national and local socially sustainable sourcing strategies by unions in Britain. This has been identified as a resource-efficient way for reaching difficult-to-organise workers or improving standards in non-unionised supplier firms and industries.

Voluntary forms of socially sustainable sourcing

British unions have increasingly targeted lead firms. They have used the procurement process to organise, extend collective bargaining and improve conditions for workers at the lower tiers of supply chains, especially workers in atypical forms of employment such temporary agency workers. Examples of such strategies being used by unions to organise workers across organisational boundaries are:

- The Public and Commercial Services Union (PCS) achieved statutory recognition on behalf of workers employed by the Adecco recruitment agency at the British Cattle Movement Service in Cumbria. The campaign resulted in all agency workers receiving the same conditions as permanent workers; the lead firm subsequently took measures to employ all workers directly.
- The Communications Workers Union successfully pressured BT Retail to secure recognition agreements with Manpower, which resulted in improved conditions for temporary agency workers.
- The public sector union UNISON has pressured local governments, public schools and hospitals as part of its strategies for gaining recognition and improving conditions among workers employed by large catering and cleaning contractors.
- The Union of Shop, Distributive and Allied Workers worked with the retailer Tesco to establish a recognition agreement covering agency workers at the retailer's distribution centres, which led to a rationalisation of its use of employment agencies.
- The Broadcasting, Entertainment, Cinematograph and Theatre Union used its organisational strength at the British Broadcasting Corporation to organise and establish recognition agreements for various groups of technical specialists engaged as freelancers by internal production units and private production firms.
- Unions have also pressured government bodies to incorporate fair employment principles into their procurements policies. One such example is the National Health Service (NHS) Soft Facilities Management Contractors Staff – Joint Statement negotiated by public sectors unions with the Department of Health and several employer associations. The statement compels NHS contractors to provide their

employees with the equivalent pay and conditions to NHS employees covered by the Agenda for Change agreement (Wright, 2011: 30).

Analysis of union supply chain strategies can tell us something about what factors are likely to make these strategies successful, as well as the strengths and weaknesses of supply chain models of regulation.

i. Winning union recognition with government subcontractors

In one successful case, PCS pressured a central government department as part of a strategy to compel a facilities management contractor towards recognition. The contractor had recently won a competitive tender from the department to deliver its security services, which resulted in the contractor becoming the employer of 1,200 workers across more than 400 sites. The security workers' rates of pay and working conditions were poor and only a small number were union members. PCS embarked upon an organising campaign and managed to recruit around one-quarter of the workforce into the union, but the diffuse nature of the workforce and the use of union avoidance tactics from the contractor prevented any further recruitment. The union had catalogued a list of grievances from workers during the organising process and discovered a number of instances of where the contractor had breached the department's health and safety policy. When the contractor's tender was coming up for renewal, PCS requested that the department pressure the security contractor to recognise the union. PCS claimed that the poor working conditions were undermining safety standards, which was compromising the safety and security of people using the department's services. The union said the department had an obligation to ensure that the safety of workers and service recipients on its premises was protected, regardless of whether it was the direct employer. It threatened to publicise instances of bad working practices unless the department took a decisive stance against the contractor's poor employment relations and labour management practices. Ultimately the department acquiesced and the contractor established a recognition agreement with PCS, resulting in improvements in working practices and employment relations (Wright, 2011: 33-38).

ii. Establishing standards for retail suppliers

The Unite union has also managed to establish collective standards in the meat processing industry by waging campaigns against supermarket retailers. Since the mid-2000s, meat processing firms had become more reliant on temporary agency workers in response to increased cost pressures imposed by the supermarkets to which they supplied, which was acting as a drag upon labour standards across the industry. Through a comprehensive organising campaign, Unite managed to recruit a majority of workers across a majority of sites, but was nevertheless unable to get meat processing firms to sign minimum standards agreements regulating their use of agency workers. Unite then started applying pressure on their retailer clients. In sought to establish dialogue through the ETI (of which many of the supermarkets were members), waged campaigns against a number of retailers by drawing attention of supplier practices to their customers and shareholders and made a request to the Equality and Human Rights Commission (EHRC) to investigate the mistreatment of migrant agency workers in the meat industry. The EHRC found that pressure from supermarket retailers was a key factor contributing to the poor treatment of agency workers in meat industry. Sensing an opportunity to gain a competitive advantage when other retailers were being admonished for failing to take greater responsibility, the retailer ASDA approached Unite with a guarantee that it would ensure its meat suppliers would only engage agency

workers on the same terms and conditions as permanent workers and give them a defined route to permanent employment (Wright, 2011: 39-44).

iii. Establishing and monitoring standards among construction subcontractors

The Union of Construction, Allied Trades and Technicians (UCATT) has developed supply chain strategies to create mechanisms for regulating employment relations and labour standards among lower tier contractors in the building construction industry by demonstrating the benefits of socially sustainable sourcing for managing contractors. The weakening of collective bargaining, the large increase in self-employment and labour-only subcontracting and the trend among large firms to outsource work to smaller, specialised firms combined to make it very difficult for unions to organise in the building construction industry. It has also created circumstances that have made the industry more fragmented in recent decades. These developments have also produced challenges for managing contractors. Coordinating the activities and monitoring the performance of subcontractors to resolve problems that could cause unnecessary delays in completing major projects can be problematic. UCATT has sought address this by convincing managing contractors to engage full-time union convenors – lay representatives elected from among the workers – to address safety issues, resolve grievances and minimise disruptions among the workers engaged by all sub-contractors on major construction sites. The union has also aimed to get managing contractors to create project-wide ‘framework agreements’ to regulate labour standards among lower tier subcontractors, where poor working conditions are most likely to exist. In cases where managing contractors have balked at engaging convenors or establishing agreements, UCATT has sought to take advantage of the protectiveness of managing contractors of their brand image, by threatening to publicise instances of bad working practices among their subcontractors. The union sees reputational risk strategies along these lines as more effective than traditional tactics such as taking industrial action, not only because of prohibitions on secondary action, but also due to the difficulties of mobilising construction workers in a highly fragmented and fluctuating labour market (Wright, 2011: 45-50).

iv. Improving wage standards among subcontractors

Through the Living Wage campaign, a number of unions have worked together with the community organisation Citizens UK to organise various groups of low-wage workers, most notably cleaners. Particularly in large markets such as London, downward cost pressure from large commercial clients in the finance and government sectors on cleaning contractors has induced competition based on cost at the expense of quality. The negative impact of this pressure was felt not only in terms of the quality of service delivery but also on employment conditions, which are characterised by minimum wages, short shifts and minimal employment security, with workers typically having to work multiple jobs to earn enough to survive. Unions and Citizens UK have sought to counter these effects by pressuring large commercial client to pay workers a ‘living wage’ through a multi-pronged campaign. Their tactics have included gaining support from cleaning contractors who recognise that the nature of market competition is not in the industry’s long-term interests, getting support from politicians and the media and targeting the reputational risks of the large commercial clients, such as multinational finance firms (e.g. Citigroup, HSBC, KPMG, Morgan Stanley) and public sector bodies (e.g. government departments, local authorities, universities, hospitals) that are highly vulnerable to negative publicity about poor service delivery or treatment of staff. The success of unions and Citizens UK in developing campaigns based on these tactics have resulted in over 100 large clients becoming ‘living wage employers’ by committing to pay their cleaning contractors enough to grant workers a living wage (Wills, 2008).

Aside from unions and civil society organisations being instrumental in getting lead firms to create sustainable mechanisms in each of these cases, the development of strategies based on targeting these firms' aversion to reputational damage is a common feature of each of these cases. This confirms the findings of previous studies showing that the protection or promotion of commercial interests is a key motive for firms' decisions to adopt sustainable sourcing mechanisms (Ciliberti et al., 2011) and that firms will generally not adopt them unless pressured or persuaded by civil society organisations (Walters and James, 2011).

Despite the advances made by civil society organisations in each of these cases in prompting lead firms to take greater responsibility for the actions of their suppliers, the cases also contain hints with respect to the limits of these strategies. A dynamic may exist among lead firms in highly competitive industries such as retail that is similar to the emergence of widespread bad practices among firms in many supplier industries because intense market competition creates a 'race to the bottom' effect, which acts as a disincentive for firms willing in principle to grant better wages or conditions. If one lead firm places obligations on suppliers to increase labour costs and its competitors do not, the firm must either absorb the costs or pass them onto its customers. Customers may be willing to pay a 'conscience premium' if they associate the lead firm with sustainable sourcing. But there would appear to be limits to how many firms in a given product market can gain a competitive advantage, and increase their market share, through such practices. Moreover, if only a minority of lead firms adopt socially sustainable sourcing mechanisms, it is probable that they would only influence a minority of firms in a given supplier industry. For instance, ASDA only sources from 29 out of around 200 firms in the British meat processing industry. Its decision to regulate the use of agency workers among its suppliers has a relatively minor impact across the whole of the meat processing. A major limitation of voluntary socially sustainable sourcing mechanisms, like any form of voluntary regulation, is that they provide non-compliant firms (at both the lead firm and the supplier firm level) with an opportunity to gain a cost-competitive advantage by undercutting the practices of compliant firms. Moreover, it may be difficult to enforce compliance with voluntary mechanisms among suppliers, particularly in cases when lead firms have adopted them simply to 'head-off' pressure from unions and civil society organisations (James et al., 2007: 177-178). It is probable that compulsory mechanisms would help to address these problems. But is there any prospect of compulsory mechanisms being developed?

Compulsory forms of socially sustainable sourcing

Compulsory mechanisms are established when multiple lead firms competing against each other reach a consensus that it is in their collective interests to regulate the practices of suppliers. The National Agreement for the Engineering and Construction Industry (NAECI) is the only such mechanism that exists in the private sector in Britain. The NAECI also happens to be one of the few remaining multi-employer collective agreements in operation, but differs from other such agreements in that it is a mandatory agreement that applies to employers at all tiers of the contracting chain. It applies to the subcontractors and trade contractors that employ workers directly, to managing contractors engaging lower-tier contractors to perform specialised work, and to lead firms that employ few workers directly other than managerial and administrative staff. The specified aim of the NAECI is 'to remove exploitable differences and provide the structures and procedures through which immediate problems can jointly be resolved, longer-term goals set and reviewed and future action agreed'. It prescribes the rates of pay and conditions to which all parties must abide, meaning that unions cannot claim above and employers cannot pay below these rates. The NAECI's

strength relies on the existence of effective mechanisms for monitoring and enforcing the agreement and resolving disputes and has brought a much greater degree of stability to an industry once renowned for being strike prone. Moreover, the positive role of the agreement in helping to predict labour costs, in resolving disputes and in providing an orderly industrial environment means that it continues to enjoy the support of engineering construction employers (Wright, 2011: 20-21).

The highly specialised nature of work in engineering construction and frequent labour shortages gives workers considerable bargaining power, which provides employers with a large incentive to take labour out of competition. The specific traits of the industry would therefore make it difficult to replicate the NAECI model in other parts of the private sector. With respect to the public sector, there is a civic obligation on governments to guarantee the maintenance of standards among private firms producing goods and delivering services on their behalf. For this reason, it is not uncommon for governments to adopt compulsory socially sustainable sourcing mechanisms through their procurement policies, by obligating private contractors engaged to deliver public services on their behalf to comply with the relevant standards. This is the thrust of ILO's Labour Clauses (Public Contracts) Convention (Convention 94). The ILO Committee of Experts on the Application of Conventions and Recommendations conducted an investigation of the use of Convention 94 in 2008. It found that 'the Convention had suffered in recent years from a lack of interest'. Only five of 61 states to ratify the Convention had done so since 1986 (with only 11 out of 34 OECD member states being signatories). Nevertheless, the Committee supported maintaining the Convention on the grounds that it offers a 'clear, concrete and effective solution to the problem of how to ensure that public procurement is not a terrain for socially unhealthy competition and is never associated with poor working and wage conditions' (Bruun et al., 2010: 476).

The Fair Wages Resolution (FWR) adopted in Britain in 1891 provided the inspiration for ILO Convention 94. It was modified on a number of occasions and, after its most recent amendment in 1946, required private contractors to government agencies to comply with the terms of the relevant industry or occupational agreement or award. The FWR 1946 operated continuously until 1983 when it was abandoned by the Thatcher government, which had denounced Britain's ratification of ILO Convention 94 the previous year. Although the Blair government did not re-ratify the Convention, it did adopt the Code of Practice on Workforce Matters in Public Sector Service Contracts (more commonly known as the 'Two Tier Code') in 2005. The Two-Tier Code had a similar effect to the FWR, in that it forced private contractors to offer new recruits 'employment on fair and reasonable terms and conditions, which are, overall, no less favourable than those of transferred employees' previously employed by the public sector, whose terms and conditions must be preserved'. The Two-Tier Code was, however, repealed by the Cameron Coalition government soon after winning office in 2010.

Mandatory codes supporting socially sustainable sourcing in the public sector continue to operate in Scotland and Wales. The Scottish Executive's procurement laws specify that all private firms on public sector contracts are expected 'to demonstrate a constructive approach to employee relations', recognise the relevant unions, provide their employees with the same wages and conditions as public sector employees and adhere to best practice with respect to health and safety and equal opportunities. A number of local authorities have introduced similar codes to ensure that private contractors provide decent pay and conditions and do not undermine established standards. For instance, the Greater London Authority has a 'fair

employment' clause mandating that the terms and conditions of employment offered by its contractors be no less favourable than those given to its own employees (Labour Research Department, 2005).

Experiments with legally-mandated mechanisms for socially sustainable sourcing in Britain have thus been confined to the public sector. Looking further afield, a number of other states have made private firms at the top of supply chains legally accountable for the practices of their suppliers. For instance, collective bargaining extension mechanisms have been developed in the Netherlands and Germany to prevent the emergence of a two-tier workforce among lower-tier subcontractors in their construction industries (Drucker and Croucher, 2000). Legal extension clauses in Denmark and France have prevented call centres from adopting low wage, low cost business models and focus instead on strategies to develop better service delivery and higher productivity (Lloyd et al., 2010: 462-463).

Legal reforms along these lines have also been established with respect to the clothing manufacturing supply chain in a number of Australian states. The most extensive reforms occurred in New South Wales, where retailers must provide the government and the relevant unions with all details of commercial contracts with their clothing suppliers in order to ensure that outworkers are covered by the relevant industrial agreements and awards. Retailers are also compelled to assist government and union efforts to monitor compliance with employment and health and safety laws among all firms within their supply chain (Rawling, 2006). The New South Wales government has also introduced similar laws for the long-distance road transport industry. In this case, lead firms are legally responsible (at the risk of prosecution) for ensuring that the transport firms they engage do not place unreasonable delivery demands on truck drivers that could risk their occupational safety (even if they are not the employer of the driver) and that each driver has a fatigue management plan. Authorised union officials are empowered to inspect commercial contracts and fatigue management plans in order to monitor compliance with the laws among lead firms and transport firms (Kaine and Rawling, 2010). The intention of these laws in both the clothing manufacturing and road transport supply chains is to improve conditions for workers at the bottom of the chain by regulating the commercial practices of powerful lead firms (usually retailers). Legal-based accountability mechanisms notionally deter lead firms from imposing the unreasonable pressures on their less powerful suppliers that ultimately cause poor labour management practices.

Conclusion

The development of complex supply chains and the growth of corporate social responsibility policies have together served to prompt large firms to adopt systems for managing socially sustainable sourcing. Decisions to adopt these systems are driven by both a positive and a negative incentive. Lead firms at the top of supply chains with reputations to protect can gain a competitive advantage if they are seen to be proactive in encouraging sustainable labour management practices among their suppliers. Conversely, complacent attitudes to negative supplier practices can risk consumer disapproval and the loss of market share. This has implications not only for business strategies but also for the regulation of employment standards. The ever more complex structure of production systems means that employment relations outcomes at one firm are often shaped by outcomes of commercial transactions with other firms. In this context, alternatives to the single employer legal model used to regulate employment relations in Britain and elsewhere need to be considered. As Grimshaw and his colleagues claim:

Limiting the focus to the legal employing organisation ... is becoming increasingly indefensible and inappropriate... We have to move beyond the consideration of organisations and employers as standalone, independent entities. This approach has allowed accountability and responsibility to be passed down the contracting chain in ways that have tended to inhibit employee voice by excluding workers or their representatives from engagement in the design and operation of the inter-organisational contracting arrangements which shape the terms and conditions under which their work and employment is organised (Grimshaw et al., 2005: 285-286).

There is considerable research evidence that socially sustainable sourcing mechanisms tend to be weak and ineffective unless they incorporate a regulatory oversight role for independent third parties, such as unions, civil society organisations and governments. Accordingly, there seems to be a growing interest among firms in mechanisms that address some of the deficiencies of corporate codes developed unilaterally. Indeed, there has been some interesting experimentation with voluntary instruments in Britain that involve input from external organisations, such as unions, in their development and/or implementation. Unions and civil society organisations have often been the catalyst for the introduction of these instruments, particularly through use of strategies targeting the reputational vulnerability of lead firms to convince them to take greater responsibility for their suppliers' practices.

But even if voluntary instruments do involve monitoring from unions or other independent parties, they are unlikely to provide a reliable or universal solution for improving standards for workers engaged by supplier firms, who are among the most likely to face low wages and poor conditions. There are risks that lead firms will abandon voluntary instruments or implement them in a tokenistic fashion and for their adoption to be uneven across different industries and supplier networks. As such, compulsory instruments where the onus of responsibility on lead firms for the labour standards of firms in their supply chains has a legal foundation, rather than a market incentive, are more likely to be effective.

In Britain, there is a history of compulsory instruments being applied to lead firms in the public sector to prevent the degradation of standards among private contractors. Compulsory instruments are still in operation among some national assemblies and local authorities today. However, there is no such legacy among lead firms in the private sector. Given the voluntary tradition of labour market regulation in Britain, the prospect of a compulsory model of socially sustainable sourcing being introduced in the near future seems unlikely. It is also questionable how effective such a model would be, especially in product markets where production can be offshored easily. The use of compulsory mechanisms in these scenarios would run a risk of lead firms deciding to source materials or services from locations where wages are lower or regulations more lax.

The blurring of organisational boundaries between firms and the emergence of complex supply chains, often stretching across national boundaries, present major challenges for conventional models of employment regulation. The persistence of inequality of wealth within and between advanced and developing economies, and inequality of power between different firms at different levels of supply chains, suggests that there is a pressing need for consideration of how effective employment regulation can be developed in ways that accommodate these shifts in the organisation of work and production across firms and borders. Socially sustainable sourcing mechanisms are likely to become more relevant as a result. While there are no easy solutions for making these mechanisms more effective, the question of how to do so is becoming increasingly important.

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