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Are Multinational Companies Responsible for Working Conditions in Their Supply Chains? From Intuition to Argument

Abstract: Although many people seem to share the intuition that multinational companies (MNEs) carry a responsibility for the working conditions in their supply chains, the justification offered for this assumption is usually rather unclear. This article explores a promising strategy for grounding the relevant intuition and for rendering its content more precise. It applies the criteria of David Miller's connection theory of remedial responsibility to different forms of supply chain governance as characterized by the Global Value Chains (GVC) framework. The analysis suggests that the criteria for identifying MNEs as remedially responsible for bad working conditions in their direct suppliers are fulfilled in many cases, even though differentiations are required with regard to the different supply chain governance structures. MNEs thus have a duty to make sure currently bad working conditions in their suppliers are changed for the better. Moreover, since production in supply chains for structural reasons continuously generates remedial responsibility of MNEs for bad working conditions in their suppliers, it puts the prospective responsibility on them to make sure that their suppliers offer acceptable working conditions. Further, it is suggested that the remedial responsibility of MNEs might require them to make financial compensation to victims of bad working conditions and in grave cases initiate or support programs to mitigate disastrous effects suffered by them.

1. Introduction

The globalized mass production of cheap consumer goods by large multinational enterprises (MNEs) has a notorious dark side:¹ working conditions in factories, suppliers and sub-contractors of the MNEs in developing countries are often appallingly bad.² This concerns issues like child labour, safety conditions, dis-

¹ For reasons of scope and focus I will exclude ecological questions in this Paper and focus only on the human dimension of production in global supply chains.

² When referring to 'bad' or 'poor working conditions' in this essay I mean basically conditions that violate the *Universal Declaration of Human Rights* (UDHR) or the *ILO core conventions*. This includes below subsistence wages among bad working conditions (cf. Article 23, section 3, and Article 24 of the UDHR), URL: <http://www.un.org/en/.../udhr/index.shtml>; http://www.ilo.org/asia/decentwork/dwcp/lang-en/docName-WCMS_143046/index.htm (26.6.2011).

ciplinary measures, pay, overtime regulations, maternity leave, the possibility of workers to build unions etc. Sadly, in many cases it even concerns issues of slavery and slavery-like conditions.³

As became clear in the 1990ies in the course of public campaigns directed at big brands such as Nike who were found to sell products made under strikingly poor working conditions (in so-called ‘sweatshops’), public opinion seemingly holds that global firms do carry a responsibility for working conditions in their supply chains—including the ones at their legally independent suppliers and sub-contractors.⁴ Often this public opinion or social expectation is in fact cited as the actual *grounds* for MNE’s responsibility towards the people in their supply chains, such as in the influential *Ruggie-Report* devised on behalf of the UN: “[...] the broader scope of the responsibility [of business] [...] is defined by social expectations—as part of what is sometimes called a company’s social licence to operate.” (Ruggie 2008, 16–7) This perspective then relies on an *empirical-social understanding* of MNEs’ responsibility.⁵

As a result of the pressure brought about by these social expectations MNEs have indeed started to take on the responsibility the public claims they have concerning their supply chains. However, they mostly did (and do) so only insofar as they fear reputational problems when not fulfilling the public’s expectations because of their potential negative economic consequences. Based on the same logic business ethics usually tries to argue that there is a ‘business case’—meaning an *economic* argument—for corporate social responsibility (CSR) measures, including those directed at improving working conditions in supply chains. As Vogel (2005) pointed out, such an economic argument seems to work for some cases, but not for others. Whereas it might be applicable to the most famous brands because of their high visibility and consequent vulnerability to reputational damage, for most other firms it may well not apply.

In this article I am not interested in the question of a business case for acting according to said social expectations, and neither am I concerned with the empirical-social understanding of MNE’s responsibility towards the people in their supply chains. Rather, I want to explore the *genuinely moral* justification of MNE’s responsibility for working conditions in their supply chains—especially with regard to their legally independent direct suppliers and contractors. Whereas it is rather easy to justify that MNEs are responsible for the working conditions in their *own* facilities, it is much more difficult to justify why they should also be responsible for working conditions in their legally independent suppliers. This point was exploited by MNEs when confronted with the public criticisms with regard to poor working conditions in their supply chains: they pointed out that the suppliers were not legally part of their firm but inde-

³ For an overview of the empirical issues see for example Hartman et al. 2003, for modern slavery e.g. Manzo 2005.

⁴ See e.g. Mamic 2005.

⁵ It is possible though to understand this social view of responsibility as a moral justification. In this sense, for example Donaldson/Preston 1995 and Gray et al. 1988 argue that a firm’s responsibility (in the sense of accountability) to society is grounded in a social contract between business and society, with business deriving its existence from society. I will not here pursue this line of reasoning any further though.

pendent and therefore the only ones responsible for the problems. The public, though, was unimpressed by this reasoning and insisted that this didn't absolve the MNEs from their responsibility concerning the matter.

Now, I want to treat this public opinion not as a *justification* of MNE's responsibility, but as a *moral intuition* holding that multinational companies are *indeed responsible* for working conditions in their supply chains. The question I want to explore then is: How can the public intuition be philosophically justified that multinational companies are responsible for the working conditions of the people in their supply chains—especially with regard to legally independent direct suppliers?

There are of course different lines of argument one could try to develop to answer this question. It is not my goal to look at all of them, and neither do I want to retell the whole philosophical debate on responsibility generally and corporate social responsibility particularly. Rather, I want to present one specific course of argument that seems interesting and illuminating to me: one which focuses on the structural dimension of production in supply chains and their implications for the ascription of responsibility. To devise a moral analysis of MNEs' responsibility for working conditions in their supply chains I will apply David Miller's (2007) theory of responsibility to Gereffi et al.'s (2005) influential framework on supply chain structures.

The reflections are set on a rather abstract level, which is unavoidable when devising a general normative argument—however it has the downside of abstracting from the actual individual production processes and circumstances. I accordingly concede that they might not be adequate for all real cases without further specifications and amendments. Nevertheless I think that they offer some interesting general insights.

The essay proceeds as follows: *Section 2* is concerned with the structure and governance of supply chains of multinational companies. To account for the general properties and the diverseness of supply chains I distinguish five types of supply chain structures and their governance drawing on Gereffi et al.'s (2005) influential framework from economic sociology. In *section 3* I distinguish between prospective and retrospective responsibility along the lines of legal concepts of responsibility. In *section 4*, I present David Miller's (2007) connection theory of remedial responsibility with its central distinction between outcome responsibility and remedial responsibility, and apply it to our question. In *section 5*, I discuss a common counterargument to my claims. Finally, I sum up the conclusions.

2. Global Supply Chains of Multinational Companies and Their Governance

When claiming that MNEs have a responsibility for the working conditions in their supply chains, it seems plausible to assume that this has something to do with certain structural properties of production in supply chains. To explore

this possibility we will therefore start by looking descriptively at supply chains, their structure and governance.

The term ‘supply chain’ as well as the term ‘value chain’ refers to all activities that are necessary to bring a product from its designing, the extraction of raw materials through the different stages of production, storage and distribution to the consumer.⁶ In the process of globalization, multinational firms have outsourced more and more stages of their supply chains to lower production costs, many of them to legally independent contracting firms in developing low-wage countries, which in turn outsource to sub-contractors and so on. In this process, they have become ever more inter-connected with other firms, especially their so-called ‘suppliers’ who provide them with raw and intermediary goods and services. The interconnectedness is so high that it results in a network consisting of the multinational enterprise (the *lead firm*) and the businesses it cooperates with, which is also called the *Extended Enterprise*.⁷ Complex supply chains thus are nowadays a highly important integral part of the business of MNEs. Since questions of responsibility get ever more complicated the further away we get from the MNE, I will focus in this paper on analyzing the relationships between MNEs and its direct suppliers.⁸ Nevertheless, much of what will be said could be used to assess questions of responsibility with regard to other actors in the supply chains as well.

The power relations and forms of coordination of the economic activities of the different actors within the supply chain are referred to as supply chain *governance*. With regard to their structure and governance, supply chains display important differences throughout different business sectors and individual businesses—in fact the connectivity between the firms of the Extended Enterprise can be of very different types and vary in degree and duration. Nevertheless, they also have important similarities. Since these factors are relevant when examining questions of responsibility, we will briefly look at some typical governance structures of supply chains with the help of an influential framework from economic sociology called *Global Value Chains* (GVC) (Gereffi et al. 2005). GVC, which systematically depicts actors and the linkages between them within global supply chains, distinguishes between five analytical types of value chain governance. These types don’t necessarily apply to entire supply chains, but rather to relations between different actors *within* entire supply chains. Although the categorization naturally constitutes an abstraction, it is helpful for bringing into focus certain structural properties that are important for our topic. According to GVC, the main types of supply chain structures are *Hierarchies*, *Captive value chains*, *Relational value chains*, *Modular value chains*, and *Markets*.

In *Hierarchies*, the supplier is part of a vertically integrated firm with direct administrative managerial control from headquarters over subordinates in an

⁶ Some authors also include the stages after the use of the product, namely those when it becomes waste, including thus the whole life cycle of the product.

⁷ See e.g. <http://jpfarrell.blogspot.com/2008/04/extended-enterprise.html>.

⁸ For an interesting approach to determining the limits of MNEs’ responsibility within supply chains see Ameshi et al. 2008.

offshore subsidiary or affiliate. The supplier is legally part of the (multinational) firm (87). Hierarchy value chains once were the rule, but have been replaced more and more by other forms of value chains in the process of production outsourcing (e.g. 90–1).

In *Captive value chains*, legally independent suppliers produce to the specifications of the lead firm and are frequently confined to a narrow range of tasks—for example, mainly engaged in simple assembly. They are dependent on the lead firm for complementary activities such as design, logistics, component purchasing, and process technology upgrading. In this setting, the suppliers face prohibitively high switching costs and are therefore ‘captive’. Captive value chains are usually “characterized by a high degree of monitoring and control by lead firms” (84). Power is exerted directly by lead firms on suppliers, which is analogous to the direct administrative control in hierarchies. Such direct control suggests a high degree of explicit coordination with unidirectional flows of information and a large measure of power asymmetry with the lead firm being the dominant party (86–7). Captive value chains are the rule for example in the Vietnamese footwear industry (Hurst et al. 2010, 120) and have long been common in the apparel industry generally (Gereffi et al. 2005, 91).

In *Relational value chains*, highly competent suppliers cooperate with the lead firm, the power balance between the firms being rather symmetrical. The risks resulting from the close cooperation are regulated through reputation, social and spatial proximity, family and ethnic ties, and the like. Usually it is necessary to exchange complex tacit information between the lead firm and the supplier, which “is most often accomplished by frequent face-to-face interaction and governed by high levels of explicit coordination, which makes the costs of switching to new partners high” (86). Relational value chains are nowadays common e.g. in the apparel industry (91–2).

In *Modular value chains*, suppliers supply full packages and modules based on codified technical knowledge (product standards) to the lead firm, taking full responsibility for competencies surrounding process technology etc. Because both suppliers and buyers work with multiple partners and therefore face low switching costs, power asymmetries remain relatively low (88). Although modular value chains show similarities to arms length market linkages based on price, they are not the same, since much more information is exchanged (e.g. computerized design files). Modular linkages are common e.g. in the electronics industry (94–5).

In *Market* supply chain links, “buyers respond to specifications and prices set by sellers” (86). Market linkages don’t have to be and often are not just transitory, but “can persist over time, with repeat transactions” (83). Market linkages have been and often still are common e.g. in the fresh vegetables trade (93), and in commodities such as cocoa, coffee etc.

The depicted types of supply chain linkages are not to be understood as static, but rather as dynamic in the sense that they can evolve into each other. Such developments depend on various factors such as the complexity and codifiability of information that has to be exchanged, and the competence of suppliers (85).

The description of the structural characteristics of different forms of supply chains hints at certain factors that are supposedly relevant with regard to the responsibility of MNEs for the working conditions within those supply chains. First, there is the question of power and influence a MNE has over a supplier, and second there is the question of the closeness of cooperation. Of course, to say something sensible about the normative relevance and role of these factors we first need a normative framework to work with. In what follows I will therefore turn to the concept of responsibility and present a framework for analyzing the moral implications of the structural connections presented above. The five types of supply chain governance will be taken up at a later stage again when applying the different criteria for responsibility to them.

3. Prospective and Retrospective Responsibility

At this point we have to clarify what exactly is meant by the claim that companies are ‘responsible’ for (bad) working conditions in their supply chains. Is it that they *cause* them? That they are to be *blamed* for them? That they have to *redress* them?

There is no straightforward answer to this question since ‘responsibility’ is a very multifaceted notion. In what follows we will therefore have to take a closer look at different dimensions of the concept of responsibility that are relevant for our question.

Let me note as a preliminary that I will presuppose in what follows that corporations can in principle be understood as moral agents, which is a precondition for the ascription of responsibility.⁹ Let me also note that I am not interested here in *legal* responsibility. There is little binding international (and national) law that regulates the actions of multinational enterprises in developing countries—and where there is, it is often not enforced (which is, of course, part of the problem). What I am interested in is the *moral responsibility* of MNEs with regard to their supply chains, in the sense that we want to know *what MNEs have a moral duty to do and what to avoid, and what they can be blamed for*. Nevertheless, moral responsibility in this sense and legal responsibility are structurally closely related concepts, and since the latter has long been closely studied by law-scholars, we will have a look at legal specifications of the concept of responsibility when they are useful for our question.

Legal and moral responsibility have two temporal directions: a prospective and a retrospective one.¹⁰ *Prospective responsibility* consists in an agent having certain legal or moral duties concerning someone or something, where those duties are created by his role, task, or a certain activity (Cane 2002, 31). Examples are the responsibility of parents for their children, the responsibility that

⁹ I sympathize with Patricia Werhane’s suggestion that companies should be understood as being *secondary moral agents* (Werhane 1985), meaning that their moral duties are secondary to the ones of the individual members of the company. Nevertheless, this doesn’t have to bother us here, since what is relevant for our questions is simply that I will assume that corporations can be moral agents at all.

¹⁰ See e.g. Cane 2002 and Craig 2000.

comes with one's profession (like the responsibility of a doctor for treating his patients according to the Hippocratic Oath, or the responsibility of a watchmen to keep watch), the responsibility that comes with the activity of driving a car (the duty to drive safely), etc. The law imposes many such responsibilities, for instance on employers in favour of employees, on doctors in favour of patients etc. (31). In law, these prospective responsibilities are mostly based on contracts or agreements, but they are not confined to them as the case of family relations shows.

In moral thought we distinguish between universal prospective duties, which we owe to every other human being, and special prospective duties created by certain relations. The former are mainly duties that prohibit the active violation of the rights of others. The latter imply the former, but go beyond them by including positive duties of assistance as well: they are restricted in reach but more demanding. Examples of such relations are those between family members, friends, neighbours, compatriots etc. The justification of duties from special relations is usually rather intuitive than deductive.¹¹

The counterpart of prospective responsibility is historic or *retrospective responsibility*, which is directed at past violations of duties. If one has *actively and directly* harmed someone this is what lawyers call *misfeasance*; if one has *omitted to prevent someone from being harmed* this is called *nonfeasance*. Retrospectively someone is usually taken to be (legally) responsible for his misfeasance, but not generally for his nonfeasance. But to the extent that one's prospective responsibilities require one "to take positive steps to achieve good outcomes or to prevent bad ones, prospective responsibility [...] can lay the foundation for historic responsibility for omissions and what lawyers call 'nonfeasance'" (32). In other words, if one has the prospective duty to prevent someone from being harmed and fails to do so, they become retrospectively responsible for their nonfeasance.

It seems plausible to claim that this line of reasoning applies to moral responsibility as well. To illustrate this, look at the following example: a robber robs a bank, while the bank's watchman is watching television instead of keeping watch. Here the robber is obviously morally responsible for his misfeasance. But it seems equally clear to ascribe moral responsibility to the watchmen because he violated his prospective responsibility in the form of the duty to keep watch.

What has been said on responsibility so far illustrates two things of high importance with regard to justifying a responsibility of MNEs for the working conditions in their supply chains. First, the example illustrates that responsibility is dividable. It is in fact very common for more than one actor to be co-responsible for a wrong, either by misfeasance or nonfeasance. This means that the fact that legally independent suppliers themselves are responsible for poor working conditions in their facilities is not enough to show that MNEs don't carry a corresponding co-responsibility for them.

Second, if we can show that MNEs actively and directly cause bad working conditions in their independent suppliers, thereby causing harm in the sense of

¹¹ Cf. Zuber 2010, 25. For an attempt to establish a systematic theory of special relations see Goodin 1985.

misfeasance, we have reason to ascribe retrospective responsibility to them with regard to those conditions.

Third, we saw that when we have established that someone has a special prospective responsibility for someone or something this is a basis for ascribing to him retrospective responsibility in case he has not prevented something bad from happening to that person or thing although he could have. Importantly, the distinction between acts and omissions is not relevant in this respect: If, in the above example, we describe the watchman's action as an omission, this doesn't make him any less responsible. So if we can argue convincingly that MNEs have a prospective responsibility with regard to the working conditions of the people in their supply chains this justifies ascribing to them retrospective responsibility in case they don't prevent bad working conditions in their suppliers even if they themselves do nothing that actively wrongs someone and only omit intervening.

We now turn to David Miller's (2007) theory of responsibility introducing additional relevant concepts, the most important one being *remedial responsibility*. Remedial responsibility concerns the duty to put a bad state of affairs right—in our case bad working conditions in the supply chains of MNEs. Although Miller's connection-theory of remedial responsibility is set in the context of questions of global justice, I consider it to be highly relevant and illuminating in our context.

4. Applying a Connection-Theory of Remedial Responsibility to the Question of MNE's Responsibility for Their Supply Chains

David Miller distinguishes between two main concepts of responsibility, namely *outcome responsibility* and *remedial responsibility*. *Outcome responsibility* (following Honoré 1999) is the responsibility agents bear for *the outcomes of their past actions*, whereas *remedial responsibility* is the duty of agents to *put certain bad states of affairs right* (Miller 2007, 83–4). In terms of the distinction between prospective and retrospective responsibility introduced above, outcome responsibility is located within the realm of retrospective responsibility. With remedial responsibility things are more complicated: it is forward looking like prospective responsibility, but unlike the latter it is concerned with rectifying an already bad situation.

With regard to both outcome and remedial responsibility we can distinguish between *identifying* responsibility and *assigning* it. *Identifying* responsibility means *analyzing* who meets the relevant conditions for being responsible. Such identifications can be correct or incorrect. *Assigning* responsibility on the other hand means *deciding* to attach certain costs to an agent, whether the relevant conditions are fulfilled or not. Such assignments can be justified or unjustified (Miller 2007, 84–5). Usually we want our assignments of responsibility to track identified responsibility (85). Accordingly, in what follows I will analyze if MNEs can be *identified* as being responsible for bad working conditions in their supply chains. If they are, this justifies assigning them the according responsibility.

The first concept we are interested in with regard to our topic is *remedial responsibility*: Remedial responsibility, as we said, is relevant when there is a state of affairs in need of remedy—in our case, bad conditions in the supply chains of MNEs. The reflections regarding remedial responsibility start with the state of affairs in need of remedy, and then analyse who we have reason to identify as being responsible for remedying it. With regard to our topic, we are of course interested if MNEs can be identified as remedially responsible for bad working conditions in their independent suppliers. How then are we to make judgments of remedial responsibility?

Miller proposes what he calls a “connection theory” of remedial responsibility: “The basic idea is that certain connections between an actor and a wrong provide reasons for judging him remedially responsible. Those connections are: 1. A is *morally responsible* for the wrong to P, 2. A is *outcome responsible* for the wrong to P, 3. A is *causally responsible* for the wrong to P, 4. A has *benefitted* from the process that led to P’s deprivation, 5. A has the *capacity* to remedy the wrong, 6. A is member of the same *community* as P.” (Miller 2007,99)¹² In other words, the mentioned connections are *criteria* for the ascription of remedial responsibility to particular agents. They will be explicated in some detail and related to our question below. However, I will not argue for them here but rather assume for the sake of the argument that they are plausible on the grounds that they fit very well with common intuitions on the topic.

But let me start by looking at the relation between the different criteria. The three former criteria—moral, outcome, and causal responsibility—are connected in the sense that moral responsibility (which in Miller’s sense implies blameworthiness) is the most comprehensive one, usually implying outcome responsibility, which in turn implies causal responsibility. This suggests that moral responsibility is the strongest criterion, outcome responsibility the second strongest and pure causal responsibility the third. In contrast, the latter three conditions are independent from the first three and from each other.

In case most of the above criteria are fulfilled by the same agent, this gives us reason to identify this agent as remedially responsible and accordingly assign remedial responsibility to him. In case the criteria point to several different agents, we might assign shared remedial responsibility to some or all of them. But what is normatively called for if the different criteria point to different agents and thereby conflict? In such cases, according to Miller, “there is no algorithm that could resolve such disputes. We have to rely on our intuitions about the relative importance of different sources of connection” (107).

We will now have a closer look at these different forms of connections and examine to what extent they apply in the case of MNEs and bad working conditions in their supply chains, with the goal of establishing reasons for making a judgement concerning the remedial responsibility of MNEs for putting them right. Where it is relevant we will distinguish between the different forms of supply chain structures introduced earlier. In our analysis we will first try to

¹² For our question the community-connection is usually not directly relevant since MNEs are predominantly from another country (and community) than the workers in the supply chains. We will therefore leave it aside.

establish if MNEs are to be considered *outcome responsible* for the wrongs in question. If they are, the additional question is whether they should be seen as acting morally blameworthy in this respect, since an affirmative answer would justify judging MNEs *morally responsible* for them. The latter is according to Miller the most powerful moral reason to assign remedial responsibility, since “by holding A remedially responsible for P we not only create a mechanism for getting P out of that condition but we also help to put right the moral imbalance between A and P [...]” (100).

4.1 Outcome Responsibility of MNEs for Bad Working Conditions in Their Supply Chains

That *outcome responsibility* is so important for the assignment of remedial responsibility “arises from our interest in the fair distribution of benefits and burdens between different agents: As far as possible we want people to be able to control what benefits and burdens they receive, but we also want to protect them against the side effects, intended or unintended, of other peoples actions.” (Miller 2007, 89) Accordingly, in case an agent is identified as being outcome responsible for a bad outcome to another person, this gives us reason to require him to make compensation or redress to that person. This is clearest if he acted morally blameworthy, but can be so even in the absence of moral responsibility—that is if he acted morally innocently or even praiseworthy.

For the identification of *outcome responsibility* we want to know whether a particular agent can be credited or debited with a particular outcome O—a gain or a loss, either to the agent herself or to other parties (87). What then are the conditions for someone being outcome responsible for a bad state of affairs?

According to Miller, the criteria of outcome responsibility are the following: 1. causal contribution, 2. control over one’s actions, 3. a reasonably foreseeable connection between the action and the outcome, and 4. other options for action.

The *first condition* is that the agent must in some way have *causally contributed* to the outcome. In this way, outcome responsibility is connected to causal responsibility and its key question: *why did O occur?* We must note that there are always different factors contributing to an outcome and it is hardly ever possible to single out a particular one as its only *cause* (cf. Hart/Honoré, ch. 2; Cassee 2008). Nevertheless, we can analyze if the agent in question importantly causally contributed to the wrong at hand. This corresponds to the concept of misfeasance mentioned before. So how does this apply to MNEs and bad working conditions in their supply chains?

A very important point with regard to this question, one that applies to all forms of supply chain structures, concerns the MNE’s purchasing policy: Through their purchasing policy with its conditions and requirements for the suppliers a company gives strong incentives even to independent suppliers for one or another course of action. If their requirement is that goods must be produced as cheaply as possible (and we are talking little margins since suppliers are in a race to the bottom with other suppliers all over the world), this leads to the suppliers getting very low prices for their goods, which forces them to reduce

all possible costs—at all costs. This will certainly not lead to good working conditions—at least if meeting social standards is not among the requirements. If on the other hand MNEs require good working conditions, then suppliers will try to modify them accordingly, since they depend on being able to sell to their buyers. The claim that companies can be simply ‘neutral’ with respect to conditions in their supply chains is therefore implausible: At least through their purchasing policy MNEs can be seen as causally contributing to bad or good conditions in their supply chains.

Above that, the governance structure in *hierarchies* and *captive value chains*, with the multinational company in a position to *dictate* the working conditions in their suppliers, suggests that the multinational company’s actions should be seen as relevant causal contributions to the wrongs in question. This can not only happen through explicit directives, but also merely through certain requirements: If the multinational company requires short term extra production, the supplier will have to let his employees work overtime to fulfil the requirement. In this case, then, we should probably judge the multinational company and not the supplier mainly causally responsible for the overtime of the workers.

In the case of *Relational value chains*, to the contrary, it seems out of the question to claim that the multinational directly causes the bad working conditions (above their purchasing policy), since the buyer has no direct power over the supplier. In the case of *Modular value chains* I would argue that, since suppliers are very independent and there is little direct monitoring and control and generally little direct interaction, there is definitely no direct causing of moral wrongs in the supplier by the multinational. Could there be relevant causal contributions? I think the argument about the purchasing policy holds here too, although it must be rather directed at whole industries than individual multinationals, since the suppliers work with different buyers.

Finally, how does the situation look like with regard to *Market linkages*? In this case, again, it does not seem plausible to me to claim that the multinational directly causes wrongs in the production of commodities. As isolated actors they don’t have the power to directly influence the production process, and neither do they easily get the information necessary to make judgements about its moral quality. But I think it might be possible to argue nevertheless that they relevantly causally contribute to moral wrongs in the production of commodities in some cases, namely by buying huge quantities of the commodities in question and thereby contributing to criminal businesses being profitable.

It will depend on the context of the situation if we would consider the supplier-business owner as the primary causer of the wrongs done to his workers, or the multinational firm. If the wrong in question is a case of direct harming, the supplier is the one mainly causally responsible for it, with the multinational possibly carrying responsibility though his omission to prevent the wrong (we will come back to this later). Concerning below subsistence wages and prices, the above argumentation with regard to the effect of MNEs’ purchasing policies leads us to ascribing the main responsibility to the multinational buyer, unless of course we have a case where the supplier factory owner is paid easily enough to pay his workers well but keeps it all for him. In any case, ascribing the main

causal responsibility to the owner of the supplier business doesn't mean that the MNE is not causally co-responsible, and even less that it is not remedially responsible.

At this point we have to consider a common counterargument against the claims I just made. It can be argued that the most important cause of bad working conditions are not MNEs nor suppliers, but 'the market' itself. If the market demands something, e.g. through a short term increase in demand, this causes economic actors to require their suppliers to work overtime to meet the demand. To this we can say the following: granted, the market mechanisms can be seen as a relevant cause with regard to certain problematic working conditions like in the overtime example, or with regard to low pay (whereas others like physical mistreatment of course cannot be accounted for by the market). But even in the case of such market-related problematic working conditions, we must remember that there is hardly ever one single cause for any event. So even if we take 'the market' to be the main cause of market-related poor working conditions, the actions of economic actors must be seen as *causal or enabling factors* for the working conditions in question. After all, their actions (like the ones mentioned above) do have an influence on those working conditions. And this is all that is required for the causal-contribution-condition to hold.

Let me turn to Miller's *second condition* for outcome responsibility, which is that the agent has *control* (in the relevant sense) *over his actions*, which implies genuine agency. This condition excludes among others cases of mental derangement, manipulation, and coercion.

With regard to our question, mental derangement as an excusing factor is out of the question since we deal with a corporation, not a person. Manipulation is not something that we see as a ground for the normal dealings of a company either, and neither is coercion. The question in how far the actions of MNEs should be seen as 'coerced' by the inherent necessities of the market will be discussed below under the heading of 'other options'. I will argue there that MNEs should not be seen as genuinely 'coerced' into actions leading to poor working conditions by the market, and if this is correct, the control-over-one's-actions condition is fulfilled.

The *third condition* is that there is a *reasonably foreseeable connection between the action and the outcome*—or more precisely, that a reasonable person would have foreseen the negative consequences of the action, given the circumstances (96).¹³ This doesn't require that the outcome is produced *intentionally*—one can be outcome responsible for bad outcomes of *negligent actions* as well: When I pick up a fragile figurine "I can be expected to foresee that unless I handle it with care, there is a danger that it will break. Handling it roughly is an action of mine that with some probability will produce the result that does occur, so when the figurine smashes the responsibility and the costs fall to me." (88)

When applying this condition to our question we have to ask if MNEs could reasonably foresee, or know about, the negative effect some of their causal contributions have for the conditions in their supply chains. Considering the high levels of monitoring in hierarchies and captive value chains, MNEs must be as-

¹³ Here Miller follows Ripstein 1999, ch. 4.

sumed to know in many cases about the bad working conditions in their supply chains, and they can be expected to make the connection to their purchasing policy and requirements. The same applies, to a smaller degree, to relational chains, since the high level of coordination and the closeness of the interaction make it very probable and very easy for the multinational to get to know about the conditions in their suppliers. In the case of markets, in many cases it is nowadays well known that the mainstream commodity production implies weighty moral wrongs, such as for example in the case of cocoa production in the Ivory Coast where child slavery is known to be extremely widespread (see e.g. Manzo 2005). As economic experts MNEs can be expected to know that buying large quantities of such commodities relevantly contributes to the profitability of criminal businesses and thereby supports the continuation of the wrongs. It seems plausible then to claim that MNEs should be considered at the very least negligent with regard to the risk of contributing to bad working conditions and crimes in their supply chains, which suffices for the condition of reasonable foresight to be fulfilled.

The *fourth condition* for the ascription of outcome responsibility is that the agent must have had *other options* open to him and could have acted in a way to avoid the bad outcome (95). This point is relevant for our question since, as has been mentioned before, it is often claimed that MNEs are just reacting to the inherent necessities of the market and don't actually have other options open to them besides the ones that contribute to bad working conditions in their supply chains. If they want to stay competitive, so the claim, they have to produce as cheaply as possible and require short-time deliveries leading to overtime work since otherwise they would be at a comparative disadvantage compared to the other competitors, eventually resulting in their inability to stay in the market.

Although the problem of the comparative disadvantage of businesses with higher social (and ecological) standards is to be taken serious and solutions have to be found, it isn't a convincing argument for the claim that the condition of 'having other options' is not fulfilled. This would only be so if company action were *inescapably determined* by the market—which is obviously wrong. To the contrary, multinational companies *do have* a certain action range open to them, even under the presumption that they have to try to stay in the market. There are, among other options, always several possible ways to internally cut costs, an obvious example being to reduce executive perks. In the case of market supply chain links, the claim that as isolated actors MNEs don't have the option not to contribute to wrongs in the production is equally misleading: They have the possibility to either buy commodities from socially certified production (e.g. Fairtrade-labelled) and/or to seriously engage in collective action with other buyers, governments, NGO's etc. to solve the problem. This suggests that the condition of other options is fulfilled in the relevant sense.

Summing up this short analysis of the conditions of outcome responsibility with regard to MNEs and bad working conditions in their supply chains, we have reason to conclude from the above that they should generally be considered fulfilled. Nevertheless, MNEs clearly share their outcome responsibility with the supplier firms. The outcome responsibility of MNEs is strongest in the case of

hierarchies and captive value chains. These seem to be the settings most people claiming that multinational companies are (outcome) responsible for wrongs in their supply chains have in mind (cf. e.g. Nichols/Opal 2005). In the case of relational and especially modular chains and markets, the outcome responsibility of supplier firms themselves seems to weigh much heavier than is often assumed. Nevertheless, the analysis suggests that in these cases MNEs carry outcome co-responsibility as well.

That MNEs are generally to be seen as relevantly outcome (co-)responsible for bad conditions in their supply chains is a weighty reason for assigning them (at least some) remedial responsibility for them. In a next step we will consider if they should also be judged *morally* responsible with regard to those working conditions. If so, they would fulfil the probably strongest condition for the ascription of remedial responsibility.

4.2 Moral Responsibility of MNEs for Bad Working Conditions in Their Supply Chains

Miller offers the following account of moral responsibility: For an agent to be *morally responsible* for something he “must have acted in a way that displays moral fault: he must have deprived P deliberately or recklessly, or he must have failed to provide for P despite having a pre-existing obligation to do so.” (100) This excludes cases where someone acts morally innocently or praiseworthy but produces a bad outcome nevertheless—an example would be the case where an agent is rushing someone else to the hospital and damages another’s car in the course (90).

With regard to bad conditions in the supply chains of MNEs we accordingly have to ask if MNEs fulfil the condition of having acted in ways that display moral fault. It seems to me that an important reason for claiming that this is indeed so is given when they must be assumed to know about the wrongs in their supply chains and still go on contributing to them. This is most probably given in hierarchies and captive value chains because of the high levels of monitoring. The same applies, to a lesser degree, to relational chains, since the high level of coordination and the closeness of the interaction make it probable and easy for the MNEs to get to know about the conditions in their suppliers. It is probably most doubtful in modular chains, where the suppliers are highly independent. In the case of markets, this certainly applies where the production of some commodities is well known to imply weighty moral wrongs, as in the mentioned case of cocoa production.

Turning a blind eye on bad working conditions in their suppliers while contributing to them should, or so I would argue, be seen as a conscious decision to let them go on, which is certainly not to be considered ‘morally innocent’ but rather blameworthy. In fact, it seems to turn the MNEs into accomplices with regard to the wrongs in their supply chains. In combination with additional connections (which are considered below), this probably puts a substantive degree of moral responsibility on the multinational company.

Could we argue that MNEs are morally required to *make sure they know* that there are no bad working conditions in their suppliers (as opposed to the cases where they happen to know about bad conditions)? This would amount to claiming that MNEs have prospective responsibilities with regard to the working conditions of the people in their supply chains. I think this is plausible, but the argument for this claim must be put off until we have looked at the remaining conditions for remedial responsibility.

4.3 Benefiting from Wrong and Capacity to Remedy as Causing Remedial Responsibility of MNEs for Wrongs in Their Supply Chains

The fourth kind of connection that can ground remedial responsibility according to Miller is the fact that an agent *benefits* from the process that resulted in the deprivation of another. In the case where the working conditions are morally blameworthy, for example in cases of child slavery, this leads to the situation that companies *benefit from moral wrongs*. To make things worse, in cases as the one cited, the two are often negatively related: The worse the conditions in the supply chains, the higher the company's end margin and profit. This turns the companies into *profiteers from wrongs*. The reason why this grounds remedial responsibility according to Miller is that the agent in such cases "has been *unjustly enriched* by the train of events that led to P's being deprived [...]" (103, italics added). This connection calls for the unjustly enriched party having to rectify the injustice.¹⁴ Since MNEs *structurally* benefit from the processes that lead to bad working conditions, this condition is to be seen fulfilled in the case of production within supply chains. This judgment though depends on what is defined as 'wrongs' and has to be qualified accordingly. If for example beneficial exploitation (i.e. exploitation that is based on factual consent and leaves the exploitee better off than without the arrangement in question, cf. e.g. Wertheimer 2010) is not accepted as a moral wrong, the condition is not to be seen as fulfilled with respect to this aspect of working conditions. I believe though, although I cannot argue extensively for this here, that below subsistence-pay for full-time employment is a case of moral wrong when more could be paid without the supplier and MNE going bankrupt. Combined with the fact that MNEs benefit from very low pay, this suggests that the benefiting-from-wrong condition is not only fulfilled in the case of all absolute wrongs (i.e. the violation of negative rights), but also in the case of below subsistence pay.

The fifth kind of connection that grounds remedial responsibility is *capacity*. This means that the agent who is capable of doing so is responsible for bringing relieve to the person in need. Relevant in this respect are both the effectiveness of the help and the cost for different potential agents: the agent who could help most effectively and at minimal cost should do so. If there are several potential agents, responsibility might be divided between them (Miller 2007, 104–5).

¹⁴ Much more could and should be said on that point. For the time being I refer the reader to two articles that deal with the issue more extensively, namely Butt 2007 and Anwander/Bleisch 2007.

I take it that in cases where moral or outcome responsibility can be identified, remedial responsibility will fall on the respective agents first. But if they don't have the capacity or means for bringing relieve, there is not much sense in assigning them the responsibility to do so. Accordingly, in the mentioned case responsibility will shift to other agents who can bring relieve effectively and at little cost.

For our question if MNEs have remedial responsibilities concerning wrongs in their global supply chains, the capacity condition probably means the following: The higher the control over the suppliers, the higher the MNE's capacity to remedy the wrongs in their supply chains. In hierarchies, captive and relational chains, MNEs certainly have the capacity to make changes for the better. In modular chains and especially in markets it is much less clear that they can directly influence the suppliers. Nevertheless they might have other possibilities to do so, e.g. through searching a dialogue with the suppliers, or through industry wide regulations. The claim that they cannot influence the suppliers and therefore cannot be assigned remedial responsibility could only be taken seriously after such possibilities have been intensely pursued and proved to fail.

4.4 Conclusions Regarding the Remedial Responsibility of MNEs for Bad Working Conditions in Their Supply Chains

We can now sum up what has been said on the fulfilment of the conditions of remedial responsibility for the case of bad working conditions in the supply chains of MNEs. As we have seen, the analysis gives us weighty reasons in many cases for judging the MNEs remedially responsible for them: They are often outcome (co-)responsible for bad working conditions and low wages; they are in many cases morally responsible for them since they knowingly go on contributing to them; they benefit from the bad working conditions; and they have the capacity to change things for the better in many cases. The case is definitely clearest with regard to hierarchies and captive chains, but applies in a less drastic manner to the other governance forms as well.

Granted the above conclusion is correct, what exactly does remedial responsibility require from MNEs?

As we said, remedial responsibility requires the responsible agent to put the respective bad state of affairs right. But what does this mean in our case, where not simply a *past*, but an *ongoing* state of affairs is concerned? It means that the factors producing the ongoing outcome- and moral responsibility of MNEs have to be sustainably abolished. In fact, I want to argue that this remedial responsibility for *structural reasons* has implications for the *prospective* responsibility of MNEs towards the working conditions in their supply chains: When structural matters, i.e. the structure of supply chains, put an agent (in our case, a MNE) in a position where he is to be judged constantly remedially (co-) responsible for a certain ongoing bad state of affairs, his remedial responsibility must get a prospective dimension: namely the prospective obligation to change this situation such that the respective state of affair is *sustainably* put right. In the case of MNEs producing in global supply chains, this means that they have

the prospective duty to make sure their suppliers offer decent working conditions. This implies requiring suppliers to comply with social standards and assisting them in the transition process to implementing those standards. It also implies monitoring and verifying the implementation of those standards on a regular basis. There are nowadays many organizations and initiatives that assist MNEs with these tasks. Examples are the *End Human Trafficking Now! Campaign*, multi-stakeholder supply chain initiatives such as the *Fair Labor Association* or the *Global Reporting Initiative*, and labels such as *Fair Trade*.

It seems then that making sure that working conditions in supply chains are decent should be regarded as a necessary condition of doing business, especially in developing countries where basic securities and protections of the people are mostly absent. It should, so to speak, be seen as the price MNEs have to pay for being able to source from developing countries. The additional costs for making sure that the working conditions in the supply chains of MNEs are decent are required to fulfil the prospective responsibility of MNEs. They are accordingly not negotiable and balanceable against other ways of using these financial resources.

I believe it is plausible to claim that remedial responsibility generally, and especially where violations of negative rights are concerned, additionally requires MNEs to compensate the people in their supply chains who suffered from the bad working conditions and wrongs. This could mostly happen in the form of financial compensation. In cases where financial compensation does not seem enough, as for example in the case of child slaves, it might also require entire programs aiming at mitigating the devastating effects on victims, including psychological and medical support, family reunification, education, etc. Compensation might in many cases be required from the co-responsible supplier businesses as well.

5. A Counter-Argument

Finally, I want to consider a common counterargument against the claim that multinational companies have the duty to make sure the working conditions in their supply chains are decent. I call it the ‘greater-harm-than-good’ argument.

The ‘greater-harm-than-good’ argument claims that respecting workers rights in supply chains will result in greater harm than good (e.g. Henderson 2001; Maitland 2001, 603). The core claim is that labour standards and wages higher than those demanded by the market “will increase costs, and that this will inevitably lead to layoffs and higher unemployment” (Arnold 2003, 93). How persuasive is this claim with regard to the argument presented in this paper?

The ‘greater-harm-than-good’ argument is based on the assumption that company action is *necessarily determined* by the sole motive to maximize profits. But this is obviously wrong. Indeed, multinational companies in most cases *do have* the possibility to “choose to improve wages and working conditions while maintaining existing employment levels”, since it is usually “economically feasible for MNEs (multinational companies) to raise wages and improve working conditions in factories in developing economies without causing increases in un-

employment” (Arnold 2003, 93). For this to be possible, ways have to be found to cover the additional costs of decent working conditions. There are at least three possibilities to achieve this: the additional expenditure “may be balanced by internal cost-cutting measures; or it may be passed on to consumers via higher prices, or it may be passed on to the owners of the business enterprise via lower return on equity” (93). With regard to internal cost-cutting measures, an obvious candidate is executive perks. As Arnold writes, “it does appear morally inconsistent to argue that improving the welfare of factory workers is cost prohibitive while executive perks remain substantial” (99).

Regarding the third option, it seems clear that the shareholders’ rights to maximal profits are much less fundamental than the basic rights of the contributors in their supply chains. Multinational companies should therefore regard decent working conditions in their supply chains “as constraints on the activities they undertake on behalf of their employers” (88). The argument in this paper clearly supports this claim.

6. Conclusions

We started out with the following question: How can the public intuition be philosophically justified that multinational companies are responsible for the working conditions of the people in their supply chains—especially with regard to legally independent direct suppliers and sub-contractors? The paper explored how one such justification could look like. I first presented five analytical types of supply chain structures and governance, and then introduced the concepts of prospective and retrospective responsibility. In a next step I applied Miller’s connection theory of remedial responsibility to the types of supply chain structures presented. In the course of this analysis I argued that Miller’s criteria for the ascription of *outcome* responsibility to MNEs for bad working conditions in their supply chains should generally be seen as fulfilled, although to a much lesser degree with regard to more independent supply chain structures. I argued that, equally so, the conditions for the ascription of *moral* responsibility seem to be fulfilled, which makes the MNEs morally blameworthy in case the working conditions in their supply chains are bad—again with differentiations according to different structures and the power MNEs have over their suppliers. Further the argument showed, quite clearly I think, that the conditions for *remedial* responsibility of MNEs with regard to bad working conditions in their supply chains are fulfilled in many cases—again with the same differentiations with regard to supply chain structures: almost all the criteria point to MNEs as being at least co-responsible for those wrongs, which puts the duty on MNEs to remedy them or contribute to remedying them. This means that MNEs have the duty to change the currently bad working conditions into decent ones. Additionally it might require financial compensation and in especially serious cases programs to mitigate the disastrous effects on the victims. What became clear throughout the analysis too is that it is not only MNEs that are to blame for

bad working conditions in their suppliers, but also and importantly the suppliers themselves.

In a next step I argued that production in supply chains for structural reasons continuously generates remedial responsibility of the MNE for occurring wrongs, and that this puts the *prospective* responsibility on them to make sure working conditions in their suppliers are decent. This is much more demanding in institutional contexts where governments cannot or will not ensure this, as is the case in most developing countries, but this is the price to pay to source from these countries without becoming an accomplice to wrongdoing.

Finally I shortly discussed the relevance of the widespread ‘more-bad-than-good’ argument for the analysis in this paper, arguing that it does not relativize the previous findings.

Expanding on the thoughts in this paper, a further promising line of thought to strengthen the proposed argument could be based on the concept of fairness and its implications for production and cooperation in supply chains. Since plausible understandings of fairness converge on the idea that fairness is relevant in contexts of cooperative social practices (see e.g. Carr 2000), it would have to be explored how far the notion of cooperation applies to production in global supply chains. The GVC framework and the presented reflections on the structural implications of supply chain governance could be helpful in this respect as well.

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