Regulating Global Value Chains to realize labour rights for homeworkers

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SUPPLY CHAIN

01 RETAILOR
Based in US, Japan and Canada

02 BUYER
Based in Canada

03 FASHION HOUSE
Based in Kathmandu, Nepal

04 Local Contractor Based in Kathmandu

05 Home Based Workers in Nepal
Vertical disintegration of production – global value chains

- Technological innovation, lower transport costs, exchange control de-regulation, WTO law (esp the General Agreement on Trade Tariffs); low wages in developing countries; and neo-liberal ideology propagating “labour flexibility”

- Labour flexibility (Standing 1999):
  - “production or organizational flexibility (outsourcing)
  - “wage system flexibility” (the wage-costs of production)
  - “labour cost flexibility” (non-wage component of labour)
  - “numerical flexibility” (risk of low demand)
Smile Curve (Baldwin 2011)
Characteristics of chains that homeworkers participate in

- Mass-produced, labour intensive chains.
  - Product specifications are simple, barriers to entry are low
  - The main driver for brands and retailers is PRICE

- An ILO (2017) global survey of 1454 suppliers from 87 countries:
  - Suppliers face intense competition from other suppliers to produce goods for as little as possible.
  - Buyers continually pressure suppliers to drop their prices.
  - *Up to 52 per cent of suppliers surveyed sign contracts to produce goods at a loss.*
  - Demanding unpaid overtime, keeping wages low, and outsourcing to homeworkers are the suppliers’ primary tactics for keeping costs low.

- Maldistribution is structurally embedded in these chains
Key Regulatory Responses

National

- Homeworkers are ‘disguised employment’ – Labour Law
- Thailand’s HomeWorker Protection Act – Law of Contract
- Supply Chain Legislation (Australia)

Global Level

- Global Framework Agreements
- Human Rights (trade unions)
  - ILO MNE Declaration
  - OECD Due Diligence Guidance for Transparency in Supply Chains
Key challenges from National Legislation perspective

- By homeworker—they fear reprisal.
- An over-supply of labour and their not having union recognition means their fear is well-founded.
- Need for thinking about grievance and enforcement mechanisms

**Enforcement**

**Implications of Enforcement**

- Who is an employment relationship established with: contractor or factory?
- What are the implications for the factory, and country given larger supply chain dynamics? Fear that capital will move.
Human Rights Approach

- **Voluntary instruments**
- “New Governance” regulatory techniques
  - Protocol Committing to Human Rights
  - Train suppliers
  - Labour rights a contractual term
  - Due Diligence of supply chains
  - Use leverage to bring suppliers into line
- Human Rights shift public consciousness

**Implications for HW of OECD instrument**

- Brands may ban homework
- Does not deal with MNE’s procurement practices i.e. structural maldistribution left intact
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WIEGO Law Programme (with ORP)

Theoretically

- Contribute to emerging field of transnational labour law + labour law as a discipline rethinking itself both normatively and conceptually

Practically : ORP and Law Prog

- Strengthening MBOs and Building alliances [ORP]
  - up the chain- - unions, factories?
  - Regional

- Need for research on good practice grievance + enforcement mechanisms
  - Engaging w regulatory theory
  - Australia
  - Thailand