Limitations and perspectives of responsible management of Global Value Chains: From codes of conduct to the French law on the duty of vigilance

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Abstract :

This paper first recall the dynamics of the globalisation and financialisation of GVCs and the way in which they impact social conditions of production. We then present the limitations of voluntary ethical schemes to ensure the sustainable and responsible functioning of GVCs. To deal with these limitations, civil society in France backed a law providing for more stringent forms of regulation based on the recognition that the multinationals managing global value chains have a legal liability. After a lengthy itinerary and despite intense opposition from private-sector actors, the law was adopted on 28 March 2017. This is an innovative law not only with respect to the process employed for its adoption, which involved collaboration between civil society, political actors, trade unions and academic experts, but also with respect to its contents. By combining hard-law and soft-law mechanisms (Abbott and Snidal, 2000), government and private-sector standards, the law reflects a significant change in how responsibility in GVCs is conceived. The paper concludes with an analysis of the reasons why

the French law on multinationals' duty of vigilance, despite its shortcomings occasioned by the search for a political compromise, represents a major initiative in the regulation of GVCs.

Introduction

Over the last thirty years, major firms have reorganised their production on a worldwide scale, which has given rise to globalised coordination systems steered by large-scale producers or powerful buyers. These systems have radically challenged the traditional conception of a company not only as a productive entity organising a group of interdependent activities targeting a specific market, but also as a socio-political entity regulated by a set of collective rules historically constructed in conjunction with government and trade unions (Palpacuer, 2008, 2015; Vercher et al. 2011). These now global value chains (GVCs) (Gereffi, Humphrey, and Sturgeon 2005) have been deployed in various sectors (electronics, garments, automobile and food industries), and their expansion has gone hand in hand with a deterioration of the social conditions of production (Bonacich and Appelbaum, 2000; Hale and Wills, 2007, Phillips, 2011). During the 1990s, these worsening working conditions caused by competitive pressures on GVCs sparked a series of scandals that were publicised by militant movements, who highlighted the linkage between production sites in the Global South and the procurement practices of large companies in the Global North. These scandals were particularly widespread in the textile industry[1] (Bair and Palpacuer, 2012, Vercher et al 2011, Vercher 2010). In response to pressure from activist movements, multinational firms put in place corporate social responsibility schemes such as codes of conduct (Bartley, 2007; Locke et al., 2007a).

[1] Our study focused above all on campaigns relating to the textile industry.

In this paper, we first recall the dynamics of the globalisation and financialisation of GVCs and the way in which they impact social conditions of production. We then present the limitations of voluntary ethical schemes to ensure the sustainable and responsible functioning of GVCs. To deal with these limitations, civil society in France backed a law providing for more stringent forms of regulation based on the recognition that the multinationals managing global value chains have a legal liability. After a lengthy itinerary and despite intense opposition from private-sector actors, the law was adopted on 28 March 2017. This is an innovative law not only with respect to the process employed for its adoption, which involved collaboration between civil society, political actors, trade unions and academic experts, but also with respect to its contents. By combining hard-law and soft-law mechanisms (Abbott and Snidal, 2000), government and private-sector standards, the law reflects a significant change in how responsibility in GVCs is conceived. The paper concludes with an analysis of the reasons why the French law on multinationals' duty of vigilance, despite its shortcomings occasioned by the search for a political compromise, represents a major initiative in the regulation of GVCs.

1. Globalisation of value chains and degradation of the social conditions of production

Since the mid-1980s in the United States and over the following decade in Europe, large firms have radically transformed their production strategies and organisation. They have now extended their value chains beyond national borders by deploying transnational management systems. The use of new information and communication technologies is also driving more sophisticated business activities and their geographic dispersal (Barrientos et al., 2011b, Locke et al., 2013; Seuring and Müller, 2008). This has led to an increasing number of interconnections between companies with complementary activities within these transnational

production networks. As a result, one of the distinctive features of today's globalisation processes is the functional integration of activities carried out in different countries. This was first highlighted in the mid-1990s in management models (Porter, 1998), in geographers' analyses (Dicken, 1998) and in global value chain approaches (Gereffi, Humphrey, Sturgeon, 2005). The GVC approach shows that a new hierarchy is being established between the so-called "lead" firms that design products and brands, and the satellite companies responsible for executing production and sometimes distribution on an international scale. This reconfiguration is quite clearly visible in the studies on these networks in the electronics or garment industries.

The globalisation strategies of lead firms are aimed at outsourcing an increasing share of their production activities to suppliers and subcontractors (Palpacuer et Parisotto, 2003). In parallel, they are focusing their investments more and more on immaterial activities, with a shift towards the financialisation of their governance (Lazonick et O'Sullivan, 2000). During the 2000s, various studies underlined the growing clout of the financial sphere, made up of institutional investors and the top management of the lead firms heading global value chains. This induces a financial steering of globalisation strategies that are judged by the yardstick of return on investment (Healvy and Whalen, 1990). This aspect has become central to how multinational firms are managed and has generated practices of intensive reporting on results and performance destined for the financial markets.

Within the GVCs, this interconnectedness and the global competition for resources have made it possible to reduce production costs, increase flexibility and set up economies of scale on a planetary scale. While these developments enable "pilot firms" to generate ever higher levels of profitability and increase the amounts of liquidities distributed to their shareholders, they operate to the detriment of the working conditions implemented in their suppliers and subcontractors in both the Global South and North, thus generating an unprecedented growth

in inequality (Bair, 2005). Some studies shed light on the logic whereby the demands and pressures of financial markets implicitly transfer risks from shareholders to firms, which, in turn, create mechanisms designed to transfer these risks to employees and suppliers, as shown by the various forms of outsourcing that stretch beyond national borders (Useem, 1996; Lazonick and O'Sullivan, 2000) In line with their strategies to redeploy business activities transnationally, lead firms are able to downsize their core of stable jobs – in other words, jobs that are protected from competitive pressures by a system of rules and norms collectively drawn up with governments and social partners, and which helped to seal the Fordist compromise in the countries of the Global North. However, in parallel, they are creating a growing periphery of precarious jobs that do not benefit from such protection given that, in the Global South, Fordist institutions either do not exist or are very weak. Moreover, against a global backdrop of deregulation, flexibility and what Fichter et al. describe as the « elimination of protective instruments for the decommodification of labor » (Fichter et al., 2010), the reconfigured « core » and « periphery » are placed in competition with one another in new global production systems that induce increasing pressures on working conditions worldwide. As Fichter et al says, « Tightly regulated systems providing for high wages and social protection were made to compete against loosely regulated, lower wage locations in what could be called a 'vicious circle' of global downward competitive pressure on wages and working conditions » (2010).

This darker side of globalisation, obscured in the literature by the prospect of « upgrading » (Gerreffi, 1995) that is supposed to trickle down to South countries through their incorporation into GVCs, was denounced at the turn the 2000s by a feminist and militant literature. These studies mobilised the GVC approach to expose the systematic exploitation of workers, mostly women, in the labour-intensive links at the far end of chains in the Global

South (Carr, Chen, Tate, 2000; Chen, Sebstad, O'Connel, 1999). The degradation of the social conditions of production is particularly visible in the textile industry. Here, the dual phenomenon of the financialisation–globalisation of value chains, coupled with the shortcomings of the regulatory systems and of the protection of labour rights in South countries, means that the procurement practices of the major brands (who manufacture almost none of the garments sold under their names) are exerting increasing pressures on key aspects of the employment relationship in their suppliers' and subcontractors' factories – be it working hours, wages or hygiene and safety conditions (Barrientos et al., 2011a ; OIT 2000).

In the early 1990s, an anti-sweatshop (or "global justice") movement propelled by civil society emerged in the North countries to denounce the proliferating human rights violations in these sweatshops' work environments (Bair and Palpacuer, 2012; Vercher et al. 2011). Much like the militant anti-sweatshop coalition aimed at uncovering the hidden face of globalisation from a social and environmental perspective, new social movements emerged in the 1990s around large-scale media campaigns. These campaigns led to an upsurge of scandals in the United States and northern Europe, which harmed the image of multinationals and caused a tide of mistrust against these firms.

2. Voluntary ethical initiatives and their limitations?

To deal with these scandals, large firms began to set up Corporate Social Responsibility (CRS) schemes designed to ensure a socially responsible functioning of GVCs. In the garment industry – a sector that we specifically focus on with respect to working conditions –, CSR approaches gave rise to the drawing up of codes of conduct. These were established by large firms to ensure that minimum standards were observed by their suppliers and subcontractors. During the 1990s, these codes became a prime tool of CRS and led to a movement described

by some authors as the "code rush" (Sum and Pum, 2005). In conjunction with this fast-growing trend for voluntary ethical schemes, a critical current has emerged in the literature on codes of conduct. This draws on studies and reports produced by activist groups such as the Clean Clothes Campaign in Europe and the Canadian solidarity network, Maquila Solidarity Network, in support of Mexican factories. Within this stream, research focuses more specifically on the characteristics of codes of conduct, the way they are constructed and implemented in the GVCs, and on their underlying assumptions and theoretical references (Vercher et al., 2011). From this angle, a first critique denounces the unilateral nature of codes of conduct and their lack of transparency, mainly regarding the way these are implemented and monitored in factories (O'Rourke 2003, Esbenshade 2004b, Pruett et al, 2005 ; Lock, Quin et Brause 2006). The voluntary and unilateral aspect of these initiatives leads to widely differing practices. Most often, monitoring schemes combine internal evaluations carried out by corporate purchasing departments or a dedicated compliance department and external evaluations by private-sector auditors. To address criticisms about the lack of transparency and independence, some large firms agreed to negotiate in order to improve and harmonise the contents of the codes and the monitoring procedures. This more collaborative approach gives rise to multi-stakeholder initiatives that bring together NGOs and sometimes even trade unions. In this type of initiative, the drafting of codes of conduct incorporates a collective and participatory dimension. Yet, in the late 2000s, studies show that the companies engaged in multipartite monitoring schemes were still very much in the minority. More importantly, these initiatives do not include their supposed beneficiaries – i.e., the subcontractors' employees – in their preparation, management and monitoring schemes. The most democratic drafting processes call on the international trade union confederations. These confederations participate in some multipartite initiatives – some of them have also proposed their own code – but only represent unionised employees in a global textile industry

where the rate of trade union membership is 4%. NGO reports denounce the lack of worker involvement in the monitoring schemes. The findings of one-off studies show that, when a code of conduct is implemented in their factory, very few workers are even aware of its existence.

Drawn up in the corporate headquarters of large firms, these codes of conduct reflect a contract-based approach. They rely on a procedural rationale whose ultimate purpose is to produce catalogued standards and monitoring schemes to enable evaluation of the subcontractors' compliance with the standards produced, rather than engage in a genuine process of change (Frenkel, 2001; Mamic, 2004; Newell et Wheeler, 2006 ; Barrientos and Smith, 2007 ; Sum, 2010 ; Egels-Zanden, 2014, Egels-Zanden, Lindholm, 2015). They are in line with what Lund-Thomsen and Lindgreen (2014) describes as a "compliance-based model" of CSR.

Another limitation of codes of conduct is that they induce a transfer of responsibility from the order-givers to their subcontractors. The literature on working conditions in GVCs concurs that the procurement practices of large firms constitute a fundamental component of the overall analysis. Studies have established a link between the order-givers' procurement policies (mainly regarding prices and lead times) and working conditions at the subcontractors' sites, particularly with respect to wages and work hours. In the rare field studies carried out, interviews with suppliers and subcontractors show that the competitive pressures imposed on them limit their capacity to improve working conditions in their factories (Barrientos et Smith, 20007, Ascoly et al, 2009). Yet, codes of conduct have no impact on the procurement practices of the firms that establish and adopt them. These codes of conduct do not actually change the procurement practices of the firms that establish and enforce them. Their purpose is to set the minimum work standards with which suppliers and

subcontractor have to comply, and also to provide for monitoring and verification systems that determine whether orders with a given supplier will be continued or stopped. This then gives them a basis on which to build their corporate communication strategy directed at civil society (Vercher et al., 2011). In fact, the codes of conduct actually transfer responsibility from the strongest actor in the system – whose practices are not called into question – to to the weaker actor, who is asked to improve a situation in a system in which it plays only a limited role. The pressures exerted on suppliers both by the order-giver – in terms of price, quality and purchase lead times – and by the shareholders – in terms of expected returns on investment – are not challenged by these schemes. This shifting of responsibility feeds the paradoxical dimension of these codes and is highlighted by the critical stream of the literature. According to the critical stream, firms are thus placing their suppliers and subcontractors in a paradoxical situation: on the one hand, lead firms are toughening up their procurement practices and, on the other hand, the codes of conduct they adopt are increasingly sophisticated. As field studies on working conditions in factories have shown, suppliers and subcontractors are tempted to manage these contradictory pressures by manipulating various compliance standards such as work hours and the use of precarious employment contracts by falsifying time-sheets and work schedules. These practices have been confirmed by various studies on the effectiveness of monitoring systems and factory audits, showing that these schemes fail to detect manoeuvres by suppliers and subcontractors to circumvent compliance requirements.

Far from helping to regulate the behaviour of all the actors to ensure the responsible functioning of GVCs, the codes of conduct shift the ethical responsibility – and with a greater share of market risk – to the weaker actors, in this case the subcontractors. In the event of non-compliance with the ethical procedures, it is in fact the suppliers that runs the risk of losing their orders. The limitations of this “compliance-based model” of CSR stems from the

fact that the model is basically grounded on a form of methodological individualism that fails to take into account power relations and their effects in the functioning of GVCs.

The recent tragedies that caused the death of hundreds or thousands of garment workers have revealed the ineffectiveness of the « compliance-based model ». And, it should be remembered that the Karachi-based factory and some of the buildings in Rana Plaza had been certified as compliant with international standards shortly before the fatal incidents happened (AFL-CIO 2013; Clean Clothes Campaign/SOMO 2013). The Rana Plaza tragedy - which occurred 17 years after the Nike scandal - reveals the inadequacy of voluntary ethical schemes. The following observation was made by one of the activist movements: « *We realised that twenty years of simple appeals to companies or voluntary initiatives were not enough to put a stop to tragedies, notably in the textile industry* » (Nayla Ajaltouni, director of the Collectif Ethique sur l'Etiquette - Amnesty International, 2017[2]). There is a long list of industrial catastrophes for which the entity responsible - i.e. the firm that exercises a real power over the production conditions in the GVC and takes advantage of the competitive pressure - is difficult to reach. Thinking on the subject has now turned to new ways of conceiving responsibility within the GVCs. In France, it was this new challenge that led a group of diverse actors - NGOs, politicians, trade unions and experts - to back a draft bill to tackle the irresponsibility of multinationals in many sensitive areas: the breach of human rights, health and safety, and the environment.

3. Between hard law and soft law: the French law on the multinationals' duty of vigilance

[2] Amnesty International. *Entreprises, Il était une fois une loi.* https://www.amnesty.fr/responsabilite-des-entreprises/actualites/entreprises-il-etait-une-fois-une-loi.

The Law of 28 March 2017 on the Duty of Vigilance for the parent and order-giving companies introduced an obligation of vigilance[3]. Concretely, this requires the dominant company to draw up and implement a vigilance plan. The scope of vigilance that the dominant company is required to implement goes further than its own activities to include the activities of any directly or indirectly controlled companies, and its subcontractors and suppliers. The law specifies that the plan shall implement « *appropriate measures of reasonable vigilance in order to identify risks and prevent serious breaches of human rights and fundamental liberties, health and security of people as well as environment in the various relevant entities* » (Loi n° 2017-399). The dominant firm can be notified by the judge that it is required to comply with its obligation. The law also adds that non-compliance with this obligation engages the personal responsibility of the dominant firm. In future, multinationals must thus have a vigilance plan specifying how they manage the risks linked to human rights within their value chain. For example, a multinational in the textile industry that knows that some 13,000 female workers in its chain work in a building liable to collapse is obligated to take measures to prevent the building from actually collapsing. If the firm has identified this risk in its vigilance plan but has not taken all reasonable steps to avoid the collapse, or has made no attempt to try and relocate its workers, in the event of damages, the victims can now initiate legal action against the order-giving firm and not just against the subcontractors. Remember that, in the case of Rana Plaza, the female workers had warned that the building was riddled with cracks and that it was becoming dangerous to work there. The parent company could not claim that it was unaware of the risks.

[3] Loi n° 2017-399 : www.legifrance.gouv.fr/eli/loi/2017/3/27/ECFX1509096L/jo/texte.

The French law on the duty of vigilance has concretised an ambition expressed by civil society, and therein lies one of its particularities (Amnesty International, 2017). The initiative stemmed from the NGOs who, faced with the inadequacies of voluntary ethical initiatives to lastingly regulate the functioning of the GVCs, undertook to draft a law. Four of them – the CCFD - Terre Solidaire, the Collectif Ethique sur l'Etiquette (ESE), Sherpa, Amnesty International France – played a driving role in drafting and getting this law passed by working together with trade unions, politicians and experts. Several pundits insist on the « unique itinerary » of a law initiated by civil society and which successfully found its conduits and relays to mobilise government and Parliament – despite the ambient scepticism and massive opposition notably from the French association of private enterprises (AFEP).[4] It was certainly this unprecedented alliance between civil society, trade unions, politicians, academic experts, lawyers and economists that enabled the emergence of the law following four years of intense struggle. While the opposition encountered failed to bury the bill, it did slim it down considerably. According to Nayla Ajaltouni, director of the Collective ESE, the first version proposed was « truly revolutionary » (Amnesty International, 2017). This watering-down explains why the law at first sparked little enthusiasm from the pundits. Some feared that the final text adopted, which fell very short of initial ambitions, would lack effectiveness. The proponents of the law regretted that it finally incorporated a minimum staff threshold for the application of a vigilance plan. The law thus applies only to multinational firms whose registered offices are located in France and which employ at least 5,000 employees on French territory.

[4] L'association française des entreprises privées (French AFEP), which groups together the leaders of the CAC 40 companies, viewed this law as a major threat to the competitiveness of firms. This argument implies that French multinationals would prefer to violate human rights and remain operating in breach of the law. This is an argument that the promoters of the law regularly voiced to political leaders to criticise corporate management and the economic world.

Despite the shortcomings stemming from the search for a political compromise, this legislative mechanism nonetheless merits analysis. In fact, it represents that first French initiative that makes it possible to go beyond soft-law mechanisms (i.e. companies' voluntary initiatives) and envisage more stringent forms of regulation based on the recognition of the legal liability of multinational firms heading global value chains. The law on the duty of vigilance appears as an innovative mechanism that combines soft- and hard-law measures and organises a distribution of roles: the legislation sets the objectives to « identify risks et prevent serious breaches of human rights and fundamental liberties, health and security of people » (Loi n° 2017-399) and leaves it up to the companies to develop the means of achieving these objectives (Tachs, 2017 ; Vernac 2017). For lawyers, the law signals the setting up of a co-regulation system: the vigilance plan, a soft-law measure, is made compulsory by law. The legal norm and the private-sector norm are not at odds, but rather complement each other. Via the vigilance plan, the law requires firms to develop their own soft-law measures. The regulatory effects of this law hang on the combination of these two different mechanisms (Vernac, 2017, Sachs, 2017).

In addition to these combined mechanisms, it is important to underline that this law is likely to exceed the structural limits identified in traditional soft-law mechanisms such as codes of conduct. On the one hand, the duty of vigilance is based on the recognition of power relations within the GVCs. On the other hand, the procedure for developing the vigilance plan goes beyond the unilateral character of codes of conduct and the lack of transparency in the implementation of monitoring systems. In fact, as currently envisioned by the law, the drawing up of the vigilance plan relies on involvement of the stakeholders and the fact they can verify enforcement of the plan.

Recognition of power relations in GVCs

The law lays the duty of vigilance on the dominant firm. By doing so, it recognises the dependency relationship established by the firm vis-à-vis its subcontractors and links the firm to a liability. It is indeed the relationship of domination as such that establishes the duty of vigilance. This rationale clearly emerges in the demarcation of the scope of vigilance. It covers firms that are within the « sphere of influence » of the dominant firm. The text is also aimed at the direct or indirect subsidiaries, subcontractors and suppliers with which an established trade relationship is maintained. As the French Constitutional Council underlined, the « nature of these firms » activities, their employees, their economic importance or the location in which they are established matter little. All that counts is the nature of the power relationship between the 'dominant' company and its partners (Sachs, 2017). The duty of vigilance thus appears as the corollary of the exercise of a power and influence recognised by law. The power of multinationals in France has been built on several legal instruments that limit liability. Among these is the recognition of the independence of legal persons and territoriality, which has led to a private-sector power that is beyond state control and involves no correlative liability. The important contribution of the law is to recognise the underpinnings of this private power by lifting the corporate veil separating the dominant firm from its subsidiaries, subcontractors and suppliers. The law does not condemn the power of one firm over another, but rather uses the recognition of this relationship to introduce a liability It reconstitutes territorial continuity and follows power all the way down the GVC. I also aims to go beyond a legal segmentation and fragmentation of the productive process and rethink the techniques of attributing liability so as to identify the holders of power and make them accountable (Vernac, 2017, p.194). It creates mechanisms for the accountability of multinationals and, via the duty of vigilance, requires them to engage in a reflexivity. The duty of vigilance means that one has to think about the consequences of what one does with

one's power. The exercise of reflexivity that the law requires of multinationals could constitute a path that leads them to call into question their procurement practices.

Mobilisation of stakeholders and the transparency of practices

The dominant firm has to elaborate a vigilance plan that includes « risk mapping », regular evaluation processes to assess the situation of the different business partners and « appropriate actions to mitigate risks and prevent serious violations » . The plan is designed « to be drawn up in collaboration with the firm's stakeholders, if necessary, as part of multiparty initiatives within the industry or at a territorial scale » (Loi n° 2017-399). The text encourages a multi-party approach without making it compulsory. Yet, regarding the content of the vigilance plan, it is difficult to imagine that the dominant company could do without the help of local actors from the sites where the different activities are established. However, identifying the « stakeholders » raises questions. To all appearances, the stakeholders include all actors whose interests may be impacted by non-compliance with the duty of vigilance: subsidiaries, subcontractors, suppliers, NGOs, consumer protection associations, etc. The text does not include any requirement regarding the identity and legitimacy of the actors of the consultation. This process seems to be based on self-regulation. It is thus up to the stakeholders to organise themselves. Note that, as the involvement of stakeholders is not legally binding, it is unlikely that a stakeholder who has not been asked to participate in the consultation process can take legal action to remedy this.

The law also provides for monitoring of the enforcement of the vigilance plan by the stakeholders. Some of them, such as factory workers or local populations, are in a privileged position to evaluate the implementation of the duty of vigilance. So that stakeholders can feedback the information and so that the information they provide cannot be used against

them, the law specifies that the plan must include « a process for whistleblowing and collecting reports related to potential or actual risks, established in conjunction with trade union organisations representing the dominant firm » (Loi n° 2017-399). In addition, the dominant firm is subject to an obligation of transparency, meaning that it must disclose all the vigilance measures implemented and promote prevention and verification by the stakeholders. The law stipulates that the vigilance plan and the report on its effective implementation must be made public and included in the firm's non-financial report.

In order that the duty of vigilance help to avoid the occurrence of damages, the law attempts to allow stakeholders to activate measures of constraint preventively. Thus, when a firm that has been given formal notice to comply with the legal obligations defaults, the judge can order it to comply. The law provides that the judge may intervene at the request of « any person who has a legitimate interest », meaning notably workers in the different factories, but also the local populations, consumers and environmental protection organisations. Herein lies all the utility of the obligation of transparency: it allows potentially impacted individuals and communities to examine the risk maps and the measures taken to manage these risks. The effectiveness of the duty of vigilance is based on the fact that all stakeholders are informed and, certainly, the public communication of the plan and the report on its implementation is fundamental to the prevention of abuses.

Conclusion

In addition to the concerns about its ineffectiveness, it is important to note that the law establishes the recognition of a relation of power within the GVCs. Recognition of this power appears as the first step towards recognising a liability. This is indeed one of the underpinnings of labour rights in France, as their progress depends on recognising the power

that at employer exercises over an employee. Beyond the questions left unanswered by the law – and which to a large extent will depend on its effectiveness –, it is important to emphasise the law's ambition. By rethinking the ways of attributing liability in order to identify those holding power within a GVC and thus attribute liability to these entities, the rationale behind the law seems consistent with the structure of the economic power that it frames. It is this coherence that provides the potential to systemically and lastingly improve the functioning of GVCs.

The French law on the duty of vigilance should be seen in relation to other hard-law initiatives identified at international level and in Europe[5]. Several EU member states have already adopted provisions to fight against some types of violations of human rights. The United Kingdom has passed the Modern Slavery Act. The Netherlands has adopted legislation against child labour. Yet, it seems that, so far, no law has such a broad a scope of application in matters of human rights violations as the law on the duty of vigilance. Neither does any other law contain the requirement for firms to create vigilance plans. This is what constitutes the originality of this law in the European arena. Its adoption in France was, for the civil society actors that supported it, a crucial moment in the fight against the impunity of the most powerful actors of international trade. While, for its proponents, the French law represents the maximum of what exists, they also see it being the minimum of what should follow on at European and international level. Civil society mobilisation will also focus on the effective and honest implementation of the law, which will partly depend on the boldness of the judiciary to make use of the liability mechanisms provided by the law.

Bibliography

[5] Le Forum Citoyen pour la RSE, 2016, *Face à l'impunité des multinationales, l'Europe avance* : www.forumcitoyenpourlarse.org/infographie-sur- le-devoir- de-vigilance- en-europe- nouvelle-publication- du-fcrse

Abbott, K. W., & Snidal, D., 2000, *Hard and Soft Law in International Governance* , Scholarly Paper No. ID 1402966, Rochester, NY: Social Science Research Network.

Amnesty International, 2017, *Entreprises, Il était une fois une loi*. https://www.amnesty.fr/responsabilite-des-entreprises/actualites/entreprises-il-etait-une-fois-une-loi.

Ascoly N., Merk J., 2009, Cashing In, Report Clean Clothes Campaign, February, Amsterdam.

Bair J., 2005, « Global capitalism and commodity chains : looking back, going forward », *Competition and Change,* 201 (36), 103-120.

Bair, J., Palpacuer, F., 2012, From Varieties of Capitalism to Varieties of Activism: The Antisweatshop Movement in Comparative Perspective. *Social Problems*, *59*(4), 522–543.

Barrientos S., Smith S., 2007, « Do workers benefit from ethical trade? Assessing codes of labour practice in global production systems », *Third World Quarterly*, 28(4), 713–729.

Barrientos, S., Gereffi, G., Rossi, A., 2011a, « Economic and social upgrading in global production networks: a new paradigm for a changing world », *Int. Labour Rev.* 150 (3-4), 319-340.

Barrientos, S., Mayer, F., Pickles, J., Posthuma, A., 2011b, Decent work in global production networks: framing the policy debate. International Labour Rev. 150 (3-4), 299-317.

Bartley, T., 2007, Institutional emergence in an era of globalization: the rise of transnational private regulation of labor and environmental conditions. Am. J. Sociol. 113 (2), 297-351.

Bonacich, E., & Appelbaum, R., 2000, *Behind the Label: Inequality in the Los Angeles Apparel Industry,* Berkeley: University of California Press.

Dicken P., 1998, *Global shi s: the internationalisation of economic activity*, Guildford Press.

Esbenshade, J, 2004a, « Codes of conduct : Challenges and opportunities for Workers'Rights », *Social Justice,* 31(3), 40-59.

Esbenshade, J, 2004b, *Monitoring Sweatshops: Workers, Consumers, and the Global Apparel Industry*, Temple university press.

Egels-Zandén N., Lindholm H., 2015, « Do codes of conduct improve worker rights in supply chains? A study of Fair Wear Foundation », *Journal of Cleaner Production*, 107(16), 31–40.

Fichter, M. 2009, « Financialization of Capital - Deterioration of Working Conditions », *5th Global Labour University Conference,* Taba Institute for Social Sciences, Mumbai, India, 22-24 February.

Fichter, M., Helfen, M., Sydow, J., Dreyling, J. 2010, « Governing Labor across Borders. Trnanational Unionism and Global Production Networks », *5th SASE Annual Conference,* Temple University, 25 June.

Frenkel, S., 2001, « Globalization, athletic footwear commodity chains and employ- ment relations in China ». *Organization Studies*, (4), 531-562.

Gerrefi G., 1995, « Global production system and the third World development », in Stallings B. (Ed.), *Global Change, Regional Response : The new international context of development,* New York, Cambridge UP.

Gereffi G. Humphrey J., Sturgeon T., 2005, « The governance of global value chains », *Review of International Political Economy*, 12, vol. 1, p. 78-104.

Hale, A., & Wills, J. 2007, « Women Working Worldwide: transnational networks, corporate social responsibility and action research », *Global Networks*, *7*(4).

Healy P.M, Wahlen J.M, 1999, « A review of the earnings management literature and its implications for standards setting », *Accounting and horizons*, December, 365-383

Lazonick W., O Sullivan,M., 2000, « Maximizing shareholder value: a new ideology for corporate governance », *Economy and Society*, 29 (1), p.135 35.

Locke, R.M., Kochan, T., Romis, M., Qin, F., 2007a, « Beyond corporate codes of conduct: work organization and labour standards at Nike's suppliers » , *International Labour Review ,* 146 (1-2), 21-40.

Locke, R.M., Qin, F., Brause, A., 2007b, « Does monitoring improve labor standards? Lessons from Nike », *Industrial Labor Relations Review*, 61 (1), 3-31.

Locke, R.M., Rissing, B.A., Pal, T., 2013, « Complements or substitutes? Private codes, state regulation and the enforcement of labour standards in global supply chains » . *Br. J. Industrial Relations,* 51 (3), 519-552.

Lund-Thomsen P., Lindgreen A., 2014, « Corporate Social Responsibility in Global Value Chains: Where Are We Now and Where Are We Going? », *Journal Of business Ethics*, 123, 11–22.

Mamic, I., 2004, *Implementing Codes of Conduct: How Businesses Manage Social Performance in Global Supply Chains*, Greenleaf Publishing, Sheffield, UK.

Mamic, I., 2005, « Managing global supply chain: the sports footwear, apparel and retail sectors », *Journal of Business Ethics* , 59, 81-100.

Newell P., Wheeler J., 2006, *Rights, resiurces and the politic of accountability*, Zed books, London.

OIT, 2000, *Labour practices in the footwear, leather, textile and clothing industries,* Octobre.

O'Rourke D., 2006, « Multi-stakeholders regulation : privatizing or socializing global labor standards », ? *Competition and change*, 34, 899-918.

Palpacuer F., Parisotto A., 2003, « Global Production and Local Jobs: Can global production networks be used as levers for local development ? » *Global Networks: a journal of transnational affairs*, 3 (2), 97-120.

Palpacuer F., 2008, « Firme réseau globale et réseaux transnationaux d'ONG: vers un nouveau mode de régulation », *Revue de la Régulation*, 2.

Phillips, N., 2011, « Informality, global production networks and the dynamics of 'adverse incorporation' » *Global Networks*, *11*(3), 380–397.

Porter, M. E. 1998. 'Competing Across Locations'. In M. E. Porter, *On Competition*., Boston, MA: Harvard Business School Publishing.

Pruett D. Merk J., Zeldenrust, I., Haan E., 2005, *Looking for a quick fix : how weack social auditing is keeping workers in sweatshops,* Clean Clothes Campaign, Amsterdam.

Sachs T., 2017, « La loi sur le devoir de vigilance des sociétés-mères et sociétés donneuses d'ordre :les ingrédients d'une co-régulation », *Dalloz, Revue de droit du travail*, 6, 380-390.

Sum, N-L., 2009, « Articulation of xNew Constitutionalismx with New Ethicalism: WalMartization and CSRization in Developing Countries », in Utting P. and J. Marquez (Ed.), *Corporate Social Responsibility and Regulatory Governance : Towards Inclusive Development ?,* London, Palgrave.

Sum, N.-L., 2010, « Wal-Martization and CSR-ization in Developing Countries »., In *Social Responsibility and Regulatory Governance: Towards Inclusive Development?,* Utting,P. and J. C. Marques, London: Palgrave, 50–76.

Sum, N.-L., Ngai, P., 2005, « Globalization and Paradoxes of Ethical Transnational Production: Code of Conduct in a Chinese Workplace », *Competition & Change*, *9*(2), 181–200.

Sum, N-L, Pun N., 2005, « Globalization and paradoxes of ethical transnational production : codes of conduct in a Chinese workplace », *Competition and Change*, 9, 181-200.

Useem M., 1996, *Investor capitalism. How money managers are changing the face of corporate America*, New York, Basic Books, HarperCollins.

Vercher C., 2010, « Chaines globales de valeur et responsabilité sociale des firmes de l'habillement. Le cas d'Ethique sur l'Etiquette. », *Revue Française de Gestion,* 201, 177-193.

Vercher C., Palpacuer F., Charreire Petit S., 2011, « La responsabilité sociale des entreprises au sein des chaines globales de valeur : étude comparative des codes de conduite et des systèmes d'alerte éthique », *Revue Française de la Régulation,* n° 9.

Vercher C., Palpacuer F., 2013, « Les Chaînes Globales de Valeur : Une lecture (re) contextualisée et (re)politisée de la RSE », in Chavy F., Sobel R. et Postel N. (coord.), *Dictionnaire Critique de Responsabilité Sociale*, Lille, Éditions du Septentrion, Collection « Capitalismes-éthique-institutions », 38-44.

Vernac S., « Quelle(s) finalité(s) de l'entreprise », in Capron M., Chanteau JP., Martin-Chenut K., «*Entreprise et responsabiité sociale en quetsions,* Classiques Garnier Paris, 185-200.